

**REQUEST FOR PROPOSALS (RFP) 6-1278**

# **DEFERRED COMPENSATION PLAN INVESTMENT ADVISORY AND CONSULTING SERVICES**



**ORANGE COUNTY TRANSPORTATION AUTHORITY  
550 South Main Street  
P.O. Box 14184  
Orange, CA 92863-1584  
(714) 560-6282**

## **Key RFP Dates**

<b>Issue Date:</b>	<b>June 28, 2016</b>
<b>Question Submittal Date:</b>	<b>June 30, 2016</b>
<b>Proposal Submittal Date:</b>	<b>July 18, 2016</b>
<b>Interview Date:</b>	<b>August 9, 2016</b>

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## **NOTICE OF REQUEST FOR PROPOSALS**

**(RFP): 6-1278: "DEFERRED COMPENSATION PLAN INVESTMENT ADVISORY AND CONSULTING SERVICES"**

**TO: ALL OFFERORS**

**FROM: ORANGE COUNTY TRANSPORTATION AUTHORITY**

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants **to provide deferred compensation plan consulting services for the purposes of investment consulting, compliance and administration consulting, and plan cost and fiduciary evaluation.**

The budget for this project is \$100,170 for the 3-year initial term.

**Proposals must be received in the Authority's office at or before 2:00 p.m. on July 18, 2016.**

Proposals delivered in person or by a means other than the U.S. Postal Service shall be submitted to the following:

**Orange County Transportation Authority  
Contracts Administration and Materials Management  
600 South Main Street, (Lobby Receptionist)  
Orange, California 92868  
Attention: Georgia Martinez, Senior Contract Administrator**

Proposals delivered using the U.S. Postal Service shall be addressed as follows:

**Orange County Transportation Authority  
Contracts Administration and Materials Management  
P.O. Box 14184  
Orange, California 92863-1584  
Attention: Georgia Martinez, Senior Contract Administrator**

Proposals and amendments to proposals received after the date and time specified above will be returned to the Offerors unopened.

Firms interested in obtaining a copy of this RFP may do so by downloading the RFP from CAMM NET at <https://cammnet.octa.net>.

All firms interested in doing business with the Authority are required to register their business on-line at CAMM NET. The website can be found at <https://cammnet.octa.net>. From the site menu, click on CAMM NET to register.

To receive all further information regarding this RFP 6-1278, firms and subconsultants must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

Category:

Professional Consulting

Professional Services

Commodity:

Consultant Services - General

Financial - Consulting

Financial - Banking Services

The Authority has established August 9, 2016, as the date to conduct interviews. All prospective Offerors will be asked to keep this date available.

Offerors are encouraged to subcontract with small businesses to the maximum extent possible.

All Offerors will be required to comply with all applicable equal opportunity laws and regulations.

The award of this contract is subject to receipt of federal, state and/or local funds adequate to carry out the provisions of the proposed agreement including the identified Scope of Work.

**SECTION I: INSTRUCTIONS TO OFFERORS**

**SECTION I. INSTRUCTIONS TO OFFERORS**

**A. EXAMINATION OF PROPOSAL DOCUMENTS**

By submitting a proposal, Offeror represents that it has thoroughly examined and become familiar with the work required under this RFP and that it is capable of performing quality work to achieve the Authority's objectives.

**B. ADDENDA**

The Authority reserves the right to revise the RFP documents. Any Authority changes to the requirements will be made by written addendum to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into the terms and conditions of any resulting Agreement. The Authority will not be bound to any modifications to or deviations from the requirements set forth in this RFP as the result of oral instructions. Offerors shall acknowledge receipt of addenda in their proposals. Failure to acknowledge receipt of Addenda may cause the proposal to be deemed non-responsive to this RFP and be rejected.

**C. AUTHORITY CONTACT**

All communication and/or contacts with Authority staff regarding this RFP are to be directed to the following Contract Administrator:

Georgia Martinez, Senior Contract Administrator  
Contracts Administration and Materials Management Department  
600 South Main Street  
P.O. Box 14184  
Orange, CA 92863-1584  
Phone: 714.560. 5605, Fax: 714.560.5792  
Email: gmartinez@octa.net

Commencing on the date of the issuance of this RFP and continuing until award of the contract or cancellation of this RFP, no proposer, subcontractor, lobbyist or agent hired by the proposer shall have any contact or communications regarding this RFP with any Authority's staff; member of the evaluation committee for this RFP; or any contractor or consultant involved with the procurement, other than the Contract Administrator named above or unless expressly permitted by this RFP. Contact includes face-to-face, telephone, electronic mail (e-mail) or formal written communication. Any proposer, subcontractor, lobbyist or agent hired by the proposer that engages in such prohibited communications may result in disqualification of the proposer at the sole discretion of the Authority.

**D. CLARIFICATIONS****1. Examination of Documents**

Should an Offeror require clarifications of this RFP, the Offeror shall notify the Authority in writing in accordance with Section D.2. below. Should it be found that the point in question is not clearly and fully set forth, the Authority will issue a written addendum clarifying the matter which will be sent to all firms registered on CAMM NET under the commodity codes specified in this RFP.

**2. Submitting Requests**

- a. All questions must be put in writing and must be received by the Authority no later than 5:00 p.m., on June 30, 2016.
- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions". The Authority is not responsible for failure to respond to a request that has not been labeled as such.
- c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:
  - (1) U.S. Mail: Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584.
  - (2) Personal Delivery: Contracts Administration and Materials Management Department, 600 South Main Street, Lobby Receptionist, Orange, California 92868.
  - (3) Facsimile: (714) 560-5792.
  - (4) Email: [gmartinez@octa.net](mailto:gmartinez@octa.net)

**3. Authority Responses**

Responses from the Authority will be posted on CAMM NET, no later than July 6, 2016. Offerors may download responses from CAMM NET at <https://cammnet.octa.net>, or request responses be sent via U.S. Mail by emailing or faxing the request to Georgia Martinez, Senior Contract Administrator.

To receive email notification of Authority responses when they are posted on CAMM NET, firms and subconsultants must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

Category:  
Professional Consulting  
  
Professional Services

Commodity:  
Consultant Services - General  
Financial - Consulting  
Financial - Banking Services

Inquiries received after 5:00 p.m. on June 30, 2016 will not be responded to.

**E. SUBMISSION OF PROPOSALS**

**1. Date and Time**

Proposals must be received in the Authority's office at or before 2:00 p.m. on July 18, 2016.

Proposals received after the above-specified date and time will be returned to Offerors unopened.

**2. Address**

Proposals delivered in person or by a means other than the U.S. Postal Service shall be submitted to the following:

**Orange County Transportation Authority  
Contracts Administration and Materials Management (CAMM)  
600 South Main Street, (Lobby Receptionist)  
Orange, California 92868  
Attention: Georgia Martinez, Senior Contract Administrator**

Or proposals delivered using the U.S. Postal Services shall be addressed as follows:

**Orange County Transportation Authority  
Contracts Administration and Materials Management (CAMM)  
P.O. Box 14184  
Orange, California 92863-1584  
Attention: Georgia Martinez, Senior Contract Administrator**

Firms must obtain a visitor badge from the receptionist in the lobby of the 600 Building prior to delivering any information to CAMM.



### 3. Identification of Proposals

Offeror shall submit an **original and 5 copies** of its proposal in a sealed package, addressed as shown above in E.2. The outer envelope must show the Offeror's name and address and be clearly marked as follows:

**“RFP 6-1278 DEFERRED COMPENSATION PLAN INVESTMENT  
ADVISORY AND CONSULTING SERVICES”**

In addition to the above, Proposers shall also include **one (1) electronic copy** of their entire RFP submittal package in “PDF” format, on a CD, DVD, or flash drive.

### 4. Acceptance of Proposals

- a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- b. The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice and the Authority makes no representations that any contract will be awarded to any Offeror responding to this RFP.
- c. The Authority reserves the right to issue a new RFP for the project.
- d. The Authority reserves the right to postpone proposal openings for its own convenience.
- e. Each proposal will be received with the understanding that acceptance by the Authority of the proposal to provide the services described herein shall constitute a contract between the Offeror and Authority which shall bind the Offeror on its part to furnish and deliver at the prices given and in accordance with conditions of said accepted proposal and specifications.
- f. The Authority reserves the right to investigate the qualifications of any Offeror, and/or require additional evidence of qualifications to perform the work.
- g. Submitted proposals are not to be copyrighted.

### F. PRE-CONTRACTUAL EXPENSES

The Authority shall not, in any event, be liable for any pre-contractual expenses incurred by Offeror in the preparation of its proposal. Offeror shall not include any such expenses as part of its proposal.

Pre-contractual expenses are defined as expenses incurred by Offeror in:

1. Preparing its proposal in response to this RFP;
2. Submitting that proposal to the Authority;
3. Negotiating with the Authority any matter related to this proposal; or
4. Any other expenses incurred by Offeror prior to date of award, if any, of the Agreement.

**G. JOINT OFFERS**

Where two or more firms desire to submit a single proposal in response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint venture. The Authority intends to contract with a single firm and not with multiple firms doing business as a joint venture.

**H. TAXES**

Offerors' proposals are subject to State and Local sales taxes. However, the Authority is exempt from the payment of Federal Excise and Transportation Taxes. Offeror is responsible for payment of all taxes for any goods, services, processes and operations incidental to or involved in the contract.

**I. PROTEST PROCEDURES**

The Authority has on file a set of written protest procedures applicable to this solicitation that may be obtained by contacting the Contract Administrator responsible for this procurement. Any protests filed by an Offeror in connection with this RFP must be submitted in accordance with the Authority's written procedures.

**J. CONTRACT TYPE**

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a firm-fixed price contract specifying firm-fixed prices for individual tasks specified in the Scope of Work, included in this RFP as Exhibit A. The agreement will be for a three-year initial term with two, one-year option terms.

**K. CONFLICT OF INTEREST**

All Offerors responding to this RFP must avoid organizational conflicts of interest which would restrict full and open competition in this procurement. An organizational conflict of interest means that due to other activities, relationships or contracts, an Offeror is unable, or potentially unable to render impartial assistance or advice to the Authority; an Offeror's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or an Offeror has an unfair competitive advantage. Conflict of Interest issues must be fully disclosed in the Offeror's proposal.

All Offerors must disclose in their proposal and immediately throughout the course of the evaluation process if they have hired or retained an advocate to lobby Authority staff or the Board of Directors on their behalf.

Offerors hired to perform services for the Authority are prohibited from concurrently acting as an advocate for another firm who is competing for a contract with the Authority, either as a prime or subcontractor.

**L. CODE OF CONDUCT**

All Offerors agree to comply with the Authority's Code of Conduct as it relates to Third-Party contracts which is hereby referenced and by this reference is incorporated herein. All Offerors agree to include these requirements in all of its subcontracts.

**SECTION II: PROPOSAL CONTENT**

## **SECTION II. PROPOSAL CONTENT**

### **A. PROPOSAL FORMAT AND CONTENT**

#### **1. Format**

Proposals should be typed with a standard 12-point font, double-spaced and submitted on 8 1/2" x 11" size paper, using a single method of fastening. Charts and schedules may be included in 11"x17" format. Proposals should not include any unnecessarily elaborate or promotional materials. Proposals should not exceed fifty (50) pages in length, excluding any appendices, cover letters, resumes, or forms.

#### **2. Letter of Transmittal**

The Letter of Transmittal shall be addressed to Georgia Martinez, Senior Contract Administrator and must, at a minimum, contain the following:

- a. Identification of Offeror that will have contractual responsibility with the Authority. Identification shall include legal name of company, corporate address, telephone and fax number, and email address. Include name, title, address, email address, and telephone number of the contact person identified during period of proposal evaluation.
- b. Identification of all proposed subcontractors including legal name of company, contact person's name and address, phone number and fax number, and email address; relationship between Offeror and subcontractors, if applicable.
- c. Acknowledgement of receipt of all RFP addenda, if any.
- d. A statement to the effect that the proposal shall remain valid for a period of not less than 120 days from the date of submittal.
- e. Signature of a person authorized to bind Offeror to the terms of the proposal.
- f. Signed statement attesting that all information submitted with the proposal is true and correct.

#### **3. Technical Proposal**

##### **a. Qualifications, Related Experience and References of Offeror**

This section of the proposal should establish the ability of Offeror to satisfactorily perform the required work by reasons of: experience in performing work of a similar nature; demonstrated competence in the

services to be provided; strength and stability of the firm; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references.

Offeror to:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; and number of employees.
- (2) Provide a general description of the firm's financial condition and identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project. Describe experience working with the various government agencies identified in this RFP.
- (4) Identify subcontractors by company name, address, contact person, telephone number, email, and project function. Describe Offeror's experience working with each subcontractor.
- (5) Identify all firms hired or retained to provide lobbying or advocating services on behalf of the Offeror by company name, address, contact person, telephone number and email address. This information is required to be provided by the Offeror immediately during the evaluation process, if a lobbyist or advocate is hired or retained.
- (6) Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, address, telephone number, and email address of the person(s) at the client organization who is most knowledgeable about the work performed. Offeror may also supply references from other work not cited in this section as related experience.

**b. Proposed Staffing and Project Organization**

This section of the proposal should establish the method, which will be used by the Offeror to manage the project as well as identify key personnel assigned.

Offeror to:

- (1) Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this project, current assignment, level of commitment to that assignment, availability for this assignment and how long each person has been with the firm.
- (2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel that includes education, experience, and applicable professional credentials.
- (3) Indicate adequacy of labor resources utilizing a table projecting the labor-hour allocation to the project by individual task.
- (4) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.
- (5) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

**c. Work Plan**

Offeror should provide a narrative, which addresses the Scope of Work, and shows Offeror's understanding of Authority's needs and requirements.

Offeror to:

- (1) Describe the approach to completing the tasks specified in the Scope of Work. The approach to the work plan shall be of such detail to demonstrate the Offeror's ability to accomplish the project objectives and overall schedule.
- (2) Outline sequentially the activities that would be undertaken in completing the tasks and specify who would perform them.
- (3) Furnish a project schedule for completing the tasks in terms of elapsed weeks.
- (4) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.

- (5) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.
- (6) Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

**d. Deferred Compensation Plan Consultant Questionnaire**

***Offerors must complete the Consultant Questionnaire, which is attached to the RFP as Attachment A.***

**e. Exceptions/Deviations**

State any technical and/or contractual exceptions and/or deviations from the requirements of this RFP, including the Authority's technical requirements and contractual terms and conditions set forth in the Scope of Work (Exhibit A) and Proposed Agreement (Exhibit C), using the form entitled "Proposal Exceptions and/or Deviations" included in this RFP. This Proposal Exceptions and/or Deviations form must be included in the original proposal submitted by the Offeror. If no technical or contractual exceptions and/or deviations are submitted as part of the original proposal, Offerors are deemed to have accepted the Authority's technical requirements and contractual terms and conditions set forth in the Scope of Work (Exhibit A) and Proposed Agreement (Exhibit C). Offerors will not be allowed to submit the Proposal Exceptions and/or Deviations form or any technical and/or contractual exceptions after the proposal submittal date identified in the RFP. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed by Authority.

All exceptions and/or deviations will be reviewed by the Authority and will be assigned a "pass" or "fail" status. Exceptions and deviations that "pass" do not mean that the Authority has accepted the change but that it is a potential negotiable issue. Exceptions and deviations that receive a "fail" status means that the requested change is not something that the Authority would consider a potential negotiable issue. Offerors that receive a "fail" status on their exceptions and/or deviations will be notified by the Authority and will be allowed to retract the exception and/or deviation and continue in the evaluation process. Any exceptions and/or deviation that receive a "fail" status and the Offeror cannot or does not retract the requested change may result in the firm being eliminated from further evaluation.



**4. Cost and Price Proposal**

As part of the cost and price proposal, the Offeror shall submit proposed pricing to provide the services for each work task described in Exhibit A, Scope of Work.

The Offeror shall complete the "Price Summary Sheet" form included with this RFP (Exhibit B), and furnish any narrative required to explain the prices quoted in the schedules. It is anticipated that the Authority will issue a firm-fixed-price contract specifying firm-fixed-prices for individual tasks.

**5. Appendices**

Information considered by Offeror to be pertinent to this project and which has not been specifically solicited in any of the aforementioned sections may be placed in a separate appendix section. Offerors are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous materials. Appendices should be relevant and brief.

**B. FORMS**

**1. Status of Past and Present Contracts Form**

Offeror shall complete and sign the form entitled "Status of Past and Present Contracts" provided in this RFP and submit as part of its proposal. Offeror shall identify the status of past and present contracts where the firm has either provided services as a prime vendor or a subcontractor during the past five (5) years in which the contract has been the subject of or may be involved in litigation with the contracting authority. This includes, but is not limited to, claims, settlement agreements, arbitrations, administrative proceedings, and investigations arising out of the contract. Offeror shall have an ongoing obligation to update the Authority with any changes to the identified contracts and any new litigation, claims, settlement agreements, arbitrations, administrative proceedings, or investigations that arise subsequent to the submission of Offeror's proposal.

A separate form must be completed for each identified contract. Each form must be signed by the Offeror confirming that the information provided is true and accurate. Offeror is required to submit one copy of the completed form(s) as part of its proposals and it should be included in only the original proposal.

**2. Proposal Exceptions and/or Deviations Form**

Offerors shall complete the form entitled "Proposal Exceptions and/or Deviations" provided in this RFP and submit it as part of the original proposal. For each exception and/or deviation, a new form should be used,

identifying the exception and/or deviation and the rationale for requesting the change. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed nor considered by the Authority.

**SECTION III: EVALUATION AND AWARD**

### **SECTION III. EVALUATION AND AWARD**

#### **A. EVALUATION CRITERIA**

The Authority will evaluate the offers received based on the following criteria:

1. **Qualifications of the Firm** **20%**  
  
Technical experience in performing work of a closely similar nature; experience working with public agencies; strength and stability of the firm; strength, stability, experience and technical competence of subcontractors; assessment by client references.
2. **Staffing and Project Organization** **30%**  
  
Qualifications of project staff, particularly key personnel and especially the Project Manager; key personnel's level of involvement in performing related work cited in "Qualifications of the Firm" section; logic of project organization; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel.
3. **Work Plan** **30%**  
  
Depth of Offeror's understanding of Authority's requirements and overall quality of work plan; logic, clarity and specificity of work plan; appropriateness of resource allocation among the tasks; ability to meet project deadline(s); reasonableness of proposed schedule; utility of suggested technical or procedural innovations.
4. **Cost and Price** **20%**  
  
Reasonableness of the total price as well as the individual tasks; competitiveness with other offers received; adequacy of data in support of figures quoted.

#### **B. EVALUATION PROCEDURE**

An evaluation committee will be appointed to review all proposals received for this RFP. The committee is comprised of Authority staff and may include outside personnel. The committee members will evaluate the written proposals using criteria identified in Section III A. A list of top-ranked proposals, firms within a competitive range, will be developed based upon the totals of each committee members' score for each proposal.

During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established August 9, 2016, as the date to

conduct interviews. All prospective Offerors are asked to keep this date available. No other interview dates will be provided, therefore, if an Offeror is unable to attend the interview on this date, its proposal may be eliminated from further discussion. The interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the firm's proposal and qualifications.

At the conclusion of the proposal evaluations, Offerors remaining within the competitive range may be asked to submit a Best and Final Offer (BAFO). In the BAFO request, the firms may be asked to provide additional information, confirm or clarify issues and submit a final cost/price offer. A deadline for submission will be stipulated.

At the conclusion of the evaluation process, the evaluation committee will recommend to Authority's management the Offeror whose proposal is most advantageous to the Authority.

**C. AWARD**

The Authority may negotiate contract terms with the selected Offeror prior to award, and expressly reserves the right to negotiate with several Offerors simultaneously and, thereafter, to award a contract to the Offeror offering the most favorable terms to the Authority.

The Authority reserves the right to award its total requirements to one Offeror or to apportion those requirements among several Offerors as the Authority may deem to be in its best interest. In addition, negotiations may or may not be conducted with Offerors; therefore, the proposal submitted should contain Offeror's most favorable terms and conditions, since the selection and award may be made without discussion with any Offeror.

The selected Offeror will be required to submit to the Authority's Accounting department a current IRS W-9 form prior to commencing work.

**D. NOTIFICATION OF AWARD AND DEBRIEFING**

Offerors who submit a proposal in response to this RFP shall be notified via CAMM NET of the contract award. Such notification shall be made within three (3) business days of the date the contract is awarded.

Offerors who were not awarded the contract may obtain a debriefing concerning the strengths and weaknesses of their proposal. Unsuccessful Offerors, who wish to be debriefed, must request the debriefing in writing or electronic mail and the Authority must receive it within three (3) business days of notification of the contract award.

**Deferred Compensation Plan Consultant Questionnaire**

Company Background/Experience

1. State the name and address of your company. Provide the name, title, email address, telephone, and fax numbers of the main contact person(s) from your company.
2. Please describe the ownership and history of your company.
3. How long have you been in the retirement plan consulting business?
4. Indicate whether any services will be subcontracted to another company and fully describe these services and the stability, background, and qualifications of all companies that may provide subcontracted services.
5. How many providers do you currently work with or have relations?
6. Please describe your business model and identify what percentage of your business falls in each of the following categories:
  - a. Corporate Qualified and Tax-Exempt Retirement Plans \_\_\_\_\_ %
  - b. Individual Asset Management and/or Financial Planning \_\_\_\_\_ %
  - c. Corporations, Trusts, Foundations, Endowments \_\_\_\_\_ %
  - d. Other (please specify)
7. How many clients do you currently provide retirement plan consulting services?
8. What is the average length of your relationship with your 457 plan clients?
9. What is the average size by assets and participants? Please provide the following breakdown:

Number of Participants

1 – 100	
101 – 500	
501 – 1000	
1001 +	
Total	

Asset Size

< \$1 million	
\$1 - \$10 million	
\$11 – 50 million	
\$51 – 100 million	
\$101 million +	
Total	

Services and References

10. Please describe the services you provide for your 457 plan clients.
11. Describe your service model and typical cycle of service you provide to a full service consulting client.
12. Briefly describe your experience in working with Investment Committees and developing Investment Policy Statements.

13. Describe your investment analysis software and process for evaluating and monitoring performance of the various investment products that would typically be offered in a deferred compensation plan.
14. Do you create client reports in-house or do you use the services of a third-party to create your reports? If you use a third-party, please identify the service you use and the terms of your agreement with them. Please provide examples of your reports.
15. Provide three client references with similar size plans as ours that we may contact.

Staff

16. Describe your service team that would be assigned to our account. Detail the function, background, qualifications, and location of each key team member.
17. What is the maximum number of clients that will be assigned to each consultant?
18. Overall, how many employees are dedicated to servicing retirement plans?
19. Do you have any CFA charterholders on staff to perform investment analysis?
20. Do any of your employees have a FINRA securities license? If so, please list the broker/dealer affiliation.
21. Will any commission-based brokers be working on our plan? If so, please describe their function.
22. How many employees perform communication/education workshops?
23. Has there been any turnover with senior management in the past 36 months?

Compliance, Fees, and Compensation

24. Has the firm and/or any of its officers been subject to arbitration or litigation? Please describe.
25. Are you registered with the SEC or a state securities regulator as an investment advisor? If so, please include a copy of all disclosures required under those laws with your response including Form ADV Part II.
26. How many 457 plans do you service under your RIA arrangement, if applicable?
27. How many 457 plans do you service under your broker/dealer fee arrangement, if applicable?
28. What percent of your income from servicing retirement plans is derived from:
  - a. RIA (fee-based) Arrangement \_\_\_\_\_ %
  - b. Broker (commission-based) Arrangement \_\_\_\_\_ %
29. If you allow plans to pay your consulting fees using the plan's brokerage commissions, do you monitor the amount of commissions paid and alert plans when consulting fees have been paid in full? If not, how can a plan make sure it does not over-pay its consulting fees under this arrangement?
30. Do you have any arrangements with broker/dealers under which you will benefit if money managers place trades for their clients with such broker/dealers?
31. Do you consider yourself a fiduciary with respect to the recommendations you provide the plan?

32. If you are hired, will you acknowledge in writing that you have a fiduciary obligation as an investment advisor to the plan while providing the consulting services we are seeking?
33. Are you willing to disclose all compensation received by your company as a result of consulting our plan?
34. Please describe all hard and soft dollar compensation received by your broker/dealer from mutual fund companies, insurance companies or other vendors (commonly referred to as partnership payments, marketing reimbursement programs, or revenue sharing)?
35. Do you receive, through your broker/dealer, any overrides or compensation as a result of managing other Registered Representatives on ERISA and non-ERISA retirement plans?

Conflicts of Interest

36. Please describe any circumstances under which your firm receives fees or other compensation from investment managers, vendors, insurance companies, and/or mutual funds.
37. Do you or a related company receive any payments from money managers you recommend, consider for recommendation, or otherwise mention to the plan for our consideration? If so, what is the extent of the payments in relation to your other income (revenue)?
38. Do you have any policies or procedures to address conflicts of interest or to prevent these payments or relationships from being considered when you provide advice to your clients?



**EXHIBIT A: SCOPE OF WORK**

**SCOPE OF WORK  
DEFERRED COMPENSATION PLAN INVESTMENT ADVISORY AND  
CONSULTING SERVICES**

**I. Introduction**

The Consultant shall serve the Orange County Transportation Authority's (OCTA) deferred compensation plan (Plan) consultant for the purpose of investment consulting, compliance and administration consulting, and plan cost and fiduciary evaluation.

**II. Role of Consultant**

Serve as OCTA's consultant by providing independent advice and serve solely on behalf of the interests of OCTA.

**III. Scope of Work**

OCTA is seeking a Consultant with a demonstrated track record of performing investment consulting, compliance and administration consulting, and plan cost and fiduciary evaluation for transportation agencies.

The entire work plan and all of its activities and tasks shall be performed by the Consultant and the Consultant shall provide all equipment and materials needed to execute the work, unless otherwise noted in this Scope of Work. The Consultant shall not commence any task until directed to do so in writing by OCTA's Project Manager.

Successful completion of tasks listed below includes the delivery of all specified deliverables, meeting all requirements, without any omissions, errors, or other defects as determined by OCTA. Also, all deliveries (initial, intermediate, and final) must be made on time and within the allocated budget according to time and price schedules agreed upon in the executed agreement resulting from this solicitation.

To conclude each task, or at any time during a task, as determined by OCTA, work activities and products shall be reviewed to evaluate their status, gauge progress, and plan next steps. OCTA will use information gained from these reviews to decide whether to continue or hold work, accept work, closeout a task and move to the next task, or cancel the current task and/or the remainder of the project. Such decisions will be made solely at OCTA's discretion. Adherence to the project schedule, work quality, and the likelihood of success will be important inputs to such decisions.

The general task descriptions below serve as an outline or examples to help Offerors formulate their proposals. The Offeror shall describe its intended approach to meeting all objectives in its proposal and demonstrate its success at executing similar previous projects.

IV. The Consultant shall complete the following tasks:

a. Task 1 – Investment Consulting

Task 1.1 – Investment Policy Statement

- Revise and draft Investment Policy Statement incorporating a process and methodology for reviewing and monitoring Plan investment options and annual review to ensure it is meeting the needs of OCTA and the Plan participants

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered annually
- Initial Document for first year (MS Word)

Task 1.1.a – Invest Policy Statement (Annual Review)

- Review annually to meet state and federal regulations
- Assist with the decision making and implementation of any changes made to the Investment Policy Statement

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered annually
- Annual Review for second year onward (MS Word)

Task 1.2 – Comprehensive Quarterly Investment Analysis Review

- Provide a comprehensive quarterly investment analysis review of all Plan investment options to ensure compliance with the Investment Policy Statement parameters, as well as, provide recommendations on additional options and asset classes to consider. Assist with adding and/or eliminating investment options as a result of the investment analysis
- Assist in creating communication to the Plan participants before the fund change takes place

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered on a quarterly basis

Task 1.3 – Market Overview

- Provide a general overview of the current market conditions and performance addressing the major markets, indices, sectors, and related economic statistics. Including stocks, bonds, international markets and industry sectors

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered on a quarterly basis

**Task 1.4 – In-Depth Portfolio Summary**

- Provide an in-depth portfolio summary, including fund and benchmark returns, style analysis, risk/reward profiles and overall portfolio return
- Provide historical performance returns, major holdings, sector weightings, and portfolio statistics of the funds.

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered on a quarterly basis

**Task 1.5 – Plan Asset Analysis**

- Analyze the Plan asset allocation by fund and underlying sectors; provide fund analysis of fund lineup to determine the amount of overlap that may be occurring

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered on a quarterly basis

**Task 1.6 – Qualitative and Quantitative Examination of Mutual Fund Investment Options**

- Provide a detailed quantitative and qualitative examination of each mutual fund investment option with the Plan, including performance numbers versus the category and index, manager style drift, risk/return, standard deviation, Sharpe ratio, expense ratio, upside and downside capture, and fund

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered on a quarterly basis

**Task 1.7 – Plan Compliance**

- Assist OCTA with ensuring the Plan is in compliance with the requirements under Federal and State regulations

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered annually or as laws and regulations require changes/updates

**Task 1.8 – Investment Committee Meeting**

- Be available no less than four (4) times per year to meet with the Investment Committee, or other designated fiduciaries, to present the quarterly reports and findings, make recommendations, and answer questions related to the Plan
- Provide assistance with developing and reviewing communication to participants regarding any Plan changes.

***Deliverables:***

- Attendance at Investment Committee Meetings
- Presentation (PowerPoint)

**b. Task 2 – Compliance and Administration Consulting**

**Task 2.1 – Fiduciary Best-Practices**

- Provide consulting assistance on fiduciary best-practices, including the following:
- Formalize Investment Committee (chartering) and assist with revisions
- Fiduciary Education, advice of latest best-practices and updates regarding fiduciary responsibility, plan design and plan administration. Provide general education and fiduciary liability training on site once a year for at least two hours. Recommend training and other educational resources throughout the year.

***Deliverables:***

- Meet with project manager and Investment Committee
- Report in electronic format (MS Word, Excel)

**Task 2.2 – Policy Coverage**

- Provide guidance on fidelity bond and fiduciary insurance policy coverage

***Deliverables:***

- Meet with project manager and Investment Committee
- Report in electronic format (MS Word, Excel)

**Task 2.3 – Legislative Industry Changes**

- Provide assistance with legislative (mandatory and optional) industry changes

***Deliverables:***

- Meet with project manager and Investment Committee

- Report in electronic format (MS Word, Excel)

**Task 2.4 – Meeting Minutes**

- Provide draft meeting minutes documenting Committee meeting discussions for OCTA's use

***Deliverables:***

- Meeting Minutes delivered after each Committee meeting

**Task 2.5 – Annual Benchmark**

- Provide annual benchmarking of Plan costs as compared to industry average

***Deliverables:***

- Report in electronic format (MS Word, Excel)

**c. Task 3 – Plan Cost and Fiduciary Evaluation**

**Task 3.1 – Fee Structure Report**

- Provide a detailed report outlining the current fee structure and arrangement between the Plan and the retirement plan service provider; this analysis will break out service costs and management costs to provide complete transparency in all Plan related expenses

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered annually

**Task 3.2 – Fee Comparison**

- Compare overall Plan fees compared to other similarly sized plans (customized “industry average”), per participant cost/revenues compared to industry average, analyze revenue distribution to providers and all related parties, and explain alternate options for revenue distribution, if applicable

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered annually

**Task 3.3 – Plan Review**

- Review Plan design, including administrative fees and services, applicable maintenance fees, number of investment options, and the fixed option contract

***Deliverables:***

- Report in electronic format (MS Word, Excel) delivered annually

- d. **Task 4 – Vendor Search and Selection:** Consultant shall assist OCTA with acquiring services for the Deferred Compensation Plan as follows:

**Task 4.1: Role of Consultant and Services**

- Serve as OCTA's analyst and consultant throughout the procurement process
- Provide independent advice and serve solely on behalf of the interests of OCTA

Consultant shall assist OCTA with acquiring services for the Deferred Compensation Plan as follows:

- Assist with the development of a customized Request for Proposal, which includes a Scope of work based on OCTA's specifics, demographics, and needs
- Assist with development of questions and project requirements to determine the firm's qualifications and ability to perform the scope of work
- Conduct a review of the universe of vendors in the marketplace. Once established, provide OCTA with the contact information to ensure vendors are registered on CAMM Net
- Assist with cost/price weighting criteria for evaluation of firms' fees
- Participate in the evaluation process and serve on the evaluation committee with OCTA staff
- Assist with evaluation of firms' responses in order to determine recordkeeping/administrative capabilities, investment offerings, net cost comparison, and education/communication abilities
- Attend evaluation committee meetings. Evaluation committee meetings shall take place at OCTA's Administrative offices in Orange, California
- Participate with evaluation committee members in interview with each of the short-listed firms. The interviews shall take place at OCTA's Administrative offices in Orange, California
- Assist with preparation of interview questions, which shall aid with final determination of firms' ability to deliver a successful project
- Assist with negotiation details to determine the fees most advantageous to OCTA

- Prepare a final report for the Human Resources and Organizational Development Department, which quantifies and summarizes the process findings. Documents the entire process for OCTA's fiduciary file

***Deliverables:***

- Vendor Analysis Report (electronic file)
- Report in electronic format (MS Word, Excel)



**EXHIBIT B: COST AND PRICE FORMS**

**PRICE SUMMARY SHEET**

**REQUEST FOR PROPOSALS (RFP) 6-1278**

Enter below the proposed price for the tasks described in the Scope of Work, Exhibit A. Prices shall include direct costs, indirect costs, and profits. The Authority's intention is to award a firm-fixed price contract.

**Initial Term: Effective – 8/31/19**

Task	Description	Firm-Fixed Price		
		Year 1 Effective - 8/31/17	Year 2 9/1/17 - 8/31/18	Year 3 9/1/18 - 8/31/19
1.1	Investment Policy Statement	\$ _____	\$ _____	\$ _____
1.1.a	Investment Policy Statement (Annual Review)	\$ _____	\$ _____	\$ _____
1.2	Comprehensive Quarterly Investment Analysis	\$ _____	\$ _____	\$ _____
1.3	Market Overview	\$ _____	\$ _____	\$ _____
1.4	In-Depth Portfolio Summary	\$ _____	\$ _____	\$ _____
1.5	Plan Asset Analysis	\$ _____	\$ _____	\$ _____
1.6	Qualitative and Quantitative Examination of Mutual Fund Investment Options	\$ _____	\$ _____	\$ _____
1.7	Plan Compliance	\$ _____	\$ _____	\$ _____
1.8	Investment Committee Meeting	\$ _____	\$ _____	\$ _____
2.1	Fiduciary Best Practices	\$ _____	\$ _____	\$ _____
2.2	Policy Coverage	\$ _____	\$ _____	\$ _____
2.3	Legislative Industry Changes	\$ _____	\$ _____	\$ _____
2.4	Meeting Minutes	\$ _____	\$ _____	\$ _____
2.5	Annual Benchmark	\$ _____	\$ _____	\$ _____
3.1	Fee Structure Report	\$ _____	\$ _____	\$ _____
3.2	Fee Comparison	\$ _____	\$ _____	\$ _____
3.3	Plan Review	\$ _____	\$ _____	\$ _____
4.1	Vendor Search and Selection	\$ _____	\$ _____	\$ _____
	<b>Total Firm-Fixed Price (Initial Term)</b>	<b>\$ _____</b>		

**Option Terms: 9/1/19 – 8/31/21**

Task	Description	Firm-Fixed Price	
		Year 4 First Option Term 9/1/19 - 8/31/20	Year 5 Second Option Term 9/1/20 - 8/31/21
1.1	Investment Policy Statement	\$ _____	\$ _____
1.1.a	Investment Policy Statement (Annual Review)	\$ _____	\$ _____
1.2	Comprehensive Quarterly Investment Analysis	\$ _____	\$ _____
1.3	Market Overview	\$ _____	\$ _____
1.4	In-Depth Portfolio Summary	\$ _____	\$ _____
1.5	Plan Asset Analysis	\$ _____	\$ _____
1.6	Qualitative and Quantitative Examination of Mutual Fund Investment Options	\$ _____	\$ _____
1.7	Plan Compliance	\$ _____	\$ _____
1.8	Investment Committee Meeting	\$ _____	\$ _____
2.1	Fiduciary Best Practices	\$ _____	\$ _____
2.2	Policy Coverage	\$ _____	\$ _____
2.3	Legislative Industry Changes	\$ _____	\$ _____
2.4	Meeting Minutes	\$ _____	\$ _____
2.5	Annual Benchmark	\$ _____	\$ _____
3.1	Fee Structure Report	\$ _____	\$ _____
3.2	Fee Comparison	\$ _____	\$ _____
3.3	Plan Review	\$ _____	\$ _____
4.1	Vendor Search and Selection	\$ _____	\$ _____
	<b>Total Firm-Fixed Price (Option Term)</b>	<b>\$ _____</b>	

- 
1. I acknowledge receipt of RFP 6-1278 and Addenda No.(s) \_\_\_\_\_
  2. This offer shall remain firm for \_\_\_\_\_ days from the date of proposal  
(Minimum 120)

COMPANY NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE \_\_\_\_\_

SIGNATURE OF PERSON  
AUTHORIZED TO BIND OFFEROR \_\_\_\_\_

SIGNATURE'S NAME AND TITLE \_\_\_\_\_

DATE SIGNED \_\_\_\_\_

**EXHIBIT C: PROPOSED AGREEMENT**



EXHIBIT C

performance of any terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of AUTHORITY's right to such performance or to future performance of such terms or conditions and CONSULTANT's obligation in respect thereto shall continue in full force and effect. Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when specifically confirmed in writing by an authorized representative of AUTHORITY by way of a written amendment to this Agreement and issued in accordance with the provisions of this Agreement.

**ARTICLE 2. AUTHORITY DESIGNEE**

The Chief Executive Officer of AUTHORITY, or designee, shall have the authority to act for and exercise any of the rights of AUTHORITY as set forth in this Agreement.

**ARTICLE 3. SCOPE OF WORK**

A. CONSULTANT shall perform the work necessary to complete in a manner satisfactory to AUTHORITY the services set forth in Exhibit A, entitled "Scope of Work," attached to and, by this reference, incorporated in and made a part of this Agreement. All services shall be provided at the times and places designated by AUTHORITY.

B. CONSULTANT shall provide the personnel listed below to perform the above-specified services, which persons are hereby designated as key personnel under this Agreement.

**Names**

**Functions**

C. No person named in paragraph B of this Article, or his/her successor approved by AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon function or level of commitment hereunder be changed, without the prior written consent of AUTHORITY. Should the services of any key person become no longer available to CONSULTANT, the resume and qualifications of the proposed replacement shall be submitted to AUTHORITY for approval as soon as

possible, but in no event later than seven (7) calendar days prior to the departure of the incumbent key person, unless CONSULTANT is not provided with such notice by the departing employee. AUTHORITY shall respond to CONSULTANT within seven (7) calendar days following receipt of these qualifications concerning acceptance of the candidate for replacement.

#### **ARTICLE 4. TERM OF AGREEMENT**

A. This Agreement shall commence upon execution by both parties, and shall continue in full force and effect through August 31, 2019 ("Initial Term"), unless earlier terminated or extended as provided in this Agreement.

B. AUTHORITY, at its sole discretion, may elect to extend the term of this Agreement up to an additional twelve (12) months, commencing September 1, 2019, and continuing through August 31, 2020 ("First Option Term"), and thereupon require CONSULTANT to continue to provide services, and otherwise perform, in accordance with Exhibit A, entitled "Scope of Work", and Article 5, "Payment."

C. AUTHORITY, at its sole discretion, may elect to extend the term of this Agreement up to an additional twelve (12) months, commencing September 1, 2020, and continuing through August 31, 2021 ("Second Option Term"), and thereupon require CONSULTANT to continue to provide services, and otherwise perform, in accordance with Exhibit A, entitled "Scope of Work", and Article 5, "Payment."

D. AUTHORITY's election to extend the Agreement beyond the initial term shall not diminish its right to terminate the Agreement for AUTHORITY's convenience or CONSULTANT's default as provided elsewhere in this Agreement. The "Maximum Term" of this Agreement shall be the period extending from commencement through August 31, 2021, which period encompasses the Initial Term, First Option Term and Second Option Term.

#### **ARTICLE 5. PAYMENT**

A. For CONSULTANT's full and complete performance of its obligations under this Agreement and subject to the maximum cumulative payment obligation provisions set forth in Article 6, AUTHORITY shall pay CONSULTANT on a firm-fixed price basis in accordance with the following



1 provisions.

2 B. The schedule included as Exhibit B, entitled "Price Summary Sheet," which is attached to  
3 and by this reference, incorporated in and made a part of this Agreement, shall establish the firm fixed  
4 payment to CONSULTANT by AUTHORITY for each work task set forth in the Scope of Work. The  
5 schedule shall not include any CONSULTANT expenses not approved by AUTHORITY, including, but  
6 not limited to reimbursement for local meals.

7 C. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding  
8 to the work actually completed by CONSULTANT. Percentage of work completed shall be documented  
9 in a monthly progress report prepared by CONSULTANT, which shall accompany each invoice  
10 submitted by CONSULTANT. CONSULTANT shall also furnish such other information as may be  
11 requested by AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY  
12 may decline to make full payment for any task listed in paragraph B of this Article until such time as  
13 CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully  
14 completed all work required under the task. AUTHORITY's payment in full for any task completed shall  
15 constitute AUTHORITY's final acceptance of CONSULTANT's work under such task.

16 D. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in  
17 duplicate to AUTHORITY's Accounts Payable office. CONSULTANT may also submit invoices  
18 electronically to AUTHORITY's Accounts Payable Department at [vendorinvoices@octa.net](mailto:vendorinvoices@octa.net). Each  
19 invoice shall be accompanied by the monthly progress report specified in paragraph C of this Article.  
20 AUTHORITY shall remit payment within thirty (30) calendar days of the receipt and approval of each  
21 invoice. Each invoice shall include the following information:

- 22 1. Agreement No. C-6-1278;
- 23 2. Specify the task number for which payment is being requested;
- 24 3. The time period covered by the invoice;
- 25 4. Total monthly invoice (including project-to-date cumulative invoice amount);
- 26 5. Biannual Progress Report;

EXHIBIT C

6. Certification signed by the CONSULTANT or his/her designated alternate that a) The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup information included with the invoice is true, complete and correct in all material respects; c) All payments due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The invoice does not include any amount which CONSULTANT intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice.

7. Any other information as agreed or requested by AUTHORITY to substantiate the validity of an invoice.

**ARTICLE 6. MAXIMUM OBLIGATION**

Notwithstanding any provisions of this Agreement to the contrary, AUTHORITY and CONSULTANT mutually agree that AUTHORITY's maximum cumulative payment obligation (including obligation for CONSULTANT's profit) shall be \_\_\_\_\_ Dollars (\$ \_\_\_\_\_.00) which shall include all amounts payable to CONSULTANT for its subcontracts, leases, materials and costs arising from, or due to termination of, this Agreement.

**ARTICLE 7. NOTICES**

All notices hereunder and communications regarding the interpretation of the terms of this Agreement, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, returned receipt requested, postage prepaid and addressed as follows:

To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

ATTENTION:

ATTENTION: Georgia Martinez

Senior Contract Administrator

PH: (714) 560 - 5605

Email: gmartinez@octa.net

**ARTICLE 8. INDEPENDENT CONTRACTOR**

CONSULTANT's relationship to AUTHORITY in the performance of this Agreement is that of an independent contractor. CONSULTANT's personnel performing services under this Agreement shall at all times be under CONSULTANT's exclusive direction and control and shall be employees of CONSULTANT and not employees of AUTHORITY. CONSULTANT shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

**ARTICLE 9. INSURANCE**

A. CONSULTANT shall procure and maintain insurance coverage during the entire term of this Agreement. Coverage shall be full coverage and not subject to self-insurance provisions. CONSULTANT shall provide the following insurance coverage:

1. Commercial General Liability, to include Products/Completed Operations, Independent Contractors', Contractual Liability, and Personal Injury Liability, and Property Damage with a minimum limit of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

2. Automobile Liability Insurance to include owned, hired and non-owned autos with a combined single limit of \$1,000,000.00 each accident;

3. Workers' Compensation with limits as required by the State of California including a waiver of subrogation in favor of AUTHORITY, its officers, directors, employees or agents;

4. Employers' Liability with minimum limits of \$1,000,000.00; and

5. Professional Liability with minimum limits of \$1,000,000.00 per claim.

B. Proof of such coverage, in the form of an insurance company issued policy endorsement and a broker-issued insurance certificate, must be received by AUTHORITY prior to commencement of

any work. Proof of insurance coverage must be received by AUTHORITY within ten (10) calendar days from the effective date of this Agreement with the AUTHORITY, its officers, directors, employees and agents designated as additional insured on the general and automobile liability. Such insurance shall be primary and non-contributive to any insurance or self-insurance maintained by the AUTHORITY.

C. CONSULTANT shall include on the face of the Certificate of Insurance the Agreement Number C-6-1278; and, the Senior Contract Administrator's Name, Georgia Martinez.

D. CONSULTANT shall also include in each subcontract the stipulation that subcontractors shall maintain insurance coverage in the amounts required from CONSULTANT as provided in this Agreement.

E. CONSULTANT shall be required to immediately notify AUTHORITY of any modifications or cancellation of any required insurance policies.

**ARTICLE 10. ORDER OF PRECEDENCE**

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 6-1278; (3) CONSULTANT's proposal dated \_\_\_\_\_; (4) all other documents, if any, cited herein or incorporated by reference.

**ARTICLE 11. CHANGES**

By written notice or order, AUTHORITY may, from time to time, order work suspension and/or make changes in the general scope of this Agreement, including, but not limited to, the services furnished to AUTHORITY by CONSULTANT as described in the Scope of Work. If any such work suspension or change causes an increase or decrease in the price of this Agreement, or in the time required for its performance, CONSULTANT shall promptly notify AUTHORITY thereof and assert its claim for adjustment within ten (10) calendar days after the change or work suspension is ordered, and an equitable adjustment shall be negotiated. However, nothing in this clause shall excuse CONSULTANT from proceeding immediately with the Agreement as changed.

/

**ARTICLE 12. DISPUTES**

A. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by supplemental agreement shall be decided by AUTHORITY's Director, Contracts Administration and Materials Management (CAMM), who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to CONSULTANT. The decision of the Director, CAMM, shall be final and conclusive.

B. Pending final decision of a dispute hereunder, CONSULTANT shall proceed diligently with the performance of this Agreement and in accordance with the decision of AUTHORITY's Director, CAMM. This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Agreement, however, shall be construed as making final the decision of any AUTHORITY official or representative on a question of law, which questions shall be settled in accordance with the laws of the state of California.

**ARTICLE 13. TERMINATION**

A. AUTHORITY may terminate this Agreement for its convenience at any time, in whole or part, by giving CONSULTANT written notice thereof. Upon said notice, AUTHORITY shall pay CONSULTANT its allowable costs incurred to date of termination and those allowable costs determined by AUTHORITY to be reasonably necessary to effect such termination. Thereafter, CONSULTANT shall have no further claims against AUTHORITY under this Agreement.

B. In the event either Party defaults in the performance of any of their obligations under this Agreement or breaches any of the provisions of this Agreement, the non-defaulting Party shall have the option to terminate this Agreement upon thirty (30) days' prior written notice to the other Party. Upon receipt of such notice, CONSULTANT shall immediately cease work, unless the notice from AUTHORITY provides otherwise. Upon receipt of the notice from AUTHORITY, CONSULTANT shall submit an invoice for work and/or services performed prior to the date of termination. AUTHORITY shall pay CONSULTANT for work and/or services satisfactorily provided to the date of termination in compliance with this Agreement. Thereafter, CONSULTANT shall have no further claims against

## EXHIBIT C

Authority under this AGREEMENT. AUTHORITY shall not be liable for any claim of lost profits or damages for such termination.

**ARTICLE 14. INDEMNIFICATION**

CONSULTANT shall indemnify, defend and hold harmless AUTHORITY, its officers, directors, employees and agents from and against any and all claims (including attorneys' fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions or willful misconduct by CONSULTANT, its officers, directors, employees, agents, subcontractors or suppliers in connection with or arising out of the performance of this Agreement.

**ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS**

A. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by CONSULTANT either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONSULTANT, without the prior written consent of AUTHORITY. Consent by AUTHORITY shall not be deemed to relieve CONSULTANT of its obligations to comply fully with all terms and conditions of this Agreement.

B. AUTHORITY hereby consents to CONSULTANT's subcontracting portions of the Scope of Work to the parties identified below for the functions described in CONSULTANT's proposal. CONSULTANT shall include in the subcontract agreement the stipulation that CONSULTANT, not AUTHORITY, is solely responsible for payment to the subcontractor for the amounts owing and that the subcontractor shall have no claim, and shall take no action, against AUTHORITY, its officers, directors, employees or sureties for nonpayment by CONSULTANT.

**Subcontractor Name/Addresses**

**Subcontractor Amounts**

.00

.00

**ARTICLE 16. AUDIT AND INSPECTION OF RECORDS**

CONSULTANT shall provide AUTHORITY, or other agents of AUTHORITY, such access to

CONSULTANT's accounting books, records, payroll documents and facilities, as AUTHORITY deems necessary. CONSULTANT shall maintain such books, records, data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during CONSULTANT's performance hereunder and for a period of four (4) years from the date of final payment by AUTHORITY. AUTHORITY's right to audit books and records directly related to this Agreement shall also extend to all first-tier subcontractors identified in Article 15 of this Agreement. CONSULTANT shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary.

**ARTICLE 17. CONFLICT OF INTEREST**

CONSULTANT agrees to avoid organizational conflicts of interest. An organizational conflict of interest means that due to other activities, relationships or contracts, the CONSULTANT is unable, or potentially unable to render impartial assistance or advice to the AUTHORITY; CONSULTANT's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or the CONSULTANT has an unfair competitive advantage. CONSULTANT is obligated to fully disclose to the AUTHORITY in writing Conflict of Interest issues as soon as they are known to the CONSULTANT. All disclosures must be submitted in writing to AUTHORITY pursuant to the Notice provision herein. This disclosure requirement is for the entire term of this Agreement.

**ARTICLE 18. CODE OF CONDUCT**

CONSULTANT agrees to comply with the AUTHORITY's Code of Conduct as it relates to Third-Party contracts which is hereby referenced and by this reference is incorporated herein. CONSULTANT agrees to include these requirements in all of its subcontracts.

**ARTICLE 19. PROHIBITION ON PROVIDING ADVOCACY SERVICES**

CONSULTANT and all subconsultants performing work under this Agreement, shall be prohibited from concurrently representing or lobbying for any other party competing for a contract with AUTHORITY, either as a prime consultant or subconsultant. Failure to refrain

1 from such representation may result in termination of this Agreement.

2 **ARTICLE 20. FEDERAL, STATE AND LOCAL LAWS**

3 CONSULTANT warrants that in the performance of this Agreement, it shall comply with all  
4 applicable federal, state and local laws, statutes and ordinances and all lawful orders, rules and  
5 regulations promulgated thereunder.

6 **ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY**

7 In connection with its performance under this Agreement, CONSULTANT shall not discriminate  
8 against any employee or applicant for employment because of race, religion, color, sex, age or national  
9 origin. CONSULTANT shall take affirmative action to ensure that applicants are employed, and that  
10 employees are treated during their employment, without regard to their race, religion, color, sex, age or  
11 national origin. Such actions shall include, but not be limited to, the following: employment, upgrading,  
12 demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other  
13 forms of compensation; and selection for training, including apprenticeship.

14 **ARTICLE 22. PROHIBITED INTERESTS**

15 CONSULTANT covenants that, for the term of this Agreement, no director, member, officer or  
16 employee of AUTHORITY during his/her tenure in office or for one (1) year thereafter shall have any  
17 interest, direct or indirect, in this Agreement or the proceeds thereof.

18 **ARTICLE 23. OWNERSHIP OF REPORTS AND DOCUMENTS**

19 A. The originals of all letters, documents, reports and other products and data produced under  
20 this Agreement shall be delivered to, and become the property of AUTHORITY. Copies may be made  
21 for CONSULTANT's records but shall not be furnished to others without written authorization from  
22 AUTHORITY. Such deliverables shall be deemed works made for hire and all rights in copyright therein  
23 shall be retained by AUTHORITY.

24 B. All ideas, memoranda, specifications, plans, manufacturing, procedures, drawings,  
25 descriptions, and all other written information submitted to CONSULTANT in connection with the  
26 performance of this Agreement shall not, without prior written approval of AUTHORITY, be used for any



1 purposes other than the performance under this Agreement, nor be disclosed to an entity not connected  
2 with the performance of the project. CONSULTANT shall comply with AUTHORITY's policies regarding  
3 such material. Nothing furnished to CONSULTANT, which is otherwise known to CONSULTANT or is  
4 or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall  
5 not use AUTHORITY's name, photographs of the project, or any other publicity pertaining to the project  
6 in any professional publication, magazine, trade paper, newspaper, seminar or other medium without  
7 the express written consent of AUTHORITY.

8 C. No copies, sketches, computer graphics or graphs, including graphic artwork, are to be  
9 released by CONSULTANT to any other person or agency except after prior written approval by  
10 AUTHORITY, except as necessary for the performance of services under this Agreement. All press  
11 releases, including graphic display information to be published in newspapers, magazines, etc., are to  
12 be handled only by AUTHORITY unless otherwise agreed to by CONSULTANT and AUTHORITY.

#### 13 **ARTICLE 24. PATENT AND COPYRIGHT INFRINGEMENT**

14 A. In lieu of any other warranty by AUTHORITY or CONSULTANT against patent or copyright  
15 infringement, statutory or otherwise, it is agreed that CONSULTANT shall defend at its expense any  
16 claim or suit against AUTHORITY on account of any allegation that any item furnished under this  
17 Agreement or the normal use or sale thereof arising out of the performance of this Agreement, infringes  
18 upon any presently existing U. S. letters patent or copyright and CONSULTANT shall pay all costs and  
19 damages finally awarded in any such suit or claim, provided that CONSULTANT is promptly notified in  
20 writing of the suit or claim and given authority, information and assistance at CONSULTANT's expense  
21 for the defense of same. However, CONSULTANT will not indemnify AUTHORITY if the suit or claim  
22 results from: (1) AUTHORITY's alteration of a deliverable, such that said deliverable in its altered form  
23 infringes upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in  
24 combination with other material not provided by CONSULTANT when such use in combination infringes  
25 upon an existing U.S. letters patent or copyright.

26 B. CONSULTANT shall have sole control of the defense of any such claim or suit and all

1 negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify AUTHORITY  
2 under any settlement made without CONSULTANT's consent or in the event AUTHORITY fails to  
3 cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at  
4 CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or claim,  
5 CONSULTANT, at no expense to AUTHORITY, shall obtain for AUTHORITY the right to use and sell  
6 said item, or shall substitute an equivalent item acceptable to AUTHORITY and extend this patent and  
7 copyright indemnity thereto.

#### 8 **ARTICLE 25. FINISHED AND PRELIMINARY DATA**

9 A. All of CONSULTANT's finished technical data, including but not limited to illustrations,  
10 photographs, tapes, software, software design documents, including without limitation source code,  
11 binary code, all media, technical documentation and user documentation, photoprints and other graphic  
12 information required to be furnished under this Agreement, shall be AUTHORITY's property upon  
13 payment and shall be furnished with unlimited rights and, as such, shall be free from proprietary  
14 restriction except as elsewhere authorized in this Agreement. CONSULTANT further agrees that it  
15 shall have no interest or claim to such finished, AUTHORITY-owned, technical data; furthermore, said  
16 data is subject to the provisions of the Freedom of Information Act, 5 USC 552.

17 B. It is expressly understood that any title to preliminary technical data is not passed to  
18 AUTHORITY but is retained by CONSULTANT. Preliminary data includes roughs, visualizations,  
19 software design documents, layouts and comprehensives prepared by CONSULTANT solely for the  
20 purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given  
21 for preparation of finished artwork. Preliminary data title and right thereto shall be made available to  
22 AUTHORITY if CONSULTANT causes AUTHORITY to exercise Article 11, and a price shall be  
23 negotiated for all preliminary data.

#### 24 **ARTICLE 26. FORCE MAJEURE**

25 Either party shall be excused from performing its obligations under this Agreement during the  
26 time and to the extent that it is prevented from performing by an unforeseeable cause beyond its

EXHIBIT C

control, including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; or a material act or omission by the other party; when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

**ARTICLE 27. HEALTH AND SAFETY REQUIREMENT**

CONSULTANT shall comply with all the requirements set forth in Exhibit \_\_, Level 1 Safety Specifications.

This Agreement shall be made effective upon execution by both parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-6-1278 to be executed on the date first above written.

**CONSULTANT**

By \_\_\_\_\_

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

By \_\_\_\_\_

Pia Veasapen  
Acting Manager, Contracts and Procurement

APPROVED AS TO FORM:

By \_\_\_\_\_

James M. Donich  
General Counsel

**EXHIBIT D: STATUS OF PAST AND PRESENT CONTRACTS FORMS**

**STATUS OF PAST AND PRESENT CONTRACTS FORM**

On the form provided below, Offeror shall list the status of past and present contracts where the firm has either provided services as a prime vendor or a subcontractor during the past five (5) years in which the contract has been the subject of or may be involved in litigation with the contracting authority. This includes, but is not limited to, claims, settlement agreements, arbitrations, administrative proceedings, and investigations arising out of the contract.

A separate form must be completed for each contract. Offeror shall provide an accurate contact name and telephone number for each contract and indicate the term of the contract and the original contract value. Offeror shall also provide a brief summary and the current status of the litigation, claims, settlement agreements, arbitrations, administrative proceedings, or investigations. If the contract was terminated, list the reason for termination.

Offeror shall have an ongoing obligation to update the Authority with any changes to the identified contracts and any new litigation, claims, settlement agreements, arbitrations, administrative proceedings, or investigations that arise subsequent to the submission of Offeror's proposal. Each form must be signed by an officer of the Offeror confirming that the information provided is true and accurate.

<b>Project city/agency/other:</b>	
<b>Contact Name:</b>	<b>Phone:</b>
<b>Project Award Date:</b>	<b>Original Contract Value:</b>
<b>Term of Contract:</b>	
<b>(1) Litigation, claims, settlements, arbitrations, or investigations associated with contract:</b>	
<b>(2) Summary and Status of contract:</b>	
<b>(3) Summary and Status of action identified in (1):</b>	
<b>(4) Reason for termination, if applicable:</b>	

By signing this Form entitled "Status of Past and Present Contracts," I am affirming that all of the information provided is true and accurate.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

**EXHIBIT E: LEVEL 1 SAFETY SPECIFICATIONS**

## **LEVEL 1 HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS**

### **PART I – GENERAL**

#### **1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS**

- A. The Contractor, its subcontractors, suppliers, and employees have the obligation to comply with all Orange County Transportation Authority (Authority) health, safety and environmental compliance department (HSEC) requirements of this safety specification, project site requirements, bus yard safety rules, as well as all federal, state, and local regulations pertaining to scope of work, contracts or agreements with the Authority. Additionally, manufacturer requirements are considered incorporated by reference as applicable to this scope of work.
- B. Observance of repeated unsafe acts or conditions, serious violation of safety standards, non-conformance of Authority's HSEC requirements, or disregard for the intent of these safety specifications to protect people and property, by Contractor or its subcontractors may be cause for termination of scope or agreements with the Authority, at the sole discretion of the Authority.
- C. The HSEC requirements, and references contained within this scope of work shall not be considered all-inclusive as to the hazards that might be encountered. Safe work practices shall be planned and performed, and safe conditions shall be maintained during the course of this work scope.
- D. The Authority Project Manager shall be responsible to ensure a safety orientation is conducted of known potential hazards and emergency procedures for all Contractor personnel, subcontractors, suppliers, vendors, and new employees assigned to the project prior to commencement of the project.
- E. The Contractor shall ensure that all Contractor vehicles, including those of its subcontractors, suppliers, vendors and employees are parked in designated parking areas, and comply with traffic routes, and posted traffic signs in areas other than the employee parking lots.
- F. California Code of Regulations (CCR) Title 8 Standards are minimum requirements; each Contractor is encouraged to exceed minimum requirements. When the Contractor's safety requirements exceed statutory standards, the more stringent requirements shall be achieved for the safeguard of public and workers.

#### **1.2 INJURY AND ILLNESS PREVENTION PLAN**

- A. The Contractor shall submit to the Authority, a copy of their company Injury and Illness Prevention Plan (IIPP) in accordance with CCR Title 8, Section 3203. The intent and elements of the IIPP shall be implemented and enforced by the Contractor and its sub-tier contractors, suppliers, and vendors.

- B. Contractor shall provide a copy of the Policy or Program of Company's Substance Abuse Prevention Policy that complies with the 1988 Drug Free Workplace Act.

### **1.3 HAZARD COMMUNICATION**

- A. Contractor shall comply with CCR Title 8, Section 5194 Hazard Communication Standard. Prior to use on Authority property and/or project work areas Contractor shall provide the Authority Project Manager copies of MSDS for all applicable products used, if any.
- B. All chemicals including paint, solvents, detergents and similar substances shall comply with South Coast Air Quality Management District (SCAQMD) rules 103, 1113, and 1171.

### **1.4 INCIDENT NOTIFICATION AND INVESTIGATION**

- A. The Authority shall be promptly notified of any of the following types of incidents:
  - 1. Damage to Authority property (or incidents involving third party property damage);
  - 2. Reportable and/or Recordable injuries (as defined by the U.S. Occupational Safety and Health Administration);
  - 3. Incidents impacting the environment, i.e. spills or releases on Authority property.
- B. Notifications shall be made to Authority representatives, employees and/or agents. This includes incidents occurring to contractors, vendors, visitors, or members of the general public that arise from the performance of Authority contract work. An immediate verbal notice followed by a written incident investigation report shall be submitted to Authority's Project Manager within 24 hours of the incident.
- C. A final written incident investigative report shall be submitted within seven (7) calendar days, and include the following information. The current status of anyone injured, photos of the incident area, detailed description of what happened, the contributing factors that lead to the incident occurrence, a copy of the company policy or procedure associated with the incident and evaluation of effectiveness, copy of the task planning documentation, and the corrective action initiated to prevent recurrence. This information shall be considered the minimum elements required for a comprehensive incident report acceptable to Authority.

### **1.5 PERSONAL PROTECTIVE EQUIPMENT**

- A. The Contractor, its subcontractors, suppliers, and employees are required to comply with applicable personal protective equipment (PPE) requirements while performing work at any Authority project or property. Generally



minimum PPE requirements include eye protection; hearing protection, head protection, class 2 safety reflective vests, and appropriate footwear.

- B. The Contractor, its subcontractors, suppliers, and employees are required to provide their own PPE, including eye, head, foot, and hand protection, safety vests, or other PPE required to perform their work safely on Authority projects or property. The Authority requires eye protection on construction projects and work areas that meet ANSI Z-87.1 Standards.

## 1.6 REFERENCES

- A. CCR Title 8 Standards (Cal/OSHA)
- B. FCR Including 1910 and 1926 Standards
- C. NFPA, NEC, ANSI, NIOSH Standards
- D. Authority Construction Management Procedures Manual
- E. Authority Yard Safety Rules

END OF SECTION

**EXHIBIT F: PROPOSAL EXCEPTIONS AND/OR DEVIATIONS**

**PROPOSAL EXCEPTIONS AND/OR DEVIATIONS**

The following form shall be completed for each technical and/or contractual exception or deviation that is submitted by Offeror for review and consideration by Authority. The exception and/or deviation must be clearly stated along with the rationale for requesting the exception and/or deviation. If no technical or contractual exceptions or deviations are submitted as part of the original proposal, Offerors are deemed to have accepted Authority's technical obligations and contractual terms and conditions set forth in the Scope of Work and Proposed Agreement Exhibit C. Offerors will not be allowed to submit this form or any contractual exceptions and/or deviation after the proposal submittal date identified in the RFP. Exceptions or deviations submitted after the proposal submittal date will not be reviewed by Authority.

Offeror: \_\_\_\_\_

RFP No.: \_\_\_\_\_ RFP Title: \_\_\_\_\_

Deviation or Exception No. : \_\_\_\_\_

*Check one:*

- Scope of Work (Technical) \_\_\_\_\_
- Proposed Agreement (Contractual) \_\_\_\_\_

Reference Section/Exhibit: \_\_\_\_\_ Page/Article No. \_\_\_\_\_

Complete Description of Deviation or Exception:

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Rationale for Requesting Deviation or Exception:

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**Area Below Reserved for Authority Use Only:**

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