REQUEST FOR PROPOSALS (RFP) 0-1847

CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR THE ORANGE FREEWAY (STATE ROUTE 57) NORTHBOUND WIDENING PROJECT BETWEEN KATELLA AVENUE AND LINCOLN AVENUE

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

Key RFP Dates

Issue Date:	**November 8, 2010**
Pre-Proposal Conference Date:	**November 17, 2010**
Question Submittal Date:	**November 22, 2010**
Proposal Submittal Date:	**December 8, 2010**
Interview Date:	**January 6, 2011**

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SUBJECT: NOTICE OF REQUEST FOR PROPOSALS
RFP 0-1847: CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR THE ORANGE FREEWAY (STATE ROUTE 57) NORTHBOUND WIDENING PROJECT BETWEEN KATELLA AVENUE AND LINCOLN AVENUE

Gentlemen/Ladies:

The Orange County Transportation Authority invites proposals from qualified consultants to provide professional construction management support services for the construction of the Orange Freeway (SR-57) northbound widening project between Katella Avenue and Lincoln Avenue. Required services under this RFP include: roadway and structures inspection and administrative support.

The Authority intends to award one contract as a result of this procurement.

A copy of the 100% Plans, Specifications and Estimates (PS&E) for this project are available for review on the Authority's CAMM NET website, at www.octa.net/cammnet.

Proposals must be received in the Orange County Transportation Authority's office at or before 2:00 p.m. on December 8, 2010.

Proposals delivered in person or by 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, 4th Floor
Orange, California 92868
Attention: Ms. Reem Hashem, Principal 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: Ms. Reem Hashem, Principal 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 Request for Proposals (RFP) 0-1847 may do so by faxing their request to (714) 560-5792, or e-mail your request to *rfp_ifb_Requests@octa.net* or calling (714) 560-5922. Please include the following information:

- Name of Firm
- Address
- Contact Person
- Email address
- Telephone and Facsimile Number
- Request For Proposal (RFP) 0-1847

All firms interested in doing business with the Authority are required to register their business on-line at CAMM NET, the Authority's interactive website. The website can be found at *www.octa.net*. From the site menu, click on CAMM NET to register.

To receive all further information regarding this RFP 0-1847, firms 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:

Commodities for this solicitation are:

Category(s):	Commodity(s):
Construction	Construction Management Services Inspection Services

A pre-proposal conference will be held on **November 17, 2010, at 2:00 PM** at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 153/154. All prospective Offerors are encouraged to attend the pre-proposal conference.

Offeror's are asked to submit written statements of technical qualifications and describe in detail their work plan for completing the work specified in the Request for Proposal. **No cost proposal or estimate of work hours is to be included in this phase of the RFP process.**

The Authority has established **January 6, 2011** as the date to conduct interviews. All prospective Offeror's will be asked to keep this date available.

Certain labor categories under this project are subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et. Seq. It is required that all mechanics and laborers employed or working at the site be paid not less than the basic hourly rates of pay and fringe benefits as

shown in the current minimum wage schedules. Offerors must use the current wage schedules applicable at the time the work is in progress.

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

The Offeror 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.

Sincerely,



Ms. Reem Hashem
Principal Contract Administrator
Contracts Administration and Materials Management (CAMM)

SECTION I

INSTRUCTIONS TO OFFERORS

SECTION I. INSTRUCTIONS TO OFFERORS

A. PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held on **November 17, 2010, at 2:00 p.m.** at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 153/154. All prospective Offerors are strongly encouraged to attend the pre-proposal conference.

B. 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.

C. ADDENDA

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. Offeror's shall acknowledge receipt of addenda in their proposals.

D. AUTHORITY CONTACT

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

Ms. Reem Hashem, Principal Contract Administrator
Contracts Administration and Materials Management Department
600 South Main Street, P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560.5446, Fax: 714.560.5792, or E-Mail: rhashem@octa.net

E. 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 E.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, including questions that could not be specifically answered at the pre-proposal conference must be put in writing and must be received by the Authority no later than 5:00 p.m., **November 22, 2010**.

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. Requests should be addressed to Ms. Reem Hashem, Principal Contract Administrator.

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 Courier: Contracts Administration and Materials Management Department, 600 South Main Street, 4th Floor, Orange, California.

(3) Facsimile: The Authority's fax number is (714) 560-5792.

(4) E-Mail: Ms. Reem Hashem, Principal Contract Administrator; e-mail address is: rhashem@octa.net

3. Authority Responses

Responses from the Authority will be posted on CAMM NET, the Authority's interactive website, no later than **December 1, 2010**. Offerors may download responses from CAMM NET at *www.octa.net/cammnet*, or request responses be sent via U.S. Mail by e-mailing or faxing the request to Ms. Reem Hashem, Principal Contract Administrator.

To receive e-mail notification of Authority responses when they are posted on CAMM NET, firms 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:

Commodities for this solicitation are:

Category(s):	Commodity(s):
ConstructionConstruction	Construction Management ServicesConstruction Management Services
	Inspection ServicesInspection Services

Inquiries received after 5:00 p.m. on November 22, 2010, will not be responded to.

F. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be received in the Orange County Transportation Authority's office at or before 2:00 p.m. on December 8, 2010.

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, 4th Floor
Orange, California 92868
Attention: Ms. Reem Hashem, Principal Contract Administrator

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: Ms. Reem Hashem, Principal 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 six (6) copies** of its proposal in a

sealed package, addressed as shown above, bearing the Offeror's name and address and clearly marked as follows:

"RFP 0-1847: CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR THE ORANGE FREEWAY (STATE ROUTE 57) NORTHBOUND WIDENING PROJECT BETWEEN KATELLA AVENUE AND LINCOLN AVENUE**"**

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 postpone proposal openings for its own convenience.

d. Proposals received by the Authority are public information and must be made available to any person upon request.

e. Submitted proposals are not to be copyrighted.

G. 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.

H. JOINT OFFERS

Where two or more Offerors desire to submit a single proposal in response to this RFP, they should do so on a prime-subconsultant 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.

I. 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.

J. 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.

K. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a time and expense contract specifying negotiated hourly billing rates for proposed categories of personnel, who will be providing the needed professional services in accordance with the specified Scope of Work included in this RFP as EXHIBIT A.

L. PREVAILING WAGES

Certain labor categories under this project are subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et. seq., and all applicable Federal requirements respecting prevailing wages.

It is required that all mechanics and laborers employed or working at the site be paid not less than the basic hourly rates of pay and fringe benefits as shown in the current minimum wage schedules. The proposer to whom a contract for the work is awarded by the Authority shall comply with the provision of the California Labor Code, including, without limitation, the obligation to pay the general prevailing rates of wages in the locality in which the work is to be performed in accordance with, without limitation, Sections 1773.1, 1774, 1775 and 1776 of the California Labor Code governing employment of apprentices.

Copies of the prevailing rates of per diem wages are on file at the Authority’s principal office at 550 S. Main Street, Orange, CAA 92868 and are available to any interested party on request.

M. CONFLICT OF INTEREST

All offerors responding to this request for proposals 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.

N. 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.

O. PROHIBITION

The following restriction applies to this procurement: the firm, including all subcontractors (at any tier), awarded this contract for construction management services will be ineligible to submit a bid or proposal for the construction of this project either as a prime contractor or as a subcontractor or joint venture partner.

Furthermore, firms who have provided design services (in a prime or subconsultant capacity) on this project may not propose for any portion of the construction management services on the project.

SECTION II

PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT AND FORMS

A. PROPOSAL FORMAT AND CONTENT

1. Presentation

Proposals shall be typed, with 12 pt 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" x 17" format. Offers should not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged, and presentations should be brief and concise. Proposals should not exceed fifty (50) pages in length, excluding any appendices.

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Ms. Reem Hashem, Principal Contract Administrator Ms. Reem Hashem, Principal 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. Include name, title, 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, whether the firm is a Disadvantaged Business Enterprise (DBE), contact persons name and address, phone number and fax number. Relationship between Offeror and subcontractors, if applicable.

c. Acknowledgment 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 180 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 the same or similar nature; Demonstrated experience working with local agencies and cities directly involved in this project; strength and stability of the Offeror; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references. Equal weighting will be given to firms for past experience performing work of a similar nature whether with the Authority or elsewhere.

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; number of employees.

(2) Provide a general description of the firm's financial condition, 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.

(4) Describe experience in working with the various government agencies that may have jurisdiction over the approval of the work specified in this RFP. Please include specialized experience and professional competence in areas directly related to this RFP.

(5) Provide a list of past joint work by the Offeror and each subcontractor, if applicable. The list should clearly identify the project and provide a summary of the roles and responsibilities of each party.

(6) Provide a minimum of three (3) references. Furnish the name, title, address, email address and telephone number 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 that will be used by the Offeror to manage the project as well as identify key

personnel assigned.

Offeror to:

(1) Provide education, experience and applicable professional credentials of project staff. Include applicable professional credentials of “key” project staff.

(2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel.

(3) 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, and proposed position for this project, current assignment, and level of commitment to that assignment, availability for this assignment and how long each person has been with the firm.

(4) Include a project organization chart that clearly delineates communication/reporting relationships among the project staff, including subconsultants.

(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 shall provide a narrative that addresses the Scope of Work and shows Offeror's understanding of Authority's needs and requirements.

Offeror to:

(1) Describe the approach and work plan for completing the tasks specified in the Scope of Work. 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 in the firm would perform them.

(3) Furnish a project schedule for each task and subtask in terms of elapsed weeks from the project commencement date.

(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 during 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. Exceptions/Deviations

State any exceptions to or deviations from the requirements of this RFP, segregating "technical" exceptions from "contractual" exceptions. Where Offeror wishes to propose alternative approaches to meeting the Authority's technical or contractual requirements, these should be thoroughly explained. If no contractual exceptions are noted, Offeror will be deemed to have accepted the contract requirements as set forth in Section IV. Proposed Agreement.

4. Cost and Price Proposal

Offerors are asked to submit only the technical qualifications as requested in this RFP. **No cost proposal or work hours are to be included in this phase of the RFP process.** Upon completion of the initial evaluations and interviews, if conducted, the highest ranked Offeror will be asked to submit a detailed cost proposal and negotiations will commence based on both the cost and technical proposals.

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. Party and Participant Disclosure Forms

In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding

campaign contributions to members of appointed Boards of Directors, Offeror is required to complete and sign the Party and Participant Disclosure forms provided in this RFP and submit as part of the proposal. Offeror is required to submit only **one** copy of the completed forms as part of its proposal and it should be included in only the **original** proposal. The form entitled "Party Disclosure Form" must be completed by the prime consultant and subcontractors. The form entitled "Participant Disclosure Form" must be completed by lobbyists or agents representing the prime consultant in this procurement. Reporting of Campaign Contributions is required up and until the Authority's Board of Directors makes a selection. Therefore, the prime consultant, subcontractors, lobbyists and agents will be required to report all campaign contributions from the date of proposal submittal up and until the Board takes action, which is currently scheduled for March 15, 2011.

2. Status of Past and Present Contracts Form

Offeror is required to complete and sign the form entitled "Status of Past and Present Contracts" provided in this RFP and submit as part of the proposal. Offeror shall list the status of past and present contracts where the firm has either provided services as a prime contractor or a subcontractor during the past five (5) years and the contract has ended or will end in a termination, settlement, or litigation. A separate form must be completed for each contract. Offeror shall provide an accurate name and telephone number for each contract and indicate the term of the contract and the original contract value. If the contract was terminated, Offeror must list the reason for termination. Offeror must identify and state the status of any litigation, claims or settlement agreements related to any of the contracts. Each form must be signed by the Offeror confirming the information 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.

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 **25%**

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 **40%**

Qualifications of project staff, particularly ”key personnel", especially the Project Manager, including their relevant past experience. Key personnel's level of involvement in performing related work cited in "Qualifications of the Firm" section; adequacy of labor commitment; references from past projects; logic of project organization; concurrence in the restrictions on changes in key personnel.

3. Work Plan **35%**

Depth of Offeror's understanding of Authority's requirements and overall quality of work plan; logic, clarity and specificity of work plan; appropriateness of labor distribution among the tasks; ability to meet the project deadline; reasonableness of proposed schedule; utility of suggested technical or procedural innovations.

B. EVALUATION PROCEDURE

An evaluation committee will be appointed to review all proposals for this RFP. The evaluation committee is comprised of Authority staff and may include outside personnel. The committee members will evaluate the written proposals. Each member of the evaluation committee will then evaluate each proposal using the criteria identified in Section lll part A to arrive at a “proposal score” for each proposal. Based on the proposal scores, a list of Offeror’s within a competitive range will be developed based upon the totals of each committee member's score for each proposal. During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established January 6, 2011 as the date to conduct interviews. All prospective Offerors will be 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 consideration. The interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the Offeror’s proposal and qualifications.

At the conclusion of the evaluation process, the evaluation committee will rank proposals and will recommend to the appropriate Board Committee, the Offeror(s) with the highest ranking. The Board Committee(s) will review the evaluation committee's recommendation and forward its recommendation to the Board of Directors for final action.

C. AWARD

In conjunction with its action of selecting a firm, the Authority's Board of Directors will authorize staff to request a cost proposal from the selected Offeror and to negotiate a contract price and other terms and conditions. The Board will also grant staff the ability to terminate negotiations with the selected Offeror if no satisfactory agreement can be reached and to begin negotiations with the next highest-ranked Offeror until a satisfactory agreement has been achieved. The selected Offeror may be asked to submit a Best and Final Offer (BAFO). In the BAFO request, the Offeror may be asked to provide additional information, confirm or clarify issues and submit a final cost/price offer. A deadline for submission of the BAFO will be stipulated.

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 an audit of its financial records to confirm its financial stability and the Offeror's accounting system.

D. NOTIFICATION OF AWARD AND DEBRIEFING

Offerors who submit a proposal in response to this RFP shall be notified via CAMNET regarding the Offeror who was awarded the contract. Such notification shall be made within three (3) days of contract award.

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 it must be received by the Authority within three (3) days of notification of the award of contract.

SECTION IV

PROPOSED AGREEMENT

PROPOSED AGREEMENT NO. C-0-1847

BETWEEN

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND

_____

THIS AGREEMENT is effective as of this _____ day of _____, 200___, by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, CA 92863-1584, a public corporation of the state of California (hereinafter referred to as "AUTHORITY"), and ,_____ , (hereinafter referred to as "CONSULTANT").

WITNESSETH:

WHEREAS, AUTHORITY requires assistance from CONSULTANT to provide construction management support services for the Orange Freeway (State Route 57) Northbound Widening Project between Katella Avenue and Lincoln Avenue; and

WHEREAS, said work cannot be performed by the regular employees of AUTHORITY; and

WHEREAS, CONSULTANT has represented that it has the requisite personnel and experience, and is capable of performing such services; and

WHEREAS, CONSULTANT wishes to perform these services;

WHEREAS, the AUTHORITY's Board of Directors approved this Agreement on _____;

NOW, THEREFORE, it is mutually understood and agreed by AUTHORITY and CONSULTANT as follows:

ARTICLE 1. COMPLETE AGREEMENT

A. This Agreement, including all exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the agreement between AUTHORITY and CONSULTANT and it supersedes all prior representations, understandings and communications. The invalidity in whole or in part of any term or condition of this Agreement shall not affect the validity of other terms or conditions.

B. AUTHORITY's failure to insist in any one or more instances upon the 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 by CONSULTANT or to future performance of such terms or conditions and CONSULTANT 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," which is 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

This Agreement shall commence upon the effective date of this Agreement, and shall continue in full force and effect for a term of 3 years through _____, unless earlier terminated or extended as provided in this Agreement.

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 provision set forth in Article 6, AUTHORITY shall pay CONSULTANT on a Time and Expense basis in accordance with the following provisions.

B. For each full hour of labor satisfactorily performed by CONSULTANT's personnel under this Agreement, AUTHORITY shall pay CONSULTANT at the hourly labor rates specified in Exhibit B, entitled "Schedule of Fees," which is attached to and by this reference, incorporated in and made a part of this Agreement. These rates shall remain fixed for the term of this Agreement and are acknowledged to include CONSULTANT's direct labor costs, indirect costs and profit. Furthermore, AUTHORITY shall reimburse CONSULTANT for the exact amount of the expenses shown in Exhibit B, which are directly incurred by its personnel in the performance of work under this Agreement. The AUTHORITY will not reimburse CONSULTANT for local meals or any other expenses not approved in the attached Exhibit B

C. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding to the labor hours expended by CONSULTANT. Work completed shall be documented in a monthly progress report prepared by CONSULTANT, which shall accompany each invoice submitted by CONSULTANT. CONSULTANT shall also furnish such other information as

may be requested by AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY may decline to make full payment for any work until such time as CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required. AUTHORITY's payment in full for any work completed shall not constitute AUTHORITY's final acceptance of CONSULTANT's work under such task; final acceptance shall occur only when AUTHORITY's release of the retention described in paragraph D.

D. As partial security against CONSULTANT's failure to satisfactorily fulfill all of its obligations under this Agreement, AUTHORITY shall retain ten percent (10%) of the amount of each invoice submitted for payment by CONSULTANT. All retained funds shall be released by AUTHORITY and shall be paid to CONSULTANT within sixty (60) calendar days of payment of final invoice, unless AUTHORITY elects to audit CONSULTANT's records in accordance with Article 17 of this Agreement. If AUTHORITY elects to audit, retained funds shall be paid to CONSULTANT within thirty (30) calendar days of completion of such audit in an amount reflecting any adjustment required by such audit. CONSULTANT agrees to release subcontractor retention within thirty (30) calendar days after the subconsultants work is satisfactory completed. These prompt payment provisions are required to be incorporated in all subcontract agreements issued by CONSULTANT.

E. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in duplicate to AUTHORITY's Accounts Payable office. Each invoice shall be accompanied by the monthly progress report specified in paragraph C of this Article. AUTHORITY shall remit payment within thirty (30) calendar days of the receipt and approval of each invoice. Each invoice shall include the following information:

1) Agreement No. C-0-1847;

2) Specify the labor for which payment is being requested;

3) The time period covered by the invoice

4) Labor (staff name, hours charged, hourly billing rate, current charges and cumulative charges) performed during the billing period;

5) Itemized expenses including support documentation incurred during the billing period;

6) Total monthly invoice (including project-to-date cumulative invoice amount)

7) Monthly Progress Report;

8) Certification signed by the CONSULTANT or his/her designated alternate that i.) The invoice is a true, complete and correct statement of reimbursable costs and progress; ii.) The backup information included with the invoice is true, complete and correct in all material respects; iii.) All payments due and owing to subcontractors and suppliers have been made; iv.) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; v.) 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; and

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

F. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in duplicate to AUTHORITY's Accounts Payable office. Each invoice shall be accompanied by the monthly progress report specified in paragraph C.

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 ($___) 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:

ATTENTION:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

ATTENTION: Ms. Reem Hashem

Principal Contract Administrator

(714) 560 – 5446

Email: rhashem@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. The following coverage shall be full coverage and not subject to self-insurance provision. CONSULTANT shall provide the following insurance coverage:

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

2. Automobile Liability 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 and agents;

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

5. Professional Liability with minimum limits of $2,000,000.00 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 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 AUTHORITY. Furthermore, AUTHORITY reserves the right to request certified copies of all related insurance policies.

C. CONSULTANT shall include on the face of the certificate of Insurance the Agreement Number C-0-1847; and, the Contract Administrator's Name, Principal Contract Administrator.

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

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 0-1847 ; (3) CONSULTANT's technical proposal dated __, or CONSULTANT's cost proposal dated __, and (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) 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. The provisions of this Article shall not be pleaded in any suit involving a question of fact arising under this Agreement as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged, provided, however, that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this Article, CONSULTANT shall be afforded an opportunity to be heard and to offer evidence in support of its appeal.

C. 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.

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ARTICLE 13. TERMINATION

A. AUTHORITY may terminate this Agreement for its convenience 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 that portion terminated. Said termination shall be construed in accordance with the provisions of the CFR Title 48, Chapter 1, Part 49, of the Federal Acquisition Regulation (FAR) and specific subparts and other provisions thereof applicable to termination for convenience. If Authority sees fit to terminate this Agreement for convenience, said notice shall be given to Consultant in accordance with the provisions of the FAR referenced above. Upon receipt of said notification, CONSULTANT agrees to comply with all applicable provisions of the FAR pertaining to termination for convenience.

B. AUTHORITY may terminate this Agreement for CONSULTANT's default if a federal or state proceeding for the relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT makes an assignment for the benefit of creditors, or for cause if Consultant fails to perform in accordance with the scope of work or breaches any term(s) or violates any provision(s) of this Agreement and does not cure such breach or violation within ten (10) calendar days after written notice thereof by AUTHORITY. CONSULTANT shall be liable for all reasonable costs incurred by AUTHORITY as a result of such default or breach including, but not limited to, reprocurement costs of the same or similar services defaulted by CONSULTANT under this Agreement. Such termination shall comply with CFR Title 48, Chapter 1, Part 49, of the FAR.

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 of 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/Address	**Subcontractor Services**
1.	
2.	
3.	

ARTICLE 16. AUDIT AND INSPECTION OF RECORDS

CONSULTANT shall provide AUTHORITY, or other agents of AUTHORITY, such access to CONSULTANT's accounting books, records, work data, 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. 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. FEDERAL, STATE AND LOCAL LAWS

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

ARTICLE 19. EQUAL EMPLOYMENT OPPORTUNITY

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

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ARTICLE 20. PROHIBITED INTERESTS

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

ARTICLE 21. OWNERSHIP OF REPORTS AND DOCUMENTS

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

B. All ideas, memoranda, specifications, plans, manufacturing, procedures, drawings, descriptions, and all other written information submitted to CONSULTANT in connection with the performance of this Agreement shall not, without prior written approval of AUTHORITY, be used for any purposes other than the performance for this project, nor be disclosed to an entity not connected with the performance of the project. CONSULTANT shall comply with AUTHORITY's policies regarding such material. Nothing furnished to CONSULTANT, which is otherwise known to CONSULTANT or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall not use AUTHORITY's name, photographs of the project, or any other publicity pertaining to the project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without the express written consent of AUTHORITY.

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

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ARTICLE 22. PATENT AND COPYRIGHT INFRINGEMENT

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

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

ARTICLE 23. REQUIREMENTS FOR REGISTRATION OF DESIGNERS

All design and engineering work furnished by CONSULTANT shall be performed by or under the supervision of persons licensed to practice architecture, engineering or surveying (as applicable) in the State of California, by personnel who are careful, skilled, experienced and competent in their respective trades or professions, who are professionally qualified to perform the work in accordance

with the contract documents and who shall assume professional responsibility for the accuracy and completeness of the design documents and construction documents prepared or checked by them.

ARTICLE 24. FINISHED AND PRELIMINARY DATA

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

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

ARTICLE 25. GENERAL WAGE RATES

A. CONSULTANT warrants that all mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices employed by CONSULTANT or subcontractor at any tier for any work hereunder, shall be paid unconditionally and not less often than once a week and without any subsequent deduction or rebate on any account (except such payroll deductions as are permitted or required by federal, state or local law, regulation or ordinance), the full amounts due at the time of payment, computed at a wage rate and per diem rate not less than the aggregate of the highest of the two basic hourly rates and rates of payments, contributions or costs for any fringe benefits contained in

the current general prevailing wage rate(s) and per diem rate(s), established by the Director of the Department of Industrial Relations of the state of California, (as set forth in the Labor Code of the state of California, commencing at Section 1770 et. seq.), or as established by the Secretary of Labor (as set forth in Davis-Bacon Act, 40 U.S.C. 267a, et. seq.), regardless of any contractual relationship which may be alleged to exist between CONSULTANT or subcontractor and their respective mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices. Copies of the current General Prevailing Wage Determinations and Per Diem Rates are on file at AUTHORITY's offices and will be made available to CONSULTANT upon request. CONSULTANT shall post a copy thereof at each job site at which work hereunder is performed.

B. In addition to the foregoing, CONSULTANT agrees to comply with all other provisions of the Labor Code of the state of California, which is incorporated herein by reference, pertaining to workers performing work hereunder including, but not limited to, those provisions for work hours, payroll records and apprenticeship employment and regulation program. CONSULTANT agrees to insert or cause to be inserted the preceding clause in all subcontracts which provide for workers to perform work hereunder regardless of the subcontractor tier.

ARTICLE 26. FORCE MAJEURE

Either party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its 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. ALCOHOL AND DRUG POLICY

A. CONSULTANT agrees to establish and implement an alcohol and drug program that complies with 41 U.S.C sections 701-707, (the Drug Free Workplace Act of 1988), which is attached to

this Agreement as EXHIBIT B, and produce any documentation necessary to establish its compliance with sections 701-707.

B. Failure to comply with this Article may result in nonpayment or termination of this Agreement.

ARTICLE 28. PRIVACY ACT

CONSULTANT shall comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. §552a. Among other things, CONSULTANT agrees to obtain the express consent of the Federal Government before the CONSULTANT or its employees operate a system of records on behalf of the Federal Government. CONSULTANT understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

ARTICLE 29. 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.

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-0-1847 to be executed on the date first above written.

CONSULTANT

By: _____

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____

Will Kempton
Chief Executive Officer

APPROVED AS TO FORM:

By: _____

Kennard R. Smart, Jr.
General Counsel

APPROVED:

By: _____

Date _____

SECTION V

SCOPE OF WORK

CONSTRUCTION MANAGEMENT SUPPORT SERVICES

FOR THE

ORANGE FREEWAY (STATE ROUTE 57) NORTHBOUND WIDENING PROJECT

BETWEEN

KATELLA AVENUE AND LINCOLN AVENUE

Exhibit A

SCOPE OF WORK

PROJECT DESCRIPTION

1.1 Introduction

The Orange County Transportation Authority (AUTHORITY) and California Department of Transportation (Caltrans) require construction management support staff for the construction of the State Route 57 northbound widening project from Katella Avenue to Lincoln Avenue.

1.2 Statement of Intent

CONSULTANT shall provide qualified personnel to perform the function of construction inspection (including roadway and structures), CPM scheduler, claims support and office engineer. These services shall include inspection services, field/office contract administration, and other services as determined necessary by OCTA Project Manager. Caltrans will lead the construction management and administration of the construction contract and will provide the Resident Engineer (RE), Principal Assistant Resident Engineer (ARE), Structural Representative, materials testing, surveying, additional inspection services as needed and other functional support services necessary to successfully administer the construction contract. CONSULTANT inspection personnel shall be assigned full time or part time as needed and shall provide assistance to, and work under the direction of the Caltrans RE. CONSULTANT shall also provide a fully equipped field office for all staff assigned to the project including Caltrans, OCTA, and CONSULTANT'S own staff.

1.3 Project Description

1.3 -1 Background

Caltrans District 12 and OCTA initiated the SR-57 Northbound Widening Project in 2001 to address congestion occurring in the northbound direction on SR-57. The project was initiated as part of OCTA's Freeway Chokepoint Program which was launched in 2001 to support cooperative efforts with Caltrans to identify chronic freeway bottlenecks and to develop projects which remedy the identified deficiencies. A Project Study Report / Project Development Support (PSR/PDS), was approved in June 2003. For about 4 years the project stood idle due to lack of funding. The OCTA took the lead and initiated the Environmental and Project Approval phase. In November 2009 Caltrans District 12 approved the Environmental Document and Project Report for widening northbound SR-57 from 0.31 mile south of Katella Avenue to 0.31 mile north of Lincoln Avenue.

The final design phase has been completed and contract documents are being finalized for the construction bidding phase to occur in July 2011. The Orange County Transportation Authority (OCTA) is expecting funding for the project from State Proposition 1B, Corridor Mobilization

Improvement Account (CMIA), and local funds from Renewed Measure M. As the implementing agency OCTA contracted with HDR Engineering to prepare the environmental document and project report as well as the final design Plans, Specifications, and Estimates (PS&E). Caltrans provided oversight up to the completion of the PS&E phase. Caltrans will be the lead agency during the construction phase and will administer the contract for the construction phase.

1.3 -2 Location and Limits

The project is located in the City of Anaheim on SR-57 northbound from 0.31 mile south of Katella Avenue (PM 12.2) to 0.31 mile north of Lincoln Avenue (PM 15.2). The total length of the project is 3 miles.

1.3 -3 General Project Description

The northbound widening on SR-57 from Katella Avenue to Lincoln Avenue will add one additional mixed flow lane (general purpose lane) which will increase traffic capacity within the project limits. The project construction will be in accordance with the approved Project PS&E per Caltrans contract # 12-0F0404.

1.4 Project Delivery

The design consultants who prepared the PS&E, HDR Engineering, will also provide construction phase design support services.

It is anticipated Caltrans will be advertising, awarding, and administering the construction contract. Caltrans will provide the Resident Engineer and Structures Representative and other support as outlined in section 1.2 “Statement of Intent” above. CONSULTANT shall be responsible for coordinating with Caltrans and the design team and other stakeholders as necessary.

Caltrans is the lead agency for the right-of-way certification and utility relocation on the project. All utility and right of way issues during construction will be the responsibility of Caltrans as defined in the cooperative agreement between Caltrans and OCTA.

1.5 Projects Schedule and Costs

The NB SR-57 widening project Ready-To-List (RTL), construction award, construction duration, and estimated costs are shown below.

Ready-To-List	March 2011
Construction Award	August 2011
Construction Completion	August 2013
Costs:	
Construction:	$29,400,000
Right of Way and Utilities:	$1,800,000
Projected Total:	$31,200,000

GENERAL CONDITIONS AND REQUIREMENTS

2.1 Project General Conditions and Requirements

2.1-1 The number of project personnel and duration of the assignments will vary depending on the needs of the project. The final number of personnel and exact duration of assignment will be determined by AUTHORITY and Caltrans. CONSULTANT personnel shall be available within two (2) weeks from written notification by AUTHORITY, up to a maximum of 3 months after Caltrans acceptance of the construction project.

2.1-2 CONSULTANT shall assist in verifying compliance with the labor standards provisions of the project and the related wage determination decisions of the Secretary of Labor.

2.1-3 CONSULTANT shall assist Caltrans in verifying compliance with the safety and accident prevention provisions of the project. Caltrans shall retain jurisdictional control for traffic control but shall receive assistance from CONSULTANT forces in reviewing and monitoring.

2.1-4 CONSULTANT shall assist Caltrans in verifying compliance with the equal employment opportunity (EEOC) provisions of the project.

2.1-5 All services required hereunder shall be performed in accordance with latest Caltrans regulations, policies, procedures, manuals, and standards. Documents shall be made available upon request.

2.1-6 Consultant's Project Manager shall be accessible to Caltrans and AUTHORITY at all times during Caltrans normal working hours.

2.1-7 CONSULTANT shall furnish a Project Manager to coordinate the CONSULTANT's operations with Caltrans and AUTHORITY. The Project Manager shall be responsible for all matters related to the CONSULTANT's personnel and operations.

2.1-8 CONSULTANT shall provide construction management support services to control quality and manage work. CONSULTANT shall perform the following administrative activities:

a. Prepare, circulate, and file correspondence and memos as appropriate.

b. At the end of each month, the CONSULTANT shall report the progress of the work. Progress shall be based on actual work accomplished such as estimated progress toward completion. Progress report shall include a staff labor report. Progress payments will be based upon actual time and expenses incurred.

c. The CONSULTANT shall submit 1 copy of a monthly Progress Report to the AUTHORITY Project Manager consisting of a written narrative and an updated progress and expenditure curve. This report shall be received no later than the 10th calendar day of the month. The narrative portion of the monthly Progress Report shall describe overall progress of the work, discuss significant problems, and present proposed corrective action and show the status of major changes.

2.1-9 To ensure an understanding of contract objectives, meetings between Caltrans, AUTHORITY, and the CONSULTANT will be held as often as deemed necessary. All work objectives, the work schedules, the terms of the contract, and any other related issues will be discussed and any problems will be resolved.

2.1-10 AUTHORITY will designate a Project Manager to administer the CONSULTANT Agreement and provide general direction to the CONSULTANT.

2.1-11 Resumes of personnel must be submitted to AUTHORITY for review and approval prior to assignment to a project. Caltrans, AUTHORITY and CONSULTANT will have the responsibility of determining the quality and quantity of work performed by the CONSULTANT's personnel. If, at any time, the level of performance is below expectations, AUTHORITY shall have the right to request removal of any project personnel. AUTHORITY may request another person be assigned as needed.

2.1-12 If a CONSULTANT's employee is on a leave of absence, the Project Manager shall provide an equally qualified replacement employee until the assigned employee returns to work. The replacement employee shall meet all the requirements of a permanently assigned employee.

2.1-13 The typical workday includes all hours worked by the Caltrans' construction contractor, normally 40 hours per week. If ordered by RE, overtime for the CONSULTANT's employees may be required. The construction contractor's operations may be restricted to specific hours during the week, which shall become the normal workday for CONSULTANT's personnel. On days when work is not performed by the construction contractor, such as rainy or unsuitable weather days, CONSULTANT services shall not be provided unless authorized by the RE. The RE will provide 8 hours advance notice if CONSULTANT services are not required.

2.1-14 All personnel shall be knowledgeable of, and comply with, all applicable local, Caltrans, and federal regulations; cooperate and consult with Caltrans and AUTHORITY officials during the course of the contract; and

perform other duties as may be required to assure that the construction is being performed in accordance with the project plans and specifications.

2.1-15 CONSULTANT shall keep detailed records and document the work as directed by the RE.

2.1-16 Caltrans will furnish a representative to perform the usual functions of a RE. Caltrans Department of Structures will provide the Senior Bridge Representative.

2.1-17 Caltrans or AUTHORITY will provide CONSULTANT with the following:

a. Caltrans construction forms and other policies and procedures to be followed by CONSULTANT's personnel in the performance of the work.

b. Approved project plans and special provisions for the project.

STATEMENT OF SERVICES

3.0 Construction Inspection Services

3.1 General

CONSULTANT will be required to provide:

a. Inspection and administration personnel
b. A fully equipped field office
c. Miscellaneous inspection equipment, inspection vehicles, and tools.

The approximate number of CONSULTANT personnel required for the individual projects is listed below. The number of personnel shall be identified in the Contract Task Order issued by AUTHORITY and will be dependent upon the number and size of PS&E packages. The anticipated category and quantity of personnel required is:

Project Manager	1-(Part time)
Senior Construction Inspector	Part time
Inspectors (Roadway / Structures)	1-2
Office Engineer	1
CPM Scheduler	Part time
Claims Support	Part time
Total	**6**

3.2 Construction Inspection and Administrative Support Services Requirements

Assignments to be performed by CONSULTANT personnel may include, but are not limited to, the following:

3.2-1 Perform and assist in performing the duties of construction inspection and engineering including: paving and subgrade inspection, structures inspection, electrical inspection, drainage, signing and striping inspection, quantity calculations, checking grade and alignment, construction traffic control, and ensuring compliance with project plans and specifications.

3.2-2 Analyze the project plans and specifications for possible errors and deficiencies and report such findings to the RE. Identify actual and potential problems associated with the construction project and recommend sound engineering solutions to the RE. If the RE determines that changes are necessary, CONSULTANT's

personnel shall assist in implementing and processing of "Change Orders" in accordance with Caltran's Standard Specifications.

3.2-3 Adhere to all safety and health code and regulations and enforce applicable contract provisions for the protection of the public and project personnel. Prepare assistant RE daily diaries in accordance with the Caltrans construction manual.

3.2-4 Prepare calculations, records, reports, and correspondence related to project activities.

3.2-5 Whereas Caltrans will perform the As-Built survey, CONSULTANT to assist in the preparation of As-Built plans.

3.2-6 Assist in preparing claims reports and be available for any claims settlements meetings.

3.2-7 Perform and assist in review of contractor's Critical Path Method (CPM) schedule and construction staging plans.

3.2-8 Assist in performing Storm Water Pollution Prevention (SWPP) duties.

3.3 Inspection Standards

Construction inspection and contract administration shall be in accordance with:

3.3-1 Manual of Traffic Controls for Construction and Maintenance Work Zones.

3.3-2 The Caltrans Standard Specifications and Standard Plans.

3.3-3 The project plans and special provisions.

3.3-4 Caltrans Construction Manual and other applicable Caltrans manuals.

3.3-5 Caltrans and AUTHORITY shall decide all questions which may arise as to the quality or acceptability of deliverables furnished and work performed for this contract.

3.4 Inspection Deliverables

CONSULTANT shall provide the following deliverables:

3.4-1 Daily reports and extra-work diaries.

3.4-2 Monthly progress reports prepared by the CONSULTANT's project manager.

3.4-3 Construction contract progress payment and quantity documents delivered to the RE the morning of the day specified in the contract payment schedule.

3.4-4 Final payment quantity documents delivered to the RE by no later than 5 working days after acceptance by Caltrans of the completed construction project.

3.4-5 Field measurements, field, and laboratory test data and other documents as required by Caltrans procedures.

3.4-6 All reports, calculations, and other applicable documents prepared for the project.

3.5 Field Office Requirements

CONSULTANT shall provide a fully equipped and operational field office. It is not anticipated right-of-way will be provided to provide temporary trailers as the field office.

3.5-1 The field office shall house all construction personnel assigned to the project. The construction staff includes: Caltrans personnel, CONSULTANT inspection personnel, and one office for the construction survey crew.

3.5-2 The field office shall have one desk and chair for every person assigned to the project, desktop computers, internet access (T1 line), phones, fax machine, copy machine, full sized plotter, and conference table and chairs, and other normal office furniture, equipment, and utilities.

3.5-3 The field office shall also provide a common area (kitchen), bathrooms, field laboratory storage area, miscellaneous equipment storage area, and a large conference area for project meetings.

3.6 Miscellaneous Equipment, Inspection Vehicles, and Tools

CONSULTANT shall provide all necessary instruments, tools, and safety equipment required for their personnel to perform their work accurately, efficiently, and safely.

3.6-1 CONSULTANT shall provide one inspection vehicle (truck) for each inspector. Vehicles without side windows shall not be used. Caltrans-furnished magnetic logos shall be affixed to each side of the vehicle at all times it is used for the work under this contract.

3.6-2 CONSULTANT shall provide other field materials such as testing equipment and safety equipment, as needed, for use by their staff on the project.

3.6-3 CONSULTANT shall provide each inspector with a cellular phone.

3.7 Personnel Qualifications and Responsibilities

The preferred minimum qualifications for CONSULTANT personnel assigned to this project are as follows:

3.7-1 Project Manager

The preferred minimum qualifications for the position of Project Manager are:

a. Minimum of 10 years project management experience on similar highway construction/bridge construction projects, or other relative equivalent experience as determined by AUTHORITY.

b. Thorough knowledge of Caltrans construction practices, and the ability to read and interpret plans and specifications.

c. Ability to make effective decisions concerning field problems and work in progress.

d. Licensed Civil Engineer in the State of California.

e. Proficient in Microsoft Word, Outlook, Excel, and Expedition or equivalent.

Under the direction of AUTHORITY and Caltrans, the Project Manager will assume the following functional responsibilities:

a. Review, monitor, train, and provide general direction for CONSULTANT's personnel.

b. Assign personnel to projects on an as-needed basis.

c. Administer personnel leave subject to approval of the Caltrans' RE.

d. Prepare monthly reports for delivery to AUTHORITY Project Manager.

e. Maintain continuous communication with the Caltrans' Resident Engineer, OCTA Project Manager, field personnel, public outreach personnel, construction administration staff, and with project neighbors to resolve community project problems and to advise them of work conditions affecting the neighborhood.

f. Coordinate/communicate with OCTA Project manager, staffing needs, and ensure project support costs are within budget.

g. Advise OCTA Project Manager of major project issues and contract status.

h. Provide expert advise when called upon.

3.7-2 Senior Construction Inspector

Minimum qualification is at least 5 years working as a Resident Engineer on Caltrans Highway improvement projects of similar size and complexity.

a. Act as the lead inspector and provide guidance to other Consultant inspectors and staff in carrying out their day to day duties.

b. Provide consultation on complex contract interpretation issues as called upon by the RE. Act as an advisor to the RE.

c. Thorough knowledge of Caltrans construction practices.

d. Ability to make effective decisions concerning field problems and work in progress.

e. Licensed Civil Engineer in the State of California.

f. Maintain continuous communication with the Caltrans RE, lead staff, OCTA Project Manager, field staff, public outreach personnel, construction administration staff and with the project neighbors to avert community issues.

g. Provide expert advice when called upon.

3.7-3 Structures Inspectors:

Preferred minimum qualifications for the position of structures inspectors will be as follows:

a. Minimum of 3 years of relevant construction inspection and management experience on a similar construction projects involving bridges, retaining walls, sound walls, barriers, drainage structures, sign structures, and other structures.

b. Knowledge of construction practices, physical characteristics and properties of structures construction inspection, and the approved methods and equipment used in performing physical inspection.

c. Ability to perform calculations such as grade, deflection, stress, alignment. Ability to perform calculations to check the various elements of structures (i.e. beams, columns, etc.) as used in contractor's temporary works.

d. Assist in reviewing false work plans, shoring plans, demolition plans, concrete mix designs and other submittals provided by the contractors as required by the contract documents.

e. Ability to work independently and perform inspection duties in the construction field office.

f. Ability to effectively make minor decisions concerning work in progress and solving field and office problems.

g. Ability to use typical computer programs such as Microsoft Word, Outlook, Access, and Excel.

Under the direction of the Project Manager, the Structures Inspectors will assume the following functional responsibilities:

a. In a field setting perform soil calculations, establish surveying control line and grade as required by established Office of Structures Construction (OSC) Practices & Procedures, ensure that the contractors materials are in compliance and as required by the contract documents, verify field dimensions. Must be present for concrete pours and assure that the concrete is cured properly. Oversee removal and placement of existing materials. Confer with contractors regarding compliance with plans, specifications, quality of work, construction activity, and CAL-OSHA regulations.

b. Assist in indentifying the need for Contract Change Orders (CCOs), preparation of CCOs, contract estimates and other documents, such as responses to contractor's claims, and reports and letters involved in the construction of engineering projects.

c. Perform quantity calculations for progress pay estimates and keep project records.

d. Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, Principal Assistant (Resident) Engineer, field personnel, public outreach personnel, construction administration staff, and with project neighbors to resolve community project problems and to advise them of work conditions affecting the neighborhood.

3.7-4 Roadway Inspectors:

Preferred minimum qualification for the position of field inspectors will be as follows:

Minimum of 3 years of relevant construction inspection and management experience on a similar highway construction project.

a. Knowledge of construction practices, physical characteristics and properties of highway construction inspection, and the approved methods and equipment used in performing physical inspections.

b. Ability to work independently and perform inspection duties in the construction field office.

c. Ability to effectively make minor decision concerning work in progress and solving field and office problems.

d. Ability to use typical computer programs such as Microsoft Word, Outlook, and Excel.

e. Ability and experience with review of Critical Path Method (CPM) baseline schedule including updates and revisions. Ability to run Claim Digger or other available software to detect changes to the CPM schedule for Claims analysis purposes.

f. Assist in the response to potential claims filed by the contractor and preparation of documentation for contract claims and claim reports.

Under the direction of the Project Manager the Roadway Inspectors will assume the following functional responsibilities:

a. Perform inspections to achieve compliance with contract plans and specifications on all phases of Highway construction, such as paving, structures, grading, drainage, utility relocation, electrical installation, sign installation, and landscaping items.

b. Perform quantity calculations for progress pay estimates and keep project records.

c. Perform design for minor changes and make design estimates for contract change orders.

d. Perform analytical calculations for items such as basic earthwork and grading, special staking procedures and redesigning facilities to fit existing field conditions.

e. Perform analytical calculation for items such as basic earthwork and grading, special staking procedures and redesigning facilities to fit existing field conditions.

f. Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, Principal Assistant (Resident) Engineer, field personnel, public outreach personnel, construction administration staff, and with project neighbors to resolve community project problems and to advise them to work conditions affecting the neighborhood.

3.7-5 Office Engineer

a. Minimum of 5 years of relevant construction inspection and/or office engineering experience.

b. Ability to work independently and perform typical construction field office duties.

c. Thorough knowledge of Caltrans construction practices, and the ability to read and interpret plans and specifications.

d. Thorough knowledge of the construction manual regarding estimates, extra work biting, change orders, and other administrative duties.

e. Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, and Caltrans District Construction Administration.

f. Ability to use typical computer programs such as Microsoft Word, WordPerfect, Excel, Outlook, Lotus, Prime Vera Scheduling software, and Expedition or equivalent.

Under direction of Caltrans' Senior RE, the office engineer will assume the following functional responsibilities:

a. Perform quality calculations for progress pay estimates and keep for project records.

b. Draft Change Orders and process for approval.

c. Maintain continuous communication with the Caltrans' RE, OCTA Project Manager, construction administration staff, and at the District Construction office.

3.7-6 Scheduling Support Specialist

Construction scheduling support CONSULTANT shall be knowledgeable and experienced in the following:

a. Using Primavera Project Management Software (P6/P7), Primavera Project Planner (P3), SureTrack and Microsoft Office (Word, Excel, Powerpoint etc.) software.

b. Generating, reviewing, and analyzing Critical Path Method (CPM) schedules with respect to time, resource, and cost. The CONSULTANT shall possess the experience and skills to track Contractor's submittals and CALTRANS submittals reviews, and in conjunction with schedule analysis, determine credits to State-owned Float activity for time saved on the critical path for early review of submittals. The CONSULTANT shall also possess the experience and skills to determine other savings to the critical path due to actions by the CALTRANS.

c. Monitoring and analyzing Contractor's performance of the work with respect to time, resource, and cost. Generating project

correspondence, daily diaries, monthly contract item payments related to scheduling work, Weekly Statement of Working Days, reports, plots exhibits, other presentation materials and other items related to scheduling.

d. Generating, reviewing and analyzing reports with respect to time, resource and cost.

e. Generating, reviewing, and analyzing Time Impact Analyses.

f. Providing specialized expertise for the support of review and analysis of potential claims.

g. Negotiating issues related to construction scheduling.

h. Conducting constructability reviews.

i. Making presentations as needed. Providing training in areas related to scheduling.

j. General construction process and terminology.

k. Working knowledge of CALTRANS plans, specifications, and manuals (Standard Plans, Standard Specifications, Construction Manual etc.)

l. Construction scheduling support CONSULTANT shall posses excellent oral and written communications skills.

m. A minimum of 4 years experience performing construction scheduling for highway, or major public works projects, performing related duties as described above.

3.7-7 Claims Support

Construction claims support CONSULTANT shall be knowledgeable and experienced in the following:

a. Using Primavera Project Management Software (P6/P7), Primavera Project Planner (P3), Suretrack, and Microsoft Office (Word, Excel, PowerPoint etc.) software.

b. Generating and analyzing Critical Path Method (CPM) schedules with respect to time, resource, and cost. The CONSULTANT shall possess the experience and skills to conduct detailed schedule analysis.

c. Have at least 5 years experience with Claims analysis, responding to potential claims, preparing claims reports and presenting to the Dispute Review Boards or District Claims Board.

d. Analyzing Time Impact Analyses.

3.8 Inspection and Safety

In addition to the requirements specified elsewhere in this contract, the following also shall apply.

3.8-1 CONSULTANT shall comply with the safety provisions of the Caltrans Construction and Survey Manuals.

3.8-2 CONSULTANT's personnel shall wear white hard hats, safety orange vests and rubber-soled shoes at all times while working in the field.

3.8-3 CONSULTANT shall provide appropriate safety training for all CONSULTANT's personnel required to work on and near highways.

3.8-4 All safety equipment shall be provided by the CONSULTANT.

National Drug-Free Workplace Alliance

DRUG-FREE WORKPLACE ACT OF 1988

THE FEDERAL LAW

This law, enacted November 1988, with subsequent modification in 1994 by the Federal Acquisition Streamlining Act, *(raising the contractor amount from $25,000 to $100,000)*, requires compliance by all organizations contracting with any U. S. Federal agency in the amount of $100,000 or more that does not involve the acquisition of commercial goods via a procurement contract or purchase order, and is performed in whole in the United States. It also requires that *all* organizations receiving federal grants, regardless of amount granted, maintain a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988. The Law further requires that all *individual* contractors and grant recipients, regardless of dollar amount/value of the contract or grant, comply with the Law.

Certification that this requirement is being met must be done in the following manner:

By publishing a statement informing all covered employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the covered workplace, and what actions will be taken against employees in the event of violations of such statement.

By providing **ALL** covered employees with a copy of the above-described statement, including the information that as a condition of employment on the Federal contract or grant, the employee must abide by the terms and conditions of the policy statement.

For Federal contractors this encompasses employees involved in the performance of the contract. For Federal grantees all employees must come under this requirement as the act includes all "direct charge" employees (those whose services are directly & explicitly paid for by grant funds), and "indirect charge" employees (members of grantee's organization who perform support or overhead functions related to the grant and for which the Federal Government pays its share of expenses under the grant program).

Among "indirect charge" employees, those whose impact or involvement is insignificant to the performance of the grant are exempted from coverage. Any other person, who is on the grantee's payroll and works in any activity under the grant, even if not paid from grant funds, is also considered to be an employee.

Temporary personnel and consultants who are on the grantee's payroll are covered. Similar workers, who are not on the grantee's payroll, but on the payroll of contractors working for the grantee, are not covered even if physical place of employment is in the grantee's workplace.

By establishing a continuing, drug-free awareness program to inform employees of the dangers of drug abuse; the company's drug-free workplace policy; the penalties for drug abuse violations occurring in the workplace; the availability of any drug counseling, rehabilitation, and/or employee assistance plans offered through the employer.

By requiring each employee directly involved in the work of the contract or grant to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not less than five (5) calendar days after such conviction.

By notifying the Federal agency with which the employer has the contract or grant of any such conviction within ten (10) days after being notified by an employee or any other person with knowledge of a conviction.

By requiring the imposition of sanctions or remedial measures, including termination, for an employee convicted of a drug abuse violation in the workplace. These sanctions may be participation in a drug rehabilitation program if so stated in the company policy.

By continuing to make a "good-faith" effort to comply with all of the requirements as set forth in the Drug-Free Workplace Act.

All employers covered by the law are subject to suspension of payments, termination of the contract or grant, suspension or debarment if the head of the contracting or granting organization determines that the employer has made any type of false certification to the contracting or grant office, has not fulfilled the requirements of the law, or has excessive drug violation convictions in the workplace. Penalties may also be imposed upon those employing a number of individuals convicted of criminal drug offenses as this demonstrates a lack of good faith effort to provide a drug-free workplace. The contract or grant officer may determine the number on a case-by-case basis. Employers who are debarred are ineligible for other Federal contracts or grants for up to five (5) years. Compliance may be audited by the Federal agency administering the contract or grant.

The Drug-free Workplace Act <u>does not</u> require employers to establish an employee assistance program (EAP) or to implement drug testing as a part of the program.

Source: Federal Registers April 11, 1988 & May 25, 1990 & the Federal Acquisition Streamlining Act of 1994 (FASA).

SECTION VI

FORMS

PARTY DISCLOSURE FORM

Information Sheet

ORANGE COUNTY TRANSPORTATION AUTHORITY AND AFFILIATED AGENCIES

The attached Party Disclosure Form must be completed by applicants for, or persons who are the subject of, any proceeding involving a license, permit, or other entitlement for use pending before the Board of Directors of the Orange County Transportation Authority or any of its affiliated agencies. (Please see next page for definitions of these terms.)

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

A. If you are an applicant for, or the subject of, any proceeding involving a license, permit, or other entitlement for use, you are prohibited from making a campaign contribution of more than $250 to any board member or his or her alternate. This prohibition begins on the date your application is filed or the proceeding is otherwise initiated, and the prohibition ends three months after a final decision is rendered by the Board of Directors. In addition, no board member or alternate may solicit or accept a campaign contribution of more than $250 from you during this period.

B. These prohibitions also apply to your agents, and, if you are a closely held corporation, to your majority shareholder as well. These prohibitions also apply to your subcontractor(s), joint venturer(s), and partner(s) in this proceeding. Also included are parent companies and subsidiary companies directed and controlled by you, and political action committees directed and controlled by you.

C. You must file the attached disclosure form and disclose whether you or your agent(s) have in the aggregate contributed more than $250 to any board member or his or her alternate during the 12-month period preceding the filing of the application or the initiation of the proceeding.

D. If you or your agent have in the aggregate contributed more than $250 to any individual board member or his/or her alternate during the 12 months preceding the decision on the application or proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the board member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a party in the proceeding. The Party Disclosure Form should be completed and filed with your proposal, or with the first written document, you file or submit after the proceeding commences.

1. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts), and all franchises.

2. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit or other entitlement for use. If an individual acting as an agent is also acting in his or her capacity as an employee or member of a law, architectural, engineering, consulting firm, or similar business entity, both the business entity and the individual are “agents.”

3. To determine whether a campaign contribution of more than $250 has been made by you, campaign contributions made by you within the preceding 12 months must be aggregated with those made by your agent within the preceding 12 months or the period of the agency, whichever is shorter. Contributions made by your majority shareholder (if a closely held corporation), your subcontractor(s), your joint venturer(s), and your partner(s) in this proceeding must also be included as part of the aggregation. Campaign contributions made to different directors or their alternates are not aggregated.

4. A list of the members and alternates of the Board of Directors is attached.

This notice summarizes the major requirements of Government Code Section 84308 of the Political Reform Act and 2 Cal. Adm. Code Sections 18438-18438.8.

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND ITS AFFILIATED AGENCIES

To be completed only if campaign contributions have been made in the preceding 12 months.

Prime Firm's Name: _____

Party's Name: _____

Party's Address: _____
Street

_____
City

_____
State Zip Phone

Application or Proceeding
Title and Number: _____

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

Name of Member: _____
Name of Contributor (if other than Party): _____
Date(s): _____
Amount(s): _____

Name of Member: _____
Name of Contributor (if other than Party): _____
Date(s): _____
Amount(s): _____

Name of Member: _____
Name of Contributor (if other than Party): _____
Date(s): _____
Amount(s): _____

Date: _____ _____
Signature of Party and/or Agent

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES

Board of Directors

Jerry Amante, Chairman

Patricia Bates, Vice Chairman

Art Brown, Director

Peter Buffa, Director

Bill Campbell, Director

Carolyn V. Cavecche, Director

William J. Dalton, Director

Richard Dixon, Director

Paul G. Glaab, Director

Don Hansen, Director

Allan Mansoor, Director

John Moorlach, Director

Shawn Nelson, Director

Janet Nguyen, Director

Curt Pringle, Director

Miguel Pulido, Director

Gregory T. Winterbottom, Director

PARTICIPANT DISCLOSURE FORM

Information Sheet

ORANGE COUNTY TRANSPORTATION AUTHORITY AND AFFILIATED AGENCIES

The attached Participant Disclosure Form must be completed by participants in a proceeding involving a license, permit, or other entitlement for use. (Please see next page for definitions of these terms.)

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

A. If you are a participant in a proceeding involving a license, permit, or other entitlement for use, you are prohibited from making a campaign contribution of more than $250 to any board member or his or her alternate. This prohibition begins on the date you begin to actively support or oppose an application for license, permit, or other entitlement for use pending before the Orange County Transportation Authority or any of its affiliated agencies, and continues until three months after a final decision is rendered on the application or proceeding by the Board of Directors.

   No board member or alternate may solicit or accept a campaign contribution of more than $250 from you and/or your agency during this period if the board member or alternate knows or has reason to know that you are a participant.

B. The attached disclosure form must be filed if you or your agent has contributed more than $250 to any board member or alternate for the Orange County Transportation Authority or any of its affiliated agencies during the 12-month period preceding the beginning of your active support or opposition. (The disclosure form will assist the board members in complying with the law.)

C. If you or your agent have made a contribution of more than $250 to any board member or alternate during the 12 months preceding the decision in the proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a participant in the proceeding.

The Participant Disclosure Form should be completed and filed with the proposal submitted by a party, or should be completed and filed the first time that you lobby in person, testify in person before, or otherwise directly act to influence the vote of the board members of the Orange County Transportation Authority or any of its affiliated agencies.

1. An individual or entity is a "participant" in a proceeding involving an application for a license, permit or other entitlement for use if:

    a. The individual or entity is not an actual party to the proceeding, but does have a significant financial interest in the Orange County Transportation Authority's or one of its affiliated agencies' decision in the proceeding.

AND

    b. The individual or entity, directly or through an agent, does any of the following:

        (1) Communicates directly, either in person or in writing, with a board member or alternate of the Orange County Transportation Authority or any of its affiliated agencies for the purpose of influencing the member's vote on the proposal;

        (2) Communicates with an employee of the Orange County Transportation Authority or any of its affiliated agencies for the purpose of influencing a member's vote on the proposal; or

        (3) Testifies or makes an oral statement before the Board of Directors of the Orange County Transportation Authority or any of its affiliated agencies.

2. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use; all contracts (other than competitively bid, labor, or personal employment contracts) and all franchises.

3. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit, or other entitlement for use. If an agent acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar business entity or corporation, both the business entity or corporation and the individual are agents.

4. To determine whether a campaign contribution of more than $250 has been made by a participant or his or her agent, contributions made by the

participant within the preceding 12 months shall be aggregated with those made by the agent within the preceding 12 months or the period of the agency, whichever is shorter. Campaign contributions made to different members or alternates are not aggregated.

5. A list of the members and alternates of the Board of Directors is attached.

This notice summarizes the major requirements of Government Code Section 84308 and 2 Cal. Adm. Code Sections 18438-18438.8.

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND ITS AFFILIATED AGENCIES

To be completed only if campaign contributions have been made in the preceding 12 months.

Prime's Firm Name: _____

Party's Name: _____

Party's Address: _____
Street

_____
City

_____
State Zip Phone

Application or Proceeding
Title and Number: _____

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

Name of Member: _____
Name of Contributor (if other than Party): _____
Date(s): _____
Amount(s): _____

Name of Member: _____
Name of Contributor (if other than Party): _____
Date(s): _____
Amount(s): _____

Name of Member: _____
Name of Contributor (if other than Party): _____
Date(s): _____
Amount(s): _____

Date: _____ _____
Signature of Party and/or Agent

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES

Board of Directors

Jerry Amante, Chair

Patricia Bates, Vice Chairman

Art Brown, Director

Peter Buffa, Director

Bill Campbell, Director

Carolyn V. Cavecche, Director

William J. Dalton, Director

Richard Dixon, Director

Paul G. Glaab, Director

Don Hansen, Director

Allan Mansoor, Director

John Moorlach, Director

Shawn Nelson, Director

Janet Nguyen, Director

Curt Pringle, Director

Miguel Pulido, Director

Gregory T. Winterbottom, Director

STATUS OF PAST AND PRESENT CONTRACTS

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 contractor or a subcontractor during the past five (5) years in which the contract has ended or will end in a termination, settlement or in legal action. 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.

If the contract was terminated, list the reason for termination. Offeror must also identify and state the status of any litigation, claims or settlement agreements related to any of the identified contracts. Each form must be signed by an officer of the Offeror confirming that the information provided is true and accurate.

Project city/agency/other:	
Contact name:	**Phone:**
Project award date:	**Original Contract Value:**
Term of Contract:	
1) Status of contract:	
2) Identify claims/litigation or settlements associated with the contract:	

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

Name _____ Date _____
Title _____