

REQUEST FOR PROPOSALS (RFP) 9-0201

CREDIT CARD CLEARINGHOUSE SERVICES



ORANGE COUNTY TRANSPORTATION AUTHORITY

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

Key RFP Dates

Issue Date:	February 20, 2009
Pre-Proposal Conference Date:	February 24, 2009
Question Submittal Date:	February 26, 2009
Proposal Submittal Date:	March 20, 2009
Interview/Demonstration Date:	April 9, 2009

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Chief Executive Officer

February 20, 2009

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS
RFP 9-0201: "CREDIT CARD CLEARINGHOUSE SERVICES"**

Gentlemen/Ladies:

The Orange County Transportation Authority invites proposals from qualified forms to provide credit card clearinghouse services.

Proposals must be received in the Orange County Transportation Authority's office at or before 2:00 p.m. on March 20, 2009.

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

**Orange County Transportation Authority
Contracts Administration and Materials Management
600 South Main Street, 4th Floor
Orange, California 92868
Attention: Kathy Peale, Senior Contract Administrator**

Or 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: Kathy Peale, Senior Contract Administrator**

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

Firms interested in obtaining a copy of this Request For Proposals (RFP) 9-0201 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
- Telephone and Facsimile Number
- Request For Proposal (RFP) 9-0201

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

To receive all further information regarding this RFP 9-0201, firms must be registered on CAMMNet with the following commodity code for this solicitation selected as part of the vendor's on-line registration profile:

Commodities for this solicitation are:

<u>Category(s):</u>	<u>Commodity(s):</u>
Professional Services	Financial - Banking Services

A pre-proposal conference will be held on February 24, 2009, at 9:00 a.m. at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103. All prospective Offerors are encouraged to attend the pre-proposal conference.

The Authority has established **April 9, 2009** as the date to conduct interviews/demonstrations. All prospective Offeror's will be asked to keep this date available.

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.

The budget amount for this project is \$600,000 for an initial term of three years with two option years.

Sincerely,

Kathy Peale
Senior Contract Administrator
Contracts Administration and Materials Management

SECTION I

INSTRUCTIONS TO OFFERORS

SECTION I. INSTRUCTIONS TO OFFERORS

A. PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held on February 24, 2009, at 9:00 a.m. the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103. All prospective Offerors are 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. Offerors 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:

Kathy Peale, Senior Contract Administrator
Contracts Administration and Materials Management Department
550 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560.5609, Fax: 714.560.5792, Email: kpeale@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 CAMMNet 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 4:00 p.m., on February 26, 2009.
- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions". The Authority is not responsible for failure to respond to a request that has not been labeled as such.
- c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:
 - (1) U.S. Mail: Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584.
 - (2) Personal Courier: Contracts Administration and Materials Management Department, 600 South Main Street, 4th Floor, Orange, California 92868.
 - (3) Facsimile: The Authority's fax number is (714) 560-5792.
 - (4) E-Mail: Kathy Peale, Senior Contract Administrator e-mail address is kpeale@octa.net .

3. Authority Responses

Responses from the Authority will be posted on CAMMNet, the Authority's interactive website, no later than close of business on March 3, 2009. Offerors may download responses from CAMMNet at www.octa.net/cammnet, or request responses be sent via U.S. Mail by e-mailing or faxing the request to Kathy Peale, Senior Contract Administrator.

To receive e-mail notification of Authority responses when they are posted on CAMMNet, firms must be registered on CAMMNet with the following commodity code for this solicitation selected as part of the vendor's on-line registration profile:

Commodities for this solicitation are:

Category(s):
Professional Services

Commodity(s):
Financial - Banking Services

Inquiries received after 4:00 p.m. on February 26, 2009, 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 March 20, 2009.

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: Kathy Peale, Senior Contract Administrator**

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

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

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

3. Identification of Proposals

Offeror shall submit an **original and 8 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 9-0201: CREDIT CARD CLEARINGHOUSE SERVICES"

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

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 price contract specifying fees for effort described in the Scope of Work, included in this RFP as Exhibit A. The initial agreement term will be three years with one two-year option term.

SECTION II

PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT**A. PROPOSAL FORMAT AND CONTENT****1. Format**

Proposals should be typed with a standard 12 point font, double-spaced and submitted on 8 1/2" x 11" size paper, using a single method of fastening. Charts and schedules may be included in 11"x17" format. 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 Kathy Peale, Senior Contract Administrator and must, at a minimum, contain the following:

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

3. Technical Proposal

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

This section of the proposal should establish the ability of Offeror to satisfactorily perform the required work by reasons of: experience in performing work of a similar nature; demonstrated competence in the services to be provided; strength and stability of the firm; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references.

Offeror to:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; and number of employees.
- (2) Provide a general description of the firm's financial condition and identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project. Describe experience in working with the various government agencies identified in this RFP.
- (4) Identify subcontractors by company name, address, contact person, telephone number and project function. Describe Offeror's experience working with each subcontractor.
- (5) Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, 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, which 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.

- (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, proposed position for this project, current assignment, level of commitment to that assignment, availability for this assignment and how long each person has been with the firm.
- (4) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.
- (5) Include a statement that key personnel will be available to the extent proposed for the duration of the project acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

c. Work Plan

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

Offeror to:

- (1) Describe the technical approach to completing the effort specified in the Scope of Work.
- (2) Outline sequentially the activities that would be undertaken and specify who would perform them.
- (3) Furnish a schedule for completing the effort specified in the Scope of Work in terms of elapsed weeks.
- (4) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.
- (5) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.
- (6) Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

- (7) Offeror should include a copy of its security procedures for protecting customer information.

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 C.

4. Cost and Price Proposal

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

The Offeror shall complete the "Price Summary Sheet" form included with this RFP (Exhibit B), and furnish any narrative required to explain the prices quoted in the schedules.

5. Appendices

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

B. FORMS

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 Exhibit D of this RFP and submit as part of the proposal. Offeror is required to submit only one copy of the completed form(s) as part of its proposal and it should be included in only the original proposal. The prime contractor and subcontractors must complete the form entitled "Party Disclosure Form". Lobbyists or agents representing the prime contractor in this procurement must complete the form entitled "Participant Disclosure Form". Reporting of campaign contributions is a requirement from the proposed submittal date up and until the Authority's Board

of Directors take action, which is anticipated to be May 22, 2009.

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 30%

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 20%

Qualifications of project staff, particularly key personnel and especially the Project Manager; key personnel's level of involvement in performing related work cited in "Qualifications of the Firm" section; logic of project organization; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel.

3. Work Plan 30%

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

4. Cost and Price 20%

Reasonableness of the total price and competitiveness of this amount with other offers received; adequacy of data in support of figures quoted.

B. EVALUATION PROCEDURE

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

During the evaluation period, the Authority will interview some or all of the proposing firms. The Authority has established **April 9, 2009** as the date to conduct interviews/demonstrations. All prospective Offerors will be asked to keep this date available. No other interview/demonstration dates will be provided, therefore, if an Offeror is unable to attend the interview/demonstration

on this date, its proposal may be eliminated from further discussion. The interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the firm's proposal and qualifications.

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

At the conclusion of the evaluation process, the evaluation committee may recommend to the Finance and Administration Committee, an Offeror with the highest final ranking or a short list of top ranked firms within the competitive range whose proposal(s) is most advantageous to the Authority. The Finance and Administration Committee will review the evaluation committee's recommendation and forward its decision to the full Board of Directors for final action.

C. AWARD

The Authority will evaluate the proposals received and will submit, with approval of the Finance and Administration Committee, the proposal considered to be the most competitive to the Authority's Board of Directors, for consideration and selection. The Authority may also negotiate contract terms with the selected Offeror prior to award, and expressly reserves the right to negotiate with several Offerors simultaneously and, thereafter, to award a contract to the Offeror offering the most favorable terms to the Authority.

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

D. NOTIFICATION OF AWARD AND DEBRIEFING

Offerors who submit a proposal in response to this RFP shall be notified by electronic mail regarding the firm who was awarded the contract. Such notification shall be made within three (3) days of the date the contract is awarded.

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

EXHIBIT A
SCOPE OF WORK

SCOPE OF WORK CREDIT CARD CLEARINGHOUSE SERVICES

Background

The SR 91 Freeway runs from Western Los Angeles County through Orange County and into Riverside County. It is the primary automobile transportation link between Orange and Riverside Counties. The Freeway experiences significant congestion during the peak morning and evening commute hours. In the late 1980's the State of California granted a California Private Transportation Company (CPTC) the rights to build and operate toll lanes on a 10-mile section between the western border of Riverside County and eastern Orange County. The toll lanes are located in the median strip of the freeway with free flow traffic separated by cones from the toll lanes. In January 2003, OCTA acquired the franchise rights to the 91 Express Lanes from CPTC. With the passage of SB 1316 the franchise agreement between the Orange County Transportation Authority (OCTA) and Caltrans will expire in December, 2065, at which time, the roadway will be returned to Caltrans. The toll road will operate until 2030 when the franchise expires and the roadway is returned to Caltrans.

Unlike most toll roads, the SR 91 operation is cash free – motorists must obtain an electronic tolling transponder that is “read” upon entry onto the toll lanes. The amount of the toll varies by time of day which reflects the congestion level of traffic. Motorists must complete an application and make either a cash or credit card deposit to secure their use of the transponders. The vast majority of transponders are secured by credit cards which automatically charges for additional amounts as the motorist's balance falls below a predetermined minimum balance. Cash accounts must be replenished by cash or check. The motorists receive monthly statements showing their transactions (i.e., Tolls incurred by date and time) and any charges made to their credit cards to maintain at least the minimum balance. Currently, a third party contractor prepares these customer statements based on transaction records provided by the toll road operator.

Credit card authorization and replenishment is currently batched processed on a daily basis. The toll collection system maintained by the operator identifies all accounts to be replenished by credit card, and an electronic file is downloaded and sent electronically to the credit card processor. The processing institution electronically transfers the proceeds (less processing discount) to the operator's bank on a daily basis.

Current Transaction Volumes

Currently, the toll road accepts Visa, MasterCard, American Express and Discover cards. In recent periods the proportion of transactions has been approximately:

- | | |
|--------------------|-----|
| ▪ Visa | 48% |
| ▪ MasterCard | 29% |
| ▪ American Express | 20% |

- Discover 3%

Transactions from January 2008 through December 2008

Average Monthly Transactions Processed: 54,000
Average Monthly Charges: \$2.9 Million

In addition to credit card charge processing, OCTA will require the firm to process credit card verification services. This service is needed to enable the toll road customer service representatives to accept deposits and receive payments on accounts.

Currently the Authority has a separate merchant services agreement for the processing of bus pass sales and purchases through the OCTA store. Orders are received via online through the Authority's website, by mail and telephone, and in person at the store. The Store sells bus passes and ACCESS fare coupons; transit merchandise, such as pens, portfolios, bus banks, t-shirts, hats, mugs, etc.; and OCTA Employee Recreation Association tickets. For fiscal year 2008 there were approximately 26,000 credit card transactions with sales of \$1.6 million.

It is the intent to combine credit card processing service for the 91 Express Lanes Pass Sales and the OCTA Store to achieve greater efficiency and to consolidate reporting.

Scope of Services

OCTA is seeking proposals from financial institutions that provide credit card clearing services for the 91 Express Lanes and Pass Sales for OCTA bus service.

- Provide capability to electronically process and authorize the SR 91Toll Road's credit card transactions (Visa, MasterCard, American Express, and Discover) on a daily basis and settle the accounts into OCTA's designated bank account, currently at the Bank of the West, in a secure manner and within five (5) business days.
- Provide electronic capability to process recurring Automated Clearinghouse (ACH) debits on a daily basis.
- Provide capability to generate daily and monthly transaction reports and settlement reports by both OCTA function (i.e. 91 Express Lanes and Pass Sales) and individual work locations.
- Provide capability to allow interface with OCTA's point of sale system for automated processing of credit card authorization, (unless new system provided).
- Provide processing for credit cards as "magnetic" or "non-magnetic" transactions. Magnetic means that the card is swiped through a Point of Sale (POS) terminal in a face-to-face transaction. Non-magnetic transactions (aka "keyentered") are those used in mail order/telephone order, Internet, or telephone processing, where cards are not present.
- Provide support and training to OCTA and its contract operator for the 91 Express Lanes during the implementation process.

- Provide account manager to maintain close contact with OCTA to provide ongoing support for any issues or problems that may arise.
- Develop and provide software, hardware and all other necessary equipment, as authorized by OCTA, specifically required to enable the credit card processing function.
- Provide a phone support services for transactions that cannot be processed electronically or require human assistance.
- Provide monthly invoices detailing the activities and related charges for that month.
- Must be compliant with Payment Card Industry Data Security Standards (PCIDSS).
- Provide a test environment simultaneous to the production environment until successful implementation occurs.
- Work with OCTA to evaluate current processing procedures to maximize efficiencies and mitigate cost where applicable.



EXHIBIT B
COST AND PRICE FORMS

SCHEDULE OF FEES

REQUEST FOR PROPOSALS (RFP) 9-0201

Monthly Bank Card Fees: Please list for June 1, 2009 – May 31, 2010

Item Description	Cost

Monthly Service Fees: Please List for June 1, 2009 –May 31, 2010

Item Description	Cost

Additional Fees: Please List for June 1, 2009 –May 31, 2010. State how priced (monthly, weekly, etc.)

Item Description	Cost

Escalation Rates: Initial Term (June 1, 2010 - May 31, 2011) _____ %
Initial Term (June 1, 2011 - May 31, 2012) _____ %

Option Term (June 1, 2012 – May 31, 2013) _____ %
Option Term (June 1, 2013 – May 31, 2014) _____ %

1. I acknowledge receipt of RFP 9-0201 and Addenda No.(s) _____
2. This offer shall remain firm for _____ days from the date of proposal
(Minimum 120)

COMPANY NAME _____

ADDRESS _____

TELEPHONE _____

SIGNATURE OF PERSON
AUTHORIZED TO BIND OFFEROR _____

SIGNATURE'S NAME AND TITLE _____

DATE SIGNED _____

EXHIBIT C
PROPOSED AGREEMENT

1 **AGREEMENT NO. C-9-0201**

2 **BETWEEN**

3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4 **AND**

5 _____
6 **THIS AGREEMENT** is effective this ____ day of _____, 2009, by and
7 between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange,
8 California 92863-1584, a public corporation of the state of California (hereinafter referred to as
9 "AUTHORITY"), and , , (hereinafter referred to as "FIRM").

10 **WITNESSETH:**

11 **WHEREAS**, AUTHORITY requires assistance from FIRM to provide credit card clearinghouse
12 services; and

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

14 **WHEREAS**, FIRM has represented that it has the requisite personnel and experience, and is
15 capable of performing such services; and

16 **WHEREAS**, FIRM wishes to perform these services;

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

18 **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and FIRM as
19 follows:

20 **ARTICLE 1. COMPLETE AGREEMENT**

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

26 B. AUTHORITY's failure to insist in any one or more instances upon FIRM's performance of

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

ARTICLE 2. AUTHORITY DESIGNEE

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

ARTICLE 3. SCOPE OF WORK

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

B. FIRM 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 FIRM, 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 FIRM, 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 FIRM is not provided with such notice by the departing employee. AUTHORITY shall respond to FIRM within seven (7) calendar days following receipt of these qualifications concerning acceptance of the candidate for replacement.

ARTICLE 4. TERM OF AGREEMENT

A. This Agreement shall commence upon execution by both parties, and shall continue in full force and effect through May 31, 2012, unless earlier terminated or extended as provided in this Agreement.

B. AUTHORITY may elect to extend the term of this Agreement up to an additional twenty-four (24) months, commencing June 1, 2012, and continuing through May 31, 2014, ("Option Term"), and thereupon FIRM will continue to provide services, and otherwise perform, in accordance with this Agreement.

C. The parties election to extend the Agreement beyond the Initial Term shall not diminish either parties right to terminate the Agreement for convenience or default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall extend through May 31, 2014, which period encompasses the Initial Term and Option Term.

ARTICLE 5. PAYMENT

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

B. For effort satisfactorily performed by FIRM's personnel under this Agreement, AUTHORITY shall pay FIRM at the fixed fees specified in Exhibit B, which is attached to, by this referenced incorporated in, and made part of this Agreement and are acknowledged to include FIRM's direct labor costs, indirect costs, and profit.

C. FIRM shall invoice AUTHORITY on a monthly basis for payments corresponding to the work actually completed by FIRM. Work completed shall be documented in a monthly report prepared by

FIRM, which shall accompany each invoice submitted by FIRM. FIRM 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 as noted in paragraph B of this Article until such time as FIRM has documented to AUTHORITY's satisfaction, that FIRM has fully completed all work required. AUTHORITY's payment in full shall constitute AUTHORITY's final acceptance of FIRM's work.

D. Invoices shall be submitted by FIRM 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-9-0201T;
2. Services performed during the billing period;
4. The time period covered by the invoice;
5. Monthly Report;
6. Total monthly invoice (including project-to-date cumulative invoice amount);
7. Certification signed by the FIRM or his/her designated alternate that a) The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The invoice is a true, complete and correct statement of reimbursable costs; c) The backup information included with the invoice is true, complete and correct in all material respects; d) All payments due and owing to subcontractors and suppliers have been made; e) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; f) The invoice does not include any amount which FIRM intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice.
8. Any other information as agreed or requested by AUTHORITY to substantiate the validity of an invoice.

ARTICLE 6. MAXIMUM OBLIGATION

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

ARTICLE 7. NOTICES

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

To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

ATTENTION:

ATTENTION: Kathy Peale kpeale@octa.net

(714) 560 - 5609

ARTICLE 8. INDEPENDENT CONTRACTOR

FIRM's relationship to AUTHORITY in the performance of this Agreement is that of an independent contractor. FIRM's personnel performing services under this Agreement shall at all times be under CONSULTANT's exclusive direction and control and shall be employees of FIRM and not employees of AUTHORITY. FIRM 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. FIRM shall procure and maintain insurance coverage during the entire term of this Agreement. Coverage shall be full coverage and not subject to self-insurance provisions. FIRM shall provide the following insurance coverage:

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

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

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

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

5. Banker's Professional Liability with minimum limits of \$5,000,000.00; and

6. Crime coverage including computer crime with limits of \$5,000,000.00.

B. Proof of such coverage, in the form of an insurance company issued policy endorsement and a broker-issued insurance certificate, must be received by AUTHORITY prior to commencement of any work. Proof of insurance coverage must be received by AUTHORITY within ten (10) calendar days from the effective date of this Agreement with the AUTHORITY, its officers, directors, employees and agents designated as additional insured on the general and automobile liability. Such insurance shall be primary and non-contributive to any insurance or self-insurance maintained by the AUTHORITY.

C. FIRM shall include on the face of the Certificate of Insurance the Agreement Number C-9-0201T; and Kathy Peale, Senior Contract Administrator.

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

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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 9-0201; (3) FIRM's proposal dated ; (4) all other documents, if any, cited herein or incorporated by reference.

ARTICLE 11. CHANGES

By written notice or order, AUTHORITY may, from time to time, order work suspension and/or make changes in the general scope of this Agreement, including, but not limited to, the services furnished to AUTHORITY by FIRM 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, FIRM shall promptly notify AUTHORITY thereof and assert its claim for adjustment within ten (10) calendar days after the change or work suspension is ordered, and an equitable adjustment shall be negotiated. However, nothing in this clause shall excuse FIRM 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 FIRM. 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, FIRM 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, FIRM shall proceed diligently with the performance of this Agreement and in accordance with the decision of AUTHORITY's Director, CAMM. This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Agreement, however, shall be construed as making final the decision of any AUTHORITY official or representative on a question of law, which questions shall be settled in accordance with the laws of the state of California.

ARTICLE 13. TERMINATION

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

B. AUTHORITY may terminate this Agreement for FIRM's default if a federal or state proceeding for the relief of debtors is undertaken by or against FIRM, or if FIRM makes an assignment for the benefit of creditors, or if FIRM 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. FIRM shall be liable for all reasonable costs incurred by AUTHORITY as a result of such default including, but not limited to, reprocurement costs of the same or similar services defaulted by FIRM under this Agreement.

ARTICLE 14. INDEMNIFICATION

FIRM 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 FIRM, 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 FIRM either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by FIRM, without the prior written consent of AUTHORITY. Consent by AUTHORITY shall not be deemed to relieve FIRM of its obligations to comply fully with all terms and conditions of this Agreement.

B. AUTHORITY hereby consents to FIRM's subcontracting portions of the Scope of Work to the parties identified below for the functions described in FIRM's proposal. FIRM shall include in the subcontract agreement the stipulation that FIRM, 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 FIRM.

<u>Subcontractor Name/Addresses</u>	<u>Subcontractor Amounts</u>
	.00
	.00

ARTICLE 16. AUDIT AND INSPECTION OF RECORDS

FIRM shall provide AUTHORITY, or other agents of AUTHORITY, such access to FIRM's accounting books, records, payroll documents and facilities, as AUTHORITY deems necessary. FIRM 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 FIRM'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. FIRM 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. FEDERAL, STATE AND LOCAL LAWS

FIRM 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 18. EQUAL EMPLOYMENT OPPORTUNITY

In connection with its performance under this Agreement, FIRM shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. FIRM 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.

ARTICLE 19. PROHIBITED INTERESTS

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

ARTICLE 20. 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 FIRM'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 FIRM 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 under this Agreement, nor be disclosed to an entity not connected with the

performance of the project. FIRM shall comply with AUTHORITY's policies regarding such material. Nothing furnished to FIRM, which is otherwise known to FIRM or is or becomes generally known to the related industry shall be deemed confidential. FIRM 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 artwork, are to be released by FIRM 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 FIRM and AUTHORITY.

ARTICLE 21. PATENT AND COPYRIGHT INFRINGEMENT

A. In lieu of any other warranty by AUTHORITY or FIRM against patent or copyright infringement, statutory or otherwise, it is agreed that FIRM 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 FIRM shall pay all costs and damages finally awarded in any such suit or claim, provided that FIRM is promptly notified in writing of the suit or claim and given authority, information and assistance at FIRM's expense for the defense of same. However, FIRM 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 FIRM when such use in combination infringes upon an existing U.S. letters patent or copyright.

B. FIRM shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof. FIRM shall not be obligated to indemnify AUTHORITY under any settlement made without FIRM'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 FIRM's expense. If the use or sale of said item

is enjoined as a result of such suit or claim, FIRM, 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 22. FINISHED AND PRELIMINARY DATA

A. All of FIRM'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. FIRM 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 FIRM. Preliminary data includes roughs, visualizations, software design documents, layouts and comprehensives prepared by FIRM 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 FIRM causes AUTHORITY to exercise Article 11, and a price shall be negotiated for all preliminary data.

ARTICLE 23. ALCOHOL AND DRUG POLICY

AUTHORITY and FIRM shall provide under this Agreement, a safe and healthy work environment free from the influence of alcohol and drugs. Failure to comply with this Article may result in nonpayment or termination of this Agreement.

ARTICLE 24. 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 25. SECURITY

A. Any and all information disclosed by FIRM to AUTHORITY relating in any way to customers of AUTHORITY ("Customer Information") shall be deemed to be confidential information. AUTHORITY and FIRM shall not use Customer Information for any purpose other than as reasonably necessary to fulfill the terms of this Agreement, and shall not disclose Customer Information to any third person without the prior consent of AUTHORITY. FIRM shall not make Customer Information available to any employees, contractors or agents of AUTHORITY except those with a need to know. FIRM shall implement appropriate measures to ensure the security and confidentiality of all Customer Information in its possession, including protecting against any anticipated threats or hazards to the security or integrity of the Customer Information and protecting against unauthorized access to or use of the Customer Information that could result in substantial harm or inconvenience to any customer of AUTHORITY. AUTHORITY shall have the right to have access from time to time to FIRM's premises upon reasonable notice from AUTHORITY and during regular business hours to audit compliance with this section. Upon request of AUTHORITY, FIRM shall supply AUTHORITY with written certification of compliance with this section.

B. FIRM shall disclose any known or suspected breach of security of Customer's personal information to AUTHORITY and AUTHORITY's affected Customers. The disclosure shall be made in the most expedient time possible and without unreasonable delay.

C. For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the FIRM for the purposes of the FIRM is not a breach of the security of

1 the system, provided that the personal information is not used or subject to further unauthorized
2 disclosure.

3 D. For purposes of this section, "personal information" means an individual's first name
4 or first initial and last name in combination with any one or more of the following data elements,
5 when either the name or the data elements are not encrypted:

6 (1) Social security number.

7 (2) Driver's license number or California Identification Card number.

8 (3) Account number, credit or debit card number, in combination with any required
9 security code, access code, or password that would permit access to an individual's financial
10 account.

11 E. For purposes of this section, "personal information" does not include publicly available
12 information that is lawfully made available to the general public from federal, state, or local
13 government records.

14 F. For purposes of this section, "notice" may be provided by one of the following methods:

15 (1) Written notice.

16 (2) Electronic notice, if the notice provided is consistent with the provisions regarding
17 electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

18 (3) Substitute notice, if the FIRM demonstrates that the cost of providing notice would
19 exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of subject persons
20 to be notified exceeds 500,000, or the FIRM does not have sufficient contact information. Substitute
21 notice shall consist of all of the following: (a) E-mail notice when the FIRM
22 has an e-mail address for the subject persons.

23 (b) Conspicuous posting of the notice on the FIRM's Web site page, if the agency
24 maintains one.

25 (c) Notification to major statewide media.
26

G. A FIRM, that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part, shall be deemed to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-0201T to be executed on the date first above written.

FIRM

ORANGE COUNTY TRANSPORTATION AUTHORITY

By _____

By _____

Arthur T. Leahy
Chief Executive Officer

APPROVED AS TO FORM:

By _____

Kennard R. Smart, Jr.
General Counsel

APPROVED:

By _____

James S. Kenan
Executive Director
Finance and Administration

EXHIBIT D

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.

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

Peter Buffa, Chairman

Jerry Amante, Vice Chairman

Patricia Bates, Director

Art Brown, Director

Bill Campbell, Director

Carolyn Cavecche, Director

William J. Dalton, Director

Richard Dixon, Director

Paul G. Glaab, Director

Cathy Green, Director

Allan Mansoor, Director

John Moorlach, Director

Janet Nguyen, Director

Chris Norby, 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 have 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.

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

Peter Buffa, Chairman

Jerry Amante, Vice Chairman

Patricia Bates, Director

Art Brown, Director

Bill Campbell, Director

Carolyn Cavecche, Director

William J. Dalton, Director

Richard Dixon, Director

Paul G. Glaab, Director

Cathy Green, Director

Allan Mansoor, Director

John Moorlach, Director

Janet Nguyen, Director

Chris Norby, Director

Curt Pringle, Director

Miguel Pulido, Director

Gregory T. Winterbottom, Director

Status of Past and Present Contracts Form

On the form provided below, Offeror shall list the status of past and present contracts where the firm has either provided services as a prime 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 Form entitled "Status of Past and Present Contracts," I am affirming that all of the information provided is true and accurate.

Name

Title

Date