

REQUEST FOR PROPOSALS (RFP) 9-0552

**INFORMATION SYSTEMS DISASTER
RECOVERY SOLUTION**



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

Key RFP Dates

Issue Date:	July 17, 2009
Pre-Proposal Conference Date:	July 22, 2009
Question Submittal Date:	July 24, 2009
Proposal Submittal Date:	August 14, 2009
Interview/Demonstration Date:	September 8, 2009 and September 10, 2009

**U.S. Department of Transportation
CA-90-Y697**

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July 17, 2009

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS
RFP 9-0552: "INFORMATION SYSTEMS DISASTER
RECOVERY SOLUTION"**

Gentlemen/Ladies:

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to implement an Information Systems disaster recovery solution.

Proposals must be received in the Orange County Transportation Authority's office at or before 2:00 p.m. on August 14, 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) 9-0552 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) 9-0552

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 9-0552, firms must be registered on CAMMNet 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):

Computer: Hardware and Software

Professional Consulting

Professional Services

Commodity(s):

Computer Hardware & Software;
Hardware Components &
Accessories; Servers & Storage
Equipment

Computer Hardware Consulting;
Computer Network Consulting;
Computer Software Consulting
Networking Services (Including
Installation and Maintenance);
Software Maintenance/Support;
Support Services, Computer

A pre-proposal conference will be held on July 22, 2009, at 9:00 a.m. at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103/104. All prospective Offerors are encouraged to attend the pre-proposal conference.

The Authority has established **September 8 and September 10, 2009** as the dates to conduct interviews/demonstrations. All prospective Offeror's will be asked to keep these dates available.

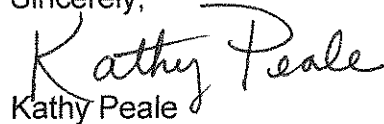
Offerors are encouraged to subcontract with small businesses to the maximum extent possible.

The Offeror will be required to comply with all applicable equal opportunity laws and regulations.

The award of this contract is subject to a financial assistance contract between the Orange County Transportation Authority and the U.S. Department of Transportation. Therefore, all Offerors will be required to certify that they are not debarred, suspended or otherwise excluded from participating in federally assisted projects. All Offerors will be required to certify that they are not on the Comptroller General's list of ineligible Consultants.

The budget amount for this project is \$370,000 for a term of one year with two two-year option terms at \$200,000 per year.

Sincerely,

A handwritten signature in black ink that reads "Kathy Peale". The signature is written in a cursive style with a large, stylized "K" and "P".

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 July 22, 2009, at 9:00 a.m. the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103/104. 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 July 24, 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 July 28, 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 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:

<u>Category(s):</u>	<u>Commodity(s):</u>
Computer: Hardware and Software	Computer Hardware & Software; Hardware Components & Accessories; Servers & Storage Equipment
Professional Consulting	Computer Hardware Consulting; Computer Network Consulting; Computer Software Consulting
Professional Services	Networking Services (Including Installation and Maintenance); Software Maintenance/Support; Support Services, Computer

Inquiries received after 4:00 p.m. July 24, 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 August 14, 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 7 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 9-0552: INFORMATION SYSTEMS DISASTER
RECOVERY SOLUTION"**

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 firm-fixed price contract specifying firm-fixed prices for individual tasks specified in the Scope of Work, included in this RFP as Exhibit A.

L. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

This contract is subject to Title 49 Code of Federal Regulations (CFR), Part 26, entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs" (Regulations). The Regulations in their entirety are incorporated herein by this reference. Offerors are to be fully informed with respect to the DBE requirements delineated in Exhibit G of this RFP and the applicable Regulations.

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.

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, 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. 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) Indicate adequacy of labor resources utilizing a table projecting the labor-hour allocation.
- (4) Identify key personnel proposed to perform the work 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.
- (5) Include a project organization chart, which clearly delineates communication/reporting relationships among the project staff.
- (6) 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.
- (7) Indicate the number of support staff personnel and their position, who will be on site during testing and disaster recovery.

c. Work Plan

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

Offeror to:

- (1) Describe the approach to completing the work specified in the Scope of Work.
- (2) Outline sequentially the activities that would be undertaken in completing the work and specify who would perform them.
- (3) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.
- (4) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.
- (5) 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 Exhibit 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

1. PARTY AND PARTICIPANT DISCLOSURE FORMS- EXHIBIT D

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 October 26, 2009.

2. STATUS OF PAST AND PRESENT CONTRACTS FORM- EXHIBIT E

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.

3. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – EXHIBIT F

Primary Participant and Lower-Tier Participants

a. Policy

Unless otherwise permitted by law, any person or firm that is debarred, suspended, or voluntarily excluded, as defined by the U.S. Department of Transportation, may not take part in any federally funded transaction, either as a participant or a principal, during the period of debarment, suspension, or voluntary exclusion. Accordingly, the Authority, may not enter into any transaction with such debarred, suspended, or voluntarily excluded persons or firms during such period.

A certification process has been established by 49 CFR Part 29, as a means to ensure that debarred suspended or voluntarily excluded persons or firms do not participate in Federally assisted projects. The inability to provide the required certification will not necessarily result in denial of participation in a covered transaction. A person or firm that is unable to provide a positive certification as required by this solicitation, must submit a complete explanation attached to the certification. U.S. DOT will consider the certification and any accompanying explanation in determining whether or not to provide

assistance for the project. Failure to furnish a certification or an explanation may disqualify that person or firm from participating in the project.

b. Submission Requirements

Each Offeror shall complete the certification, "Certification of Primary Participant Regarding Debarment, Suspension and other Responsibility Matters," Exhibit F, included in this RFP, for itself and its principals, and submit this certification with its proposal. Failure to do so may result in rejection of the proposal.

If the Offeror plans to use subcontractors on the project, the Offeror, shall have all subcontractors with contracts in excess of \$100,000 complete a certification for lower-tier participation and submit the certification with its proposal.

If a prime or subcontractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances, immediate written notice shall be provided to the Authority.

**4. DBE SOLICITATION PROVISIONS – EXHIBIT G
OFFEROR DBE PARTICIPATION PROVISIONS – EXHIBIT G1
OFFEROR RACE-NEUTRAL PARTICIPATION LISTING - EXHIBIT G-2
BIDDERS LIST- EXHIBIT G-3**

Offeror shall complete Exhibit G-1, Exhibit G-2 and Exhibit G-3 per the instructions set forth in Section I: "Instructions to Offerors" and Exhibit G: "Disadvantaged Business Enterprise Requirement and Instructions".

5. RESTRICTIONS ON LOBBYING FORM – EXHIBIT H

As a recipient of federal funds, the Authority is required to certify compliance with the influencing restrictions and efforts of Offeror to influence federal officials regarding specific procurements in excess of \$100,000.00 that must be disclosed pursuant to section 1352, Title 31, U.S. Code.

This RFP includes, under Exhibit H, the following: a certification form entitled "Certification of Restrictions on Lobbying," the Office of Management and Budget (OMB) Standard Form LLL entitled "Disclosure of Lobbying Activities," and a document entitled "Limitation on Payments to Influence Certain Federal Transactions."

The Offeror to this solicitation will be required to complete and submit to the Authority in their proposal, the certification form entitled "Certification of Restrictions on Lobbying" whether or not any lobbying efforts took

place. If the Offeror did engage in lobbying activities, then OMB Standard Form LLL "Disclosure of Lobbying Activities" must also be completed and submitted to the Authority.

SECTION III
EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

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

- 1. Qualifications of the Firm 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 project deadlines; 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; reasonableness of individual task budgets.

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 **September 8 and September 10, 2009** as the specific dates to conduct interviews/demonstrations. All prospective Offerors will be asked to keep these dates available. No other interview dates will be provided, therefore, if an Offeror is unable to attend the

interview/demonstration on these dates, 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

INFORMATION SYSTEMS DISASTER RECOVERY SOLUTION

SCOPE OF WORK

Background

The Orange County Transportation Authority (OCTA) is a multi-modal transportation agency serving Orange County. OCTA keeps Orange County moving with countywide bus and paratransit service, Metrolink commuter-rail service, the 91 Express Lanes toll facility, freeway, street and road improvement projects, motorist aid services and by regulating taxi operations.

OCTA is seeking a Consultant who can provide comprehensive managed IT services, hosted and managed disaster recovery capabilities, associated professional services, and maintains strong relationships and certifications with the primary manufacturers comprising OCTA's IT environment.

Having completed a disaster recovery readiness assessment, OCTA desires to improve its disaster preparedness through the implementation of a Consultant-managed warm site disaster recovery solution hosted at the Consultant's hosting facility.

Having completed an analysis of existing business applications, OCTA has determined those which are critical in nature and would need to be supported at an alternate facility in the event of a disaster. OCTA has made a determination of the facility requirements and system configuration which we feel is adequate to provide necessary backup and recoverability for these critical applications.

Scope of Work

Executive Summary

In the event of a disaster, OCTA intends to resume processing of critical applications within 24 hours for Tier 1 applications and 72 hours for Tier 2 applications (Recovery Time Objective).

As a result, OCTA requires a Consultant-managed warm site disaster recovery (DR) solution leveraging continuous data protection technology hosted at Consultant's facility. The intent of this document is to define the parameters and requirements of the desired warm site disaster recovery solution based on the following objectives:

- o Tier 1 applications are recoverable at disaster recovery site within 24 hours (RTO of 24 hours)
- o Tier 2 applications are recoverable at disaster recovery site within 72 hours (RTO of 72 hours)
- o Tier 1 and Tier 2 replicated application data is no more than 24 hours behind primary site (RPO of 24 hours)
- o Remote access capability by OCTA employees to Tier 1 and Tier 2 applications running at disaster recovery site via Citrix and/or VMWare

- o Ability to migrate applications back to OCTA's primary location once primary location is back online

In the event of an incident which requires that the warm site be brought on-line, OCTA users will access the recovery site systems via Citrix and/or VMWare servers located at the disaster recovery facility. Access to these Citrix and/or VMWare servers should be made available over the public Internet as well as OCTA's existing WAN.

OCTA's Current Environment

OCTA has identified 12 critical business applications which must be made available at the remote hosted disaster recovery facility in the event of a disaster or extended outage at OCTA's primary facility. The list of 31 servers below represents the makeup of the environment that is needed to support the 12 critical business applications.

These applications have been categorized into Tier 1 and Tier 2. The most critical applications, Tier 1 applications, have a Recovery Point Objective of 24 hours and a Recovery Time Objective of 24 hours. Tier 2 applications have a Recovery Point Objective of 24 hours and a Recovery Time Objective of 72 hours.

All applications today exist on a common LAN infrastructure with access to OCTA's MPLS WAN. For security purposes, the system names have been changed in this document from their real names to *Server1* to *ServerN*. Server 1 supports both a Tier 1 and a Tier 2 application and thus appears in both categories.

Tier 1 Systems to Participate In the DR Solution

Server Name	Operating System	Platform	Oracle Version	Purpose
Server1	HPUX B.11.00 U 9000/800 (tp)	PA8600, 550MHz, 11264MB RAM	8.1.6.0.0	Database and Telnet
Server2	Windows 2003	Wintel		Scheduling
Server3	Windows 2003	Wintel		Windows Services
Server4	Windows 2003	Wintel		MDT Proxy
Server5	Windows 2003	Wintel	9.2.0.7	Database
Server6	HPUX B.11.11 U 9000/800 (ta)	PA8600,750MHz,8192MB RAM	9i	Application
Server7	HPUX B.11.11 U 9000/800 (ta)	PA8600,650MHz,2048MB RAM		Web Service
Server8	Windows 2000	Wintel		FTP
Server9	Windows 2000	Wintel		SMTP Relay
Server10	Windows 2000	Wintel		SMTP Relay
Server11	Windows 2000	Wintel		Mail Store
Server12	Windows 2000	Wintel		Mail Store

Server13	Windows 2000	Wintel		Remote Email
Server14	Windows 2000	Wintel		Unified Messaging

Tier 2 Systems to Participate In the DR Solution

Server Name	Operating System	Platform	Oracle Version	Purpose
Server15	HPUX B.11.23 U ia64 (ta)	Itanium2, 1595MHz, 24555MB RAM	10G	Database
Server16	HPUX B.11.11 U 9000/800 (ta)	PA8600,200MHz, 8192MB RAM		Serial Connections
Server17	HPUX B.11.23 U ia64 (tl)	Itanium2, 1600MHz, 8188MB RAM		Telnet Connections
Server18	Windows 2003	Wintel		Scheduling
Server19	Windows 2003	Wintel		Application Server
Server20	Windows 2003	Wintel		Application Server
Server21	Windows 2003	Wintel		Reporting Server
Server22	HPUX B.11.23 U ia64 (tb)	Itanium2, 1100MHz, 24599MB RAM	9.2.0.6	Database and Web Server
Server1. Also supports a Tier 2 Application	HPUX B.11.00 U 9000/800 (tp)	PA8600, 550MHz, 11264MB RAM		Application, Database, and Remote User Interface
Server23	Windows 2000	Wintel		Application Server
Server24	Windows 2000	Wintel	8i	Database Server
Server25	Windows 2000	Wintel		Application
Server26	Windows 2003	Wintel		Database
Server27	Citrix	Wintel		Remote User Interface
Server28	Windows 2000	Wintel		Web Spooler
Server29	HPUX B.11.00 U 9000/800 (tb)	PA8600, 440MHz, 2048MB RAM		Application Server and Database

OCTA Managed Warm Site Conceptual Diagram

To assist Consultants in their understanding of OCTA's desired solution, a conceptual warm site diagram has been provided as Attachment 1. This diagram depicts continuous replication of primary applications from OCTA's primary data center to Consultant's managed disaster recovery facility. At the disaster recovery facility, OCTA will virtualize existing Windows servers into a VMWare environment **provided and managed** by Consultant and leveraging shared SAN storage provided by the Consultant. HPUX hosts running on Itanium processors will be replicated to Integrity blades in the **OCTA-owned** blade system chassis. Data for HPUX hosts running on PARISC processors must be replicated as well and will be restored to **OCTA-owned** PARISC servers at the bidder's hosting facility. OCTA acknowledges that the PARISC servers may require a one-to-one replication (i.e. not using virtual technology).

Should the need arise to bring the warm site online, OCTA users will access systems and applications at the remote site via a remote access technology such as Citrix and/or VMWare virtual desktop. OCTA expects no more than 300 concurrent client sessions during this time. Client access via remote access technology to the application servers at the warm site must be made available via the public Internet as well as from other, surviving facilities on the OCTA WAN. OCTA will be responsible for loading the appropriate remote access client software on the user workstations.

Industry Reviews and Awards

The Consultant shall include information about any independent reviews or awards received, which are pertinent to the services OCTA seeking.

Support Services

The Consultant shall describe what types of support services are provided as part of their proposed hosted DR contract and what types of support services are available for an additional fee.

OCTA's Information Security Statement

In today's fast paced technology dependent environment, businesses must balance their needs to quickly deliver innovative products and services with public safety and security considerations in mind. Not only does the public demand better security for the products and services provided by OCTA, but there are also many federal, state, and industry regulations that require us to provide a certain level of protection.

The following is a brief list of the major federal, state, and industry information security regulations, which OCTA follows in its security approach:

Health Insurance Portability and Accountability Act (HIPAA)

<http://www.hhs.gov/ocr/hipaa/>

California Senate Bill 1386 (SB1386)

http://info.sen.ca.gov/pub/01-02/bill/sen/sb_1351-1400/sb_1386_bill_20020926_chaptered.html

California Assembly Bill 1950 (AB1950)

http://info.sen.ca.gov/pub/03-04/bill/asm/ab_1901-1950/ab_1950_bill_20040929_chaptered.pdf

California Assembly Bill 2246 (AB2246)

info.sen.ca.gov/pub/99-00/bill/asm/ab_2201-2250/ab_2246_bill_20000511_amended_asm.pdf

California Public Records Act

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=06001-07000&file=6250-6270>

Department of Homeland Security Act 2002

http://www.dhs.gov/xabout/laws/law_regulation_rule_0011.shtm

Payment Card Industry – Data Security Standard 1.2

<https://www.pcisecuritystandards.org/>

OCTA subscribes to several key information security best practices to assist us with protecting the confidentiality, integrity, and availability of our technical infrastructure. The authoritative bodies, along with their publications and theories, are as follows:

ISO 27001/27001 – Information Security Control Objectives

http://www.iso.org/iso/catalogue_detail?csnumber=42103

ISO 15408 (Common Criteria)

<http://www.commoncriteriaportal.org/>

NIST Special Publication 800-70: Security Considerations Checklists Program for IT Products

<http://csrc.nist.gov/publications/PubsSPs.html>

NIST Special Publication 800-53: Recommended Security Controls for Federal Information Systems

<http://csrc.nist.gov/publications/PubsSPs.html>

SANS Top-20

<http://www.sans.org/top20/>

OWASP Top-10

http://www.owasp.org/index.php/OWASP_Top_Ten_Project

To help meet the demands of our community and address our compliance requirements, OCTA requires that prospective Consultants explain the security characteristics of their products or service offerings. Consultants shall specify how their products and service offerings address and help support OCTA's commitment to a secure and compliant environment by responding to the following questions in your proposal:

1. How has security best practice principles, such as the ones illustrated above, been incorporated within the development and recommended implementation of your product or service for OCTA?
2. What are the most important and relevant security characteristics of your products or services that can ensure the protection of OCTA customer information and/or safety?
3. OCTA is governed by California Senate 1386, and is required to notify customers/entities if any legally protected information is breached. What is your incident response policy and processes are for assisting OCTA in meeting this requirement?

Hosting Facility Requirements

Consultant shall answer each of the following questions by checking the "Yes" box across from the question if Consultant meets this requirement. Check the "No" box across from the question if the Consultant does not meet the requirement. In order to ensure that the Consultant understands OCTA's needs, Consultants shall elaborate on their responses in the space below each question.

Number	Requirement	Meet Requirements: Check One Box	
		Yes	No
1.	Are recovery facility shared resources assigned to OCTA guaranteed to be available to OCTA during a disaster?		
2.	Are recovery facility shared resources assigned to OCTA reserved exclusively for OCTA?		
3.	OCTA requires biannual failover testing for their disaster recovery site. Can Consultant comply with this requirement? If yes, please explain Consultants involvement in failover testing.		

Number	Requirement	Yes	No
4.	Are your facilities SAS 70 Type II compliant?		
5.	Remote Disaster Recovery Facility must be located outside the 150-mile radius of OCTA's primary data center in Orange, CA. Is proposed facility outside this 150 mile radius? If yes, list city, state, and zip code of facility:		
6.	Is the proposed remote data site classified as a Tier 4 data center as defined by the Uptime Institute? Tier specifications can be found in the white paper entitled "Tier Classifications Define Site Infrastructure Performance" at http://www.uptimeinstitute.org		
7.	Does recovery facility have 4 or more carrier's providing independent access, bandwidth, and connectivity to the facility? If yes, please list the carriers:		
8.	Does the Consultant provide notice prior to automatic renewal?		
9.	Does Consultant require subscribers to place a disaster declaration in order to "reserve" a recovery facility?		
10.	Does Consultant provide bridges, routers, switches and firewalls capabilities at the proposed facility?		
11.	Does recovery facility have physical security systems and security staff protecting the area where OCTA systems will be housed?		

Number	Requirement	Yes	No
12.	Does recovery facility provide redundant diesel generators? If so, how long can they run at full load without re-fueling?		
13.	Does recovery facility provide redundant HVAC systems?		
14.	Does recovery facility provide power conditioning to protect OCTA systems?		
15.	Does recovery facility provide a minimum of two independent power paths to the IT equipment supporting OCTA's recovery environment?		
16.	Proposed recovery facility must be able to support high-density power environments of at least 1000 watts/sq ft to enable OCTA to utilize a high-density compute environment. Does proposed recovery facility provide at least 1000 watts/sq ft?		
17.	Can recovery facility be connected into OCTA's current Opt-E-MAN WAN?		
18.	Does recovery facility provide a managed, shared, scalable VMWare Enterprise environment with DRS and VMotion capabilities which supports customer's virtualized applications?		

Consultant shall address the following:

23. How is bandwidth billed?

24. Describe reporting capabilities available to OCTA.

25. Provide Consultant's policy for preventing OCTA's right of access to the primary recovery configuration to be pre-empted by another subscriber.
26. How does Consultant agree to limit the risk of simultaneous declarations from multiple subscribers of the same configuration size of OCTA?
27. Provide a list of all Consultant hot/warm site recovery facility location(s).
28. Detail the fire detection and suppression system of the proposed recovery facility.
29. Detail the physical site security system (building access control, cameras, man traps, etc) and security staff coverage provided at the proposed recovery facility.
30. Detail the network security elements and measures that would be in place protecting OCTA's environment at the remote site recovery facility.
31. Detail the environmental support equipment of the proposed recovery facility in each of the following categories:
 - a. Power Conditioning
 - b. HVAC
 - c. Chiller
 - d. UPS
 - e. Diesel Generator

34. Indicate whether the proposed recovery facility has redundant capabilities for the above environmental support equipment.

35. Detail which utility (electrical and communications) firms service the proposed recovery facility.

36. Indicate redundant capabilities for electrical and communications utilities in the event of an outage.

37. Will OCTA incur a fee for placing customer owned equipment at the proposed recovery site? Provide the amount as an addition on Exhibit B.

38. Can maintenance procedures for the recovery facility, hardware and environmental support equipment at the proposed recovery facility be performed with no downtime or disruption to OCTA's environment?

39. What is the geographical location (i.e. urban or suburban) of the proposed recovery facility?

40. Describe replication monitoring and reporting made available to OCTA for the warm disaster recovery site.

41. Describe Consultant's process to keep the warm site from being available to end users during non-disaster times and how Consultant makes the warm site available for remote access by end users during a disaster.

Replication Requirements

Consultant shall answer each of the following questions by checking the "Yes" box across from the question if Consultant meets this requirement. Check the "No" box across from the question if the Consultant does not meet the requirement. In order to ensure that the Consultant understands OCTA's needs, Consultants shall elaborate on their responses in the space below each question. Additional questions and requirements are listed below the table of yes/no questions.

Number	Requirement	Meet Requirements: Check One Box	
		Yes	No
1.	Does managed replication solution provide real-time, web-base reporting of adherence to defined RPO and RTO policies?		
2.	Does managed replication solution provide both volume and file-level replication capabilities?		
3.	Does managed replication solution provide compression and data de-duplication to minimize replication traffic on the WAN and improve RPO?		
4.	Does managed replication solution provide the capability to automatically failover critical applications including Exchange, Oracle and SQL in the event of a disaster or service disruption at the primary site?		
5.	Does managed replication solution provide the capability to synchronize the primary site to current from the disaster recovery site in a fail-back situation?		
6.	Does managed replication solution provide support for Windows, Unix and Linux hosts?		
7.	Does managed replication solution utilize virtual snapshots or event tags to allow restoration of environment back to any point in time and ensure an application consistent recovery?		
8.	Does managed replication solution transmit data over the network in an encrypted format?		

Hosted Storage Requirements

Consultant shall answer each of the following questions by checking the "Yes" box across from the question if Consultant meets this requirement. Check the "No" box across from the question if the Consultant does not meet the requirement. In order to ensure that the Consultant understands OCTA's needs, Consultants are required to elaborate on their responses in the space below each question. Additional questions and requirements are listed below the table of yes/no questions.

Questions

Number	Requirement	Meet Requirements : Check One Box	
		Yes	No
1.	Does Consultant provide storage-on-demand model whereby OCTA can rent storage space on a Fibre Channel SAN by the gigabyte?		
2.	Shared FC SAN must support RAID levels RAID1, RAID 10, RAID 5, and RAID 6. Does proposed shared FC SAN support all these RAID levels?		
3.	Shared FC SAN must not have any single points of failure and must have dual-redundant controllers. Does proposed shared FC SAN have dual-redundant controllers?		
4.	Shared FC SAN must not have any single points of failure and must have dual-redundant controllers. Does proposed shared FC SAN have any single point of failure?		
5.	Shared FC SAN must provide the ability to migrate volumes from one RAID level to another without application disruption. Does proposed FC SAN provide this capability within the storage subsystem?		

Number	Requirement	Yes	No
6.	Does proposed shared FC SAN support both Fibre Channel and SATA disks simultaneously?		
7.	Microcode updates must be performed without disruption to the application. Does proposed FC SAN support online microcode updates that are non-disruptive to the application?		
8.	Hard disks must be hot pluggable and have the ability to be added or replaced without disruption to the system and applications. Does proposed FC SAN meet this requirement?		
9.	Proposed shared FC SAN must provide point-in-time snapshot capabilities for LUN data protection. Does proposed FC SAN meet this requirement?		
10.	Proposed shared FC SAN must provide host storage groups whereby multiple LUN's can be presented per port. Does proposed FC SAN meet this requirement?		
11.	Proposed shared FC SAN must provide global hot spares that will automatically repair RAID arrays in the event of a drive failure. Does proposed FC SAN meet this requirement?		
12.	Proposed shared FC SAN must support Windows 2000, Windows 2003, VMWare ESX 3.5, and HP-UX on Integrity. Does proposed FC SAN meet this requirement?		
13.	Proposed shared FC SAN must provide LUN masking and LUN security capabilities. Does proposed FC SAN meet this requirement?		

Number	Requirement	Yes	No
14.	Proposed shared FC SAN must provide non-disruptive major component replacement for all major components. Does proposed FC SAN meet this requirement?		
15.	Proposed shared FC SAN must be listed on VMWare's Compatability Guide for ESX 3.5 U4 for Fibre Channel storage arrays. Does proposed FC SAN meet this requirement?		

Required Hardware and Software

Based on the below listed hardware and software requirements, Consultant shall provide complete and full pricing in Exhibit B of all components and meet all listed requirements. All components must be new and unused.

Required Hardware and Software for the HPUX environment

Mfg	Item	Qty	Description
			C7000 BladeSystem Enclosure
HP	403321-B22	1	HP BladeSystem c-Class c7000 Enclosure 3-inch LCD - Single Phase • HP Single Phase Power Module • 2 HP BladeSystem c7000 Power Supplies • 4 HP BladeSystem c7000 Fans • HP BLc7000 Management Module • Full ICE-BL Licenses - Insight Control Environment for Blade System • Warranty - 3 years - parts, labor, onsite - next business day
HP	412142-B21	1	HP Redundant Onboard Administrator Option
HP	499243-B21	4	HP c7000 Enclosure Power Supply Option Kit (supplied with IEC C20 - C19 jumper cord)
HP	412140-B21	6	HP Active Cool Fan Option Kit

Mfg	Item	Qty	Description
			C7000 BladeSystem Enclosure
HP	409513-B21	2	HP 4Gb Virtual Connect Fibre Channel Module for c-Class BladeSystem (4) 4Gb Auto-negotiating Fibre Channel uplinks connected to external SAN switches (16) 4Gb Auto-negotiating Fibre Channel downlink ports provide maximum HBA performance HBA Aggregation on uplinks ports using ANSI T11 standards-based N_Port ID Virtualization (NPIV) technology Extremely low latency throughput provides switch-like performance.
HP	252663-D74	2	HP High Voltage Core Modular Power Distribution Unit - Power distribution strip - 4 output connector(s)
HP	UH322E	1	Onsite HW support 24x7, 4hr response and Insight Control Environment for BladeSystem SW Updates, SW Tech support offsite, 24x7 2hr response time including. HP holidays
HP	UE602E	1	HP BladeSystem c7000 Infrastructure Installation and Startup Service for Blade Hardware and Insight Control Software
HP	UE603E	1	HP BladeSystem C7000 Enhanced Network Installation and Startup Service
			HP Proliant BL860c - HP UX Server (2 x D.C.Processors & 48 GB Memory)
HP	AD323A Opt #006	3	HP Integrity BL860c 9140M DC (2P) Two (2) Intel® Itanium® Dual-Core Processors Model 9140M (1.66 GHz, 18MB L3 cache) 1.2 MB per Core Level 2 cache memory (4) Embedded NIC ports, Dual Broadcom 5704 Gigabit NICs plus (1) additional 10/100 NIC dedicated to Integrity iLO2 Management Storage Controller: LSI1068 SAS Controller
HP	AD345A	18	HP 8GB PC4200 DDR-SDRAM(2x4GB DIMMs)
HP	431935-B21	6	HP 72GB 3G SAS 15K SFF SP HDD
HP	BA927AC	3	HP-UX 11i INTEGRITY 2P/4C BLADE PCL LTU
HP	403619-B21	3	QLogic QMH2462 4Gb FC HBA for HP c-Class BladeSystem
HP	HA110A3	3	HP Care Pack 3-year, 4-hour, Support Plus 24 for Integrity Servers

Required PARISC Systems for Disaster Recovery Facility

OCTA has identified HPUX hosts running on PARISC platforms which are to be replicated to the remote disaster recovery facility. These PARISC-based hosts require a 1-to-1 mapping with a PARISC host at the disaster recovery facility. OCTA doesn't currently own the PARISC machines required for the disaster recovery facility. Consultant shall supply pricing for new, or used, PARISC machines required to meet the disaster recovery objectives for the HPUX PARISC systems.

Required Professional Services

In addition to services provided on an on-going basis through the Consultant's Managed Services, below are the high-level required one-time professional services for this project. Along with pricing, Consultant must submit a detailed Work Plan for each of these required professional services.

Qty	Description
1	All required services for installation and implementation of the solution at remote disaster recovery site.
1	Professional Services Consulting - Solutions Architect: Design, Planning, Knowledge transfer, Documentation

Hosted Disaster Recovery Site Managed Services

Consultant shall list in Exhibit B all monthly recurring charges, setup fees, and any other one-time non recurring charges for the following items:

Hosted Disaster Recovery Site Managed Services Requirements	
Qty	Description
3000	Managed SAN Storage Service per GB usable storage capacity, expandable on-demand as needed, protected Tier 1 Shared SAN storage with 4Gbps Fibre Channel connectivity, with 99.98% uptime guarantee
23	Managed VMWare Hot Stand-by Virtual Machines for Windows
8	Hosting service for OCTA-owned HP-UX server (total of 8 HPUX servers)
29	Managed replication solution services per host
29	Remote System monitoring and replication monitoring with escalation services (Monitoring primary servers located at OCTA)
1	Managed Fault-Tolerant Shared Firewall
6	1Mbps MPLS bandwidth (total of 6Mbps)
6	1Mbps bandwidth to the Internet (total of 6Mbps)

Disaster Recovery Configuration Summary

Consultant shall detail in writing and via diagram the proposed hardware, telecommunications, warm site and recovery configuration below and provide attached diagrams.

If a specific requirement cannot be met, Consultant shall explain why and, if applicable, offer an alternative solution. Consultant shall also provide detail regarding optional services available.

Task 1: Required Hardware and Software

The Consultant shall provide pricing in Exhibit B for all hardware and software as stated below. The Consultant shall explain if the proposed replication solution equipment will be a leased, managed solution, or if it is being recommend that OCTA should purchase the equipment.

Mfg	Item	Qty	Description
			C7000 BladeSystem Enclosure
HP	403321-B22	1	HP BladeSystem c-Class c7000 Enclosure 3-inch LCD - Single Phase • HP Single Phase Power Module • 2 HP BladeSystem c7000 Power Supplies • 4 HP BladeSystem c7000 Fans • HP BLc7000 Management Module • Full ICE-BL Licenses - Insight Control Environment for BladeSystem • Warranty - 3 years - parts, labor, onsite - next business day
HP	412142-B21	1	HP Redundant Onboard Administrator Option
HP	499243-B21	4	HP c7000 Enclosure Power Supply Option Kit (supplied with IEC C20 - C19 jumper cord)
HP	412140-B21	6	HP Active Cool Fan Option Kit
HP	399593-B22	2	HP Virtual Connect Flex-10 10Gb Ethernet Module for c-Class BladeSystem • 16 x 10Gb downlinks to server NICs • 2 x 10Gb cross connects for redundancy and stacking • 1 x 10Gb copper uplinks CX-4 for stacking to Virtual Connect Modules or uplinking to data center switches • 8 x 10Gb SR, LR, or LRM fiber and copper SFP+ uplinks • Supports up to 4 FlexNICs per 10Gb server connections. • Each FlexNIC is recognized by the server as a PCI-e physical function device with customizable speeds from 100Mb to 10Gb. • Line Rate, full-duplex 240Gbps bridging fabric • Less than 1ms latency • MTU up to 9216 Bytes - Jumbo Frames • Configurable up to 8192 MAC addresses and 1000 IGMP groups • VLAN Tagging, Pass-Thru and Link Aggregation supported on all uplinks

Mfg	Item	Qty	Description
			C7000 BladeSystem Enclosure
HP	409513-B21	2	HP 4Gb Virtual Connect Fibre Channel Module for c-Class BladeSystem (4) 4Gb Auto-negotiating Fibre Channel uplinks connected to external SAN switches (16) 4Gb Auto-negotiating Fibre Channel downlink ports provide maximum HBA performance HBA Aggregation on uplinks ports using ANSI T11 standards-based N_Port ID Virtualization (NPIV) technology Extremely low latency throughput provides switch-like performance.
HP	252663-D74	2	HP High Voltage Core Modular Power Distribution Unit - Power distribution strip - 4 output connector(s)
HP	UH322E	1	Onsite HW support 24x7, 4hr response and Insight Control Environment for BladeSystem SW Updates, SW Tech support offsite, 24x7 2hr response time including. HP holidays
HP	UE602E	1	HP BladeSystem c7000 Infrastructure Installation and Startup Service for Blade Hardware and Insight Control Software
HP	UE603E	1	HP BladeSystem C7000 Enhanced Network Installation and Startup Service
			HP Proliant BL860c - HP UX Server (2 x D.C.Processors & 48 GB Memory)
HP	AD323A Opt #006	3	HP Integrity BL860c 9140M DC (2P) Two (2) Intel® Itanium® Dual-Core Processors Model 9140M (1.66 GHz, 18MB L3 cache) 1.2 MB per Core Level 2 cache memory (4) Embedded NIC ports, Dual Broadcom 5704 Gigabit NICs plus (1) additional 10/100 NIC dedicated to Integrity iLO2 Management Storage Controller: LSI1068 SAS Controller
HP	AD345A	18	HP 8GB PC4200 DDR-SDRAM(2x4GB DIMMs)
HP	431935-B21	6	HP 72GB 3G SAS 15K SFF SP HDD
HP	BA927AC	3	HP-UX 11i INTEGRITY 2P/4C BLADE PCL LTU
HP	403619-B21	3	QLogic QMH2462 4Gb FC HBA for HP c-Class BladeSystem
HP	HA110A3	3	HP Care Pack 3-year, 4-hour, Support Plus 24 for Integrity Servers

If the Consultant recommends purchasing the replication solution device, please list the product part number, cost, and associated monthly cost for managing the device on Exhibit B.

Mfg	Part Number	Qty	Description	Current OCTA Host this will map to

Task 2: Required Professional Services

Consultant shall provide pricing in Exhibit B for all professional services. Consultant shall also include pricing for all optional services proposed. Hosted DR Facility Pricing shall include the monthly recurring fee, one-time non-recurring fees, disaster declaration fee (if applicable), daily usage fees (if applicable) and any other associated fee (including one-time fees).

Qty	Description
1	All required services for installation and implementation of the solution at remote disaster recovery site.
1	Professional Services Consulting - Solutions Architect: Design, Planning, Knowledge transfer, Documentation

*** A detailed Statement of Work must be attached for all professional services performed**

Task 3: Hosted Managed Services

The Consultant shall provide pricing on Exhibit B for maintenance and support which include monthly recurring charges, one-time set fee and any other one-time non-recurring charges for the following items:

Qty	Description
3000	Managed SAN Storage Service per GB usable storage capacity, expandable on-demand as needed, protected Tier 1 Shared SAN storage with 4Gbps Fibre Channel connectivity, with 99.98% uptime guarantee
23	Managed VMWare Hot Stand-by Virtual Machines for Windows (Owned by the Consultant)
8	Hosting service for OCTA-owned HP-UX server (total of 8 HP-UX servers)
29	Managed replication solution services per host
29	Remote System monitoring and replication monitoring with escalation services (Monitoring primary servers located at OCTA)
1	Managed Fault-Tolerant Shared Firewall
6	1 Mbps MPLS Bandwidth to OCTA's WAN (total of 6Mbps)
6	1 Mbps bandwidth to the Internet (total of 6Mbps)

Task 4: Maintenance and Support

The Consultant shall provide in Exhibit B maintenance and support pricing for monthly recurring charges for the following items:

Qty	Description
3000	Managed SAN Storage Service per GB usable storage capacity, expandable on-demand as needed, protected Tier 1 Shared SAN storage with 4Gbps Fibre Channel connectivity, with 99.98% uptime guarantee
23	Managed VMWare Hot Stand-by Virtual Machines for Windows (Owned by the Consultant)
8	Hosting service for OCTA-owned HP-UX server (total of 8 HP-UX servers)
29	Managed replication solution services per host
29	Remote System monitoring and replication monitoring with escalation services (Monitoring primary servers located at OCTA)
1	Managed Fault-Tolerant Shared Firewall
6	1 Mbps MPLS Bandwidth to OCTA's WAN (total of 6Mbps)
6	1 Mbps bandwidth to the Internet (total of 6Mbps)

Optional - Managed Services

Qty	Description
500	Pricing for optional storage after the initial 3000 GB are used. Managed SAN Storage Service per GB usable storage capacity, expandable on-demand as needed, protected Tier 1 Shared SAN storage with 4Gbps Fibre Channel connectivity, with 99.98% uptime guarantee
1000	Pricing for optional storage after the initial 3000 GB are used. Managed SAN Storage Service per GB usable storage capacity, expandable on-demand as needed, protected Tier 1 Shared SAN storage with 4Gbps Fibre Channel connectivity, with 99.98% uptime guarantee

Upgrades

Provide Consultant's provisions for upgrading OCTA's recovery configuration during the term of the contract.

Additional Information

Consultant shall include any additional information which they feel would aid OCTA in their review process. This information should be limited to information the Consultant feels pertinent to their response which was not specifically asked for in the Request For Proposal (i.e. marketing literature, additional support provided, optional services, etc). Consultant shall be selective in the material to be included in this section.

OCTA Warm Site Conceptual Diagram

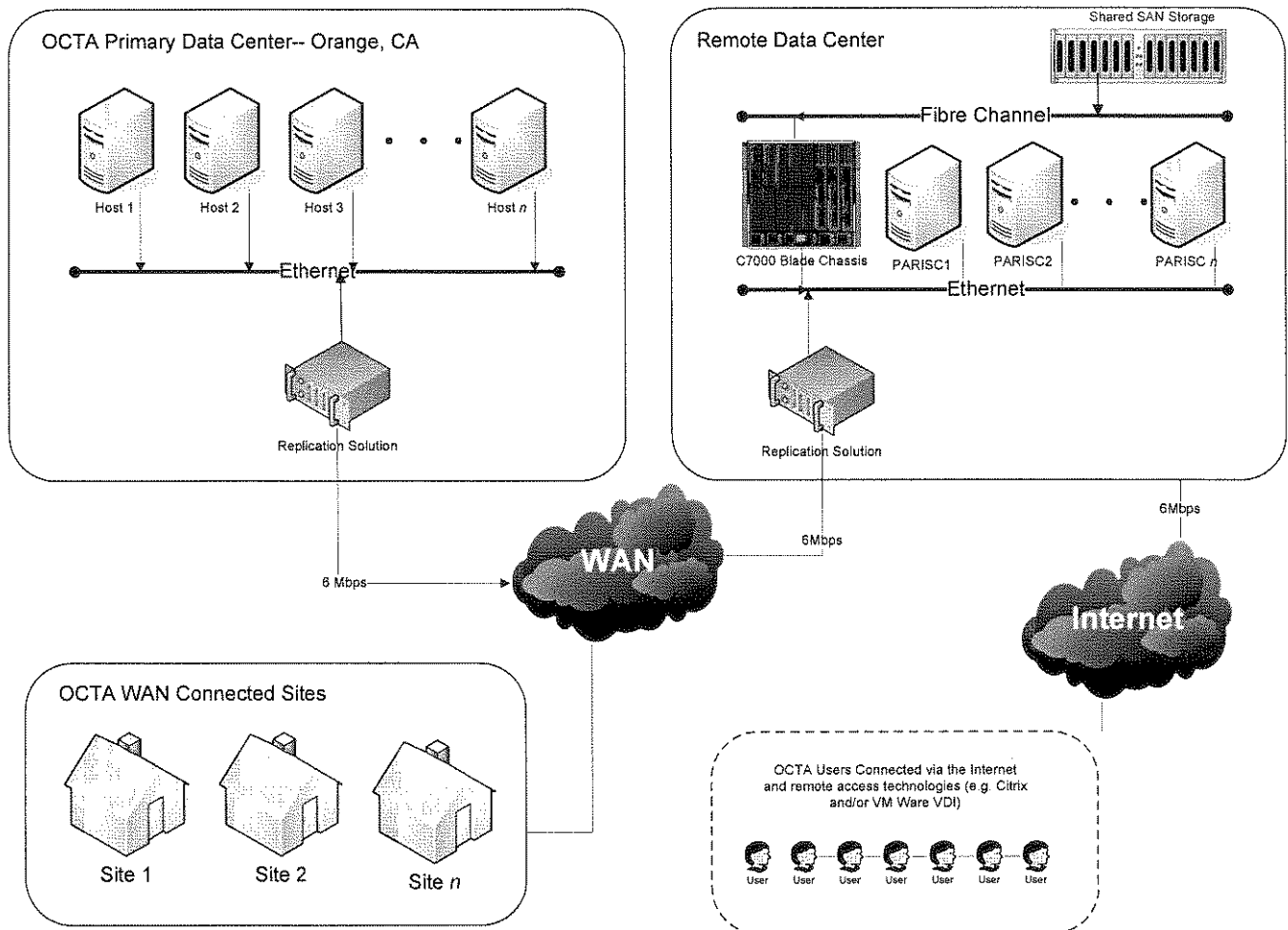


EXHIBIT B
COST AND PRICE FORMS

PRICE SUMMARY SHEET

REQUEST FOR PROPOSALS (RFP) 9-0552

Enter below the proposed price for each of the tasks described in the Scope of Work, Exhibit A. Prices shall include direct costs, indirect costs, and profits.

Task 1A: Hardware and Software

Mfg	Item	Qty	Description	Cost Ea	Ext Cost
			C7000 BladeSystem Enclosure		
HP	403321-B22	1	HP BladeSystem c-Class c7000 Enclosure 3-inch LCD - Single Phase • HP Single Phase Power Module • 2 HP BladeSystem c7000 Power Supplies • 4 HP BladeSystem c7000 Fans • HP BLc7000 Management Module • Full ICE-BL Licenses - Insight Control Environment for BladeSystem • Warranty - 3 years - parts, labor, onsite - next business day		
HP	412142-B21	1	HP Redundant Onboard Administrator Option		
HP	499243-B21	4	HP c7000 Enclosure Power Supply Option Kit (supplied with IEC C20 - C19 jumper cord)		
HP	412140-B21	6	HP Active Cool Fan Option Kit		
HP	399593-B22	2	HP Virtual Connect Flex-10 10Gb Ethernet Module for c-Class BladeSystem • 16 x 10Gb downlinks to server NICs • 2 x 10Gb cross connects for redundancy and stacking • 1 x 10Gb copper uplinks CX-4 for stacking to Virtual Connect Modules or uplinking to data center switches • 8 x 10Gb SR, LR, or LRM fiber and copper SFP+ uplinks • Supports up to 4 FlexNICs per 10Gb server connections. • Each FlexNIC is recognized by the server as a PCI-e physical function device with customizable speeds from 100Mb to 10Gb. • Line Rate, full-duplex 240Gbps bridging fabric • Less than 1ms latency • MTU up to 9216 Bytes - Jumbo Frames • Configurable up to 8192 MAC addresses and 1000 IGMP groups • VLAN Tagging, Pass-Thru and Link Aggregation supported on all uplinks		

**RFP 9-0552
EXHIBIT B**

Mfg	Item	Qty	Description	Cost Ea	Ext Cost
HP	409513-B21	2	HP 4Gb Virtual Connect Fibre Channel Module for c-Class BladeSystem (4) 4Gb Auto-negotiating Fibre Channel uplinks connected to external SAN switches (16) 4Gb Auto-negotiating Fibre Channel downlink ports provide maximum HBA performance HBA Aggregation on uplinks ports using ANSI T11 standards-based N_Port ID Virtualization (NPIV) technology Extremely low latency throughput provides switch-like performance.		
HP	252663-D74	2	HP High Voltage Core Modular Power Distribution Unit - Power distribution strip - 4 output connector(s)		
HP	UH322E	1	Onsite HW support 24x7, 4hr response and Insight Control Environment for BladeSystem SW Updates, SW Tech support offsite, 24x7 2hr response time including. HP holidays		
HP	UE602E	1	HP BladeSystem c7000 Infrastructure Installation and Startup Service for Blade Hardware and Insight Control Software		
HP	UE603E	1	HP BladeSystem C7000 Enhanced Network Installation and Startup Service		
			HP Proliant BL860c - HP UX Server (2 x D.C.Processors & 48 GB Memory)		
HP	AD323A Opt #006	3	HP Integrity BL860c 9140M DC (2P) Two (2) Intel® Itanium® Dual-Core Processors Model 9140M (1.66 GHz, 18MB L3 cache) 1.2 MB per Core Level 2 cache memory (4) Embedded NIC ports, Dual Broadcom 5704 Gigabit NICs plus (1) additional 10/100 NIC dedicated to Integrity iLO2 Management Storage Controller: LSI1068 SAS Controller		
HP	AD345A	18	HP 8GB PC4200 DDR-SDRAM(2x4GB DIMMs)		
HP	431935-B21	6	HP 72GB 3G SAS 15K SFF SP HDD		
HP	BA927AC	3	HP-UX 11i INTEGRITY 2P/4C BLADE PCL LTU		
HP	403619-B21	3	QLogic QMH2462 4Gb FC HBA for HP c-Class BladeSystem		
HP	HA110A3	3	HP Care Pack 3-year, 4-hour, Support Plus 24 for Integrity Servers		

Total Cost of Hardware and Software:	\$
Shipping and Handling Charges:	\$
Total Cost	\$

Task 1B: PARISC Hardware and Software for Disaster Recovery Facility

Mfg	Part Number	Qty	Description	Current OCTA Host this will map to	Cost Ea	Ext Cost

Total Cost of Hardware and Software:	\$
Shipping and Handling Charges:	\$
Total Cost	\$

Task 2 : Professional Services

Required Professional Services

Qty	Description	Cost
1	All required services for installation and implementation of blade system at remote disaster recovery site	\$
1	Professional Services Consulting - Solutions Architect: Design, Planning, Knowledge transfer, Documentation	\$

Total Professional Services Cost:	\$
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Task 3: Hosted Disaster Recovery Site Requirements

Qty	Description	Setup Cost	Ext Setup Cost	Monthly Recurring	Monthly Recurring for 12 months
3000	Managed SAN Storage Service per GB usable storage capacity, expandable on-demand as needed, protected Tier 1 Shared SAN storage with 4Gbps Fibre Channel connectivity, with 99.98% uptime guarantee	\$	\$	\$	\$
23	Managed VMWare Hot Stand-by Virtual Machines for Windows (Owned by the vendor)	\$	\$	\$	\$
8	Hosting service for OCTA-owned HP-UX server (total of 8 HP-UX servers)	\$	\$	\$	\$
31	Remote System monitoring and replication monitoring with escalation services (Monitoring primary servers located at OCTA)	\$	\$	\$	\$

Qty	Description	Setup Cost	Ext Setup Cost	Monthly Recurring	Monthly Recurring for 12 months
1	Managed Fault-Tolerant Shared Firewall	\$	\$	\$	\$
6	1 Mbps MPLS Bandwidth to OCTA's WAN (total of 6Mbps)	\$	\$	\$	\$
6	1 Mbps bandwidth to the Internet (total of 6Mbps)	\$	\$	\$	\$
Total Managed Service Setup Cost: Total Managed Service Monthly Recurring Cost for 12 months:					\$ \$

Task 4: Maintenance and Support

The Consultant shall provide maintenance and support pricing for monthly recurring charges for the following items:

Qty	Description	Monthly Recurring Charges
3000	Managed SAN Storage Service per GB usable storage capacity, expandable on-demand as needed, protected Tier 1 Shared SAN storage with 4Gbps Fibre Channel connectivity, with 99.98% uptime guarantee	
23	Managed VMWare Hot Stand-by Virtual Machines for Windows (Owned by the vendor)	
8	Hosting service for OCTA-owned HP-UX server (total of 8 HP-UX servers)	
31	Remote System monitoring and replication monitoring with escalation services (Monitoring primary servers located at OCTA)	
1	Managed Fault-Tolerant Shared Firewall	
6	1 Mbps MPLS Bandwidth to OCTA's WAN (total of 6Mbps)	
6	1 Mbps bandwidth to the Internet (total of 6Mbps)	
Total Monthly Charges		\$

TOTAL FIRM FIXED PRICE \$ _____

Escalation rate for 2010-2011 _____% **Escalation rate for 2011-2012** _____%

Escalation rate for 2011-2012 _____% **Escalation rate for 2012-2013** _____%

Optional - Managed Services

Hosted Disaster Recovery Site – Optional Storage Expansion Pricing						
Qty	Description	Setup Cost	Ext Setup Cost	Monthly Recurring	Monthly Recurring for 12 months	
500	Pricing for optional storage after the initial 3000 GB are used. Managed SAN Storage Service per GB usable storage capacity, expandable on-demand as needed, protected Tier 1 Shared SAN storage with 4Gbps Fibre Channel connectivity, with 99.98% uptime guarantee	\$	\$	\$	\$	
1000	Pricing for optional storage after the initial 3000 GB are used. Managed SAN Storage Service per GB usable storage capacity, expandable on-demand as needed, protected Tier 1 Shared SAN storage with 4Gbps Fibre Channel connectivity, with 99.98% uptime guarantee	\$	\$	\$	\$	

-
1. I acknowledge receipt of RFP 9-0552 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-9-0552**

2 **BETWEEN**

3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4 **AND**

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

10 **WITNESSETH:**

11 **WHEREAS**, AUTHORITY requires assistance from CONSULTANT to implement and manage
12 an Information Systems disaster recovery solution; and

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

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

16 **WHEREAS**, CONSULTANT 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 CONSULTANT
19 as 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 the agreement between AUTHORITY and CONSULTANT and it supersedes all prior
24 representations, understandings and communications. The invalidity in whole or in part of any term or
25 condition of this 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 CONSULTANT'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 CONSULTANT's obligation in respect thereto shall continue in full force and effect. Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when specifically confirmed in writing by an authorized representative of AUTHORITY by way of a written amendment to this Agreement and issued in accordance with the provisions of this Agreement.

ARTICLE 2. AUTHORITY DESIGNEE

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

ARTICLE 3. SCOPE OF WORK

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

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

Names

Functions

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

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

6 **ARTICLE 4. TERM OF AGREEMENT**

7 A. This Agreement shall commence upon the effective date of this Agreement, and shall
8 continue in full force and effect through October 31, 2010, unless earlier terminated or extended as
9 provided in this Agreement.

10 B. AUTHORITY may elect to extend the term of this Agreement up to an additional twenty-four
11 (24) months, commencing November 1, 2010, and continuing through October 31, 2012, ("First Option
12 Term"), and thereupon CONSULTANT will continue to provide services, and otherwise perform, in
13 accordance with this Agreement.

14 C. AUTHORITY may elect to extend the term of this Agreement up to an additional twenty-four
15 (24) months, commencing November 1, 2012, and continuing through October 31, 2014, ("Second
16 Option Term"), and thereupon CONSULTANT will continue to provide services, and otherwise perform,
17 in accordance with this Agreement.

18 D. The parties election to extend the Agreement beyond the Initial Term shall not diminish
19 either parties right to terminate the Agreement for convenience or default as provided elsewhere in this
20 Agreement. The "maximum term" of this Agreement shall extend through October 31, 2014, which
21 period encompasses the Initial Term, First and Second Option Terms.

22 **ARTICLE 5. PAYMENT**

23 A. For CONSULTANT's full and complete performance of its obligations under this Agreement,
24 and subject to the maximum cumulative payment obligation provisions set forth in Article 7,
25 AUTHORITY shall pay CONSULTANT on a firm fixed price basis in accordance with the following
26 provisions.

B. The following schedule shall establish the firm fixed payment to CONSULTANT by AUTHORITY for each work task set forth in the Scope of Work. The schedule shall not include any CONSULTANT expenses not approved by AUTHORITY including but not limited to reimbursement for local meals.

<u>Task</u>	<u>Description</u>	<u>Firm Fixed Price</u>
1A	Hardware and Software	.00
1B	PARISC Hardware and Software for Disaster Recovery Facility	.00
2	Professional Services	.00
3	Hosted Disaster Recovery Site Requirements	.00
4	Maintenance and Support	.00
TOTAL FIRM FIXED PRICE PAYMENT		<u>.00</u>

C. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding to the work actually completed by CONSULTANT. Percentage of 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 task listed in paragraph B of this Article until such time as CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required under the task. AUTHORITY's payment in full for any task 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) 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-9-0552T;
2. Specify the task number for which payment is being requested;
3. The time period covered by the invoice;
4. Total monthly invoice (including project-to-date cumulative invoice amount) and retention;
5. Monthly Progress Report;
6. Certification signed by the CONSULTANT or his/her designated alternate that a) The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup information included with the invoice is true, complete and correct in all material respects; c) All payments due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The invoice does not include any amount which CONSULTANT intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice.
7. Any other information as agreed or requested by AUTHORITY to substantiate the validity of an invoice.

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ARTICLE 6. PROMPT PAYMENT CLAUSE

A. CONSULTANT agrees to pay each subcontractor for the satisfactory work preformed under this Agreement, no later than ten (10) calendar days from the receipt of each payment CONSULTANT receives from AUTHORITY. CONSULTANT agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. AUTHORITY reserves the right to request the appropriate documentation from CONSULTANT showing payment has been made to the subcontractors. Any delay or postponement of payment from the above referenced time frames may occur only for good cause following written approval by AUTHORITY.

B. Failure to comply with this provision or delay in payment without prior written approval from AUTHORITY will constitute noncompliance, which may result in appropriate administrative sanctions, including, but not limited to a penalty of two percent (2%) of the invoice amount due per month for every month that payment is not made.

C. These prompt payment provisions must be incorporated in all subcontract agreements issued by CONSULTANT under this Agreement.

ARTICLE 7. 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 (\$0.00) which shall include all amounts payable to CONSULTANT for its subcontracts, leases, materials and costs arising from, or due to termination of, this Agreement.

ARTICLE 8. 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

Senior Contract Administrator

(714) 560 – 5609; kpeale@octa.net

ARTICLE 9. 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 10. INSURANCE

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

1. Commercial General Liability, to include Products/Completed Operations, Independent Contractors', Contractual Liability, and Personal Injury, and Property Damage 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 \$1,000,000.00 per claim.

B. Proof of such coverage, in the form of an insurance company issued policy endorsement and a broker-issued insurance certificate, must be received by AUTHORITY prior to commencement of any work. Proof of insurance coverage must be received by AUTHORITY within ten (10) calendar days from the effective date of this Agreement with the AUTHORITY, its officers, directors, employees and agents designated as additional insured on the general and automobile liability. Such insurance shall be primary and non-contributive to any insurance or self-insurance maintained by 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-9-0552T; and Kathy Peale, Senior Contract Administrator.

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

ARTICLE 11. 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 9-0552; (3) CONSULTANT's proposal dated ; and (4) all other documents, if any, cited herein or incorporated by reference.

ARTICLE 12. CHANGES

By written notice or order, AUTHORITY may, from time to time, order work suspension and/or make changes in the general scope of this Agreement, including, but not limited to, the services furnished to AUTHORITY by CONSULTANT as described in the Scope of Work. If any such work suspension or change causes an increase or decrease in the price of this Agreement or in the time required for its performance, CONSULTANT shall promptly notify AUTHORITY thereof and assert its

claim for adjustment within ten (10) calendar days after the change or work suspension is ordered, and an equitable adjustment shall be negotiated. However, nothing in this clause shall excuse CONSULTANT from proceeding immediately with the agreement as changed.

ARTICLE 13. 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.

ARTICLE 14. TERMINATION

A. AUTHORITY may terminate this Agreement for its convenience at any time, in whole or part, by giving CONSULTANT written notice thereof. Upon termination, AUTHORITY shall pay CONSULTANT its allowable costs incurred to date of that portion terminated. Said termination shall be

1 construed in accordance with the provisions of CFR Title 48, Chapter 1, Part 49, of the Federal
2 Acquisition Regulation (FAR) and specific subparts and other provisions thereof applicable to
3 termination for convenience. If AUTHORITY sees fit to terminate this Agreement for convenience, said
4 notice shall be given to CONSULTANT in accordance with the provisions of the FAR referenced above
5 and Article 8, herein. Upon receipt of said notification, CONSULTANT agrees to comply with all
6 applicable provisions of the FAR pertaining to termination for convenience.

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

15 **ARTICLE 15. INDEMNIFICATION**

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

22 **ARTICLE 16. ASSIGNMENTS AND SUBCONTRACTS**

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

terms and conditions of this Agreement.

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

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

ARTICLE 17. AUDIT AND INSPECTION OF RECORDS

A. CONSULTANT shall provide AUTHORITY, the U.S. Department of Transportation (DOT), the Comptroller General of the United States, or other agents of AUTHORITY, such access to CONSULTANT's accounting books, records, payroll documents and facilities of the CONSULTANT which are directly pertinent to this Agreement for the purposes of examining, auditing and inspecting all accounting books, records, work data, documents and activities related hereto. 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 16 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.

B. AUTHORITY has the right to audit the performance and security of the services and facilities during the term of the agreement. The purpose of the audit is to ensure that the AUTHORITY's data and systems are properly protected from technical, physical and human threats. CONSULTANT may

be asked for a facilities visit, recent security audit report or any document that provides AUTHORITY assurance that the systems are being properly managed and secured.

ARTICLE 18. 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 19. 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 20. 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 21. CIVIL RIGHTS ASSURANCE

During the performance of this Agreement, CONSULTANT, for itself, its assignees and successors in interest agree as follows:

A. Compliance with Regulations: CONSULTANT shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

B. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.

C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

D. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the AUTHORITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information the CONSULTANT shall so certify to the AUTHORITY as appropriate, and

shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of the CONSULTANT's noncompliance with nondiscrimination provisions of this Agreement, the AUTHORITY shall impose Agreement sanctions as it may determine to be appropriate, including, but not limited to:

1. Withholding of payments to the CONSULTANT under the Agreement until the CONSULTANT complies; and/or

2. Cancellation, termination, or suspension of the Agreement, in whole or in part.

F. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (A) through (F) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subcontract or procurement as the AUTHORITY may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the AUTHORITY to enter into such litigation to protect the interests of the AUTHORITY, and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 22. DISADVANTAGED BUSINESS ENTERPRISES

Race-Neutral DBE Participation

[INTERNAL NOTE: USE THE FOLLOWING LANGUAGE IF CONSULTANT HAS PROPOSED TO UTILIZE DBES IN THE PERFORMANCE OF THE CONTRACT.]

At the time of contract execution, the CONSULTANT committed to utilize DBE(s) in the performance of this DOT-assisted contract, and further agrees to ensure that DBE subcontractors listed on the ***"DBE Race-Neutral Participation Listing" (Exhibit G-2)*** perform work and/or supply materials in accordance with original commitments, unless otherwise directed and/or approved by the Authority prior to the CONSULTANT effectuating any changes to its race-neutral DBE participation commitment(s) (Refer to Subsection H: *"Performance of DBE Subcontractors"*).

[INTERNAL NOTE: USE THE FOLLOWING LANGUAGE IF CONSULTANT HAS NOT PROPOSED TO UTILIZE DBES IN THE PERFORMANCE OF THE CONTRACT.]

At the time of contract execution, the CONSULTANT did not commit to utilize DBE(s) in the performance of this DOT-assisted contract. However, in the

event DBE(s) are utilized in the performance of this contract, the CONSULTANT shall comply with reporting requirements delineated under *Section E: "Race-Neutral DBE Submission and Ongoing Reporting Requirements (Post-Award)"*.

A. In accordance with federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), the Orange County Transportation Authority (AUTHORITY) has adopted a Disadvantaged Business Enterprise (DBE) Policy and Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs". The project is subject to these stipulated regulations. In order to ensure that the Authority achieves its overall DBE Program goals and objectives, the Authority encourages the participation of DBEs as defined in 49 CFR 26 in the performance of contracts financed in whole or in part with U.S. DOT funds. Pursuant to the intent of these Regulations, it is also the policy of the Authority to:

1. Fulfill the spirit and intent of the Federal DBE Program regulations published under U.S. DOT Title 49 CFR, Part 26, by ensuring that DBEs have equitable access to participate in all of Authority's DOT-assisted contracting opportunities.

2. Ensure that DBEs can fairly compete for and perform on all DOT-assisted contracts and subcontracts.

3. Ensure non-discrimination in the award and administration of AUTHORITY's DOT-assisted contracts.

4. Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.

5. Ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.

6. Help remove barriers to the participation of DBEs in DOT-assisted contracts.

7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE Program.

B. CONSULTANT shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts. Any terms used in this section that are defined in 49

CFR Part 26, or elsewhere in the Regulations, shall have the meaning set forth in the Regulations. In the event of any conflicts or inconsistencies between the Regulations and the Authority's DBE Program with respect to DOT-assisted contracts, the Regulations shall prevail.

C. AUTHORITY's New Race-Neutral DBE Policy Implementation Directives: Pursuant to recently released Race-Neutral DBE policy directives issued by the U.S. DOT in response to the Ninth Circuit U.S. Court of Appeals decision in *Western States Paving Co. v. Washington State Department of Transportation*, the Authority has implemented a wholly Race-Neutral DBE Program. A Race-Neutral DBE Program is one that, while benefiting DBEs, is not solely focused on DBE firms. Therefore, under a Race-Neutral DBE Program, AUTHORITY does not establish numeric race-conscious DBE participation goals on its DOT-assisted contracts. CONSULTANT shall not be required to achieve a specific level of DBE participation as a condition of contract compliance in the performance of this DOT-assisted contract. However, CONSULTANT shall adhere to race-neutral DBE participation commitment(s) made at the time of contract award.

D. Definitions: The following definitions apply to the terms as used in these provisions:

1. "Disadvantaged Business Enterprise (DBE)" means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

2. "Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$19.57 million over the previous three fiscal years.

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3. "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, or by the Authority pursuant to 49 CFR part 26.65. Members of the following groups are presumed to be socially and economically disadvantaged:

- a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
- b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- c. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;
- e. "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh; and
- f. Women, regardless of ethnicity or race.

4. "Owned and Controlled" means a business: (a) which is at least 51 percent owned by one or more "Socially and Economically Disadvantaged Individuals" or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more "Socially and Economically Disadvantaged Individuals"; and (b) whose management and daily business operations are controlled by one or more such individuals.

5. "Manufacturer" means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the CONSULTANT.

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6. "Regular Dealer" means a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment.

7. "Other Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who, on a case-by-case basis, are determined by Small Business Administration or AUTHORITY to meet the social and economic disadvantage criteria described below.

a. Social Disadvantage: The individual's social disadvantage must stem from his/her color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.

i. The individual must demonstrate that he/she has personally suffered social disadvantage.

ii. The individual's social disadvantage must be rooted in treatment, which he/she has experienced in American society, not in other countries.

iii The individual's social disadvantage must be chronic, longstanding and substantial, not fleeting or insignificant.

iv. The individual's social disadvantage must have negatively affected his/her entry into and/or advancement in the business world.

v. A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

b. Economic Disadvantage

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i. The individual's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area that are not socially disadvantaged.

ii. The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

- availability of financing
- bonding capability
- availability of outside equity capital
- available markets

With respect to the individual and the business concern:

- personal and business assets
- personal and business net worth
- personal and business income and profits

E. Race-Neutral DBE Submission and Ongoing Reporting Requirements (Post-Award)

CONSULTANT shall complete and submit the following DBE exhibits (forms) at the times specified: "Monthly Race-Neutral DBE Subcontractors Paid Report Summary and Payment Verification" (Form 103) (Exhibit J). If CONSULTANT is a DBE firm and/or has proposed to utilize DBE firms, CONSULTANT will be required to complete and submit a Form 103 to AUTHORITY by the 10th of each month until completion of the contract to facilitate reporting of race-neutral DBE participation, following the first month of contract activity. CONSULTANT shall report the total dollar value paid to DBEs for the applicable reporting period. CONSULTANT shall also report the DBE's scope of work and the total subcontract value of commitment for each DBE reported. CONSULTANT is advised not to report the participation of DBEs toward CONSULTANT's race-neutral DBE attainment until the amount being counted has been paid to the DBE. Upon completion of the contract, CONSULTANT will be required to prepare and submit to the Authority a "Race-Neutral DBE Subcontractors Paid

Report Summary and Payment Verification" (Form 103) (Exhibit J) clearly marked "Final" to facilitate reporting and capturing actual DBE race-neutral attainments. CONSULTANT shall complete and submit a Final Form 103 whether or not DBEs were utilized in the performance of the contract.

F. DBE Eligibility and Commercially Useful Function Standards : A DBE must be a small business concern as defined pursuant to Section 3 of the U.S. Small Business Act and relevant regulations promulgated pursuant thereto. A DBE may participate as a prime contractor, subcontractor, joint venture partner with a prime or subcontractor, vendor of material or supplies, or as a trucking company. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest. A DBE must perform a commercially useful function in accordance with 49 CFR 26.55 (i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work). A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume it is performing a commercially useful function. DBEs must be certified by the California Unified Certification Program (CUCP). Listings of DBEs certified by the CUCP are available from the following sources: The CUCP web site, which can be accessed at <http://www.californiaucp.com>; or the Caltrans "Civil Rights" web site at <http://www.dot.ca.gov/hq/bep>. The CUCP DBE Directory, which may be obtained from the Department of Transportation, Material Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815; Telephone: (916) 445-3520.

G. DBE Crediting Provisions : When a DBE is proposed to participate in the contract, either as a prime CONSULTANT or Subcontractor, only the value of the work proposed to be performed by the DBE with its own forces may be counted towards race-neutral DBE participation. If CONSULTANT is a DBE joint venture participant, only the DBE proportionate interest in the joint venture shall be counted. If a DBE intends to subcontract part of the work of its subcontract to a lower tier

Subcontractor, the value of the subcontracted work may be counted toward race-neutral DBE participation only if the DBE Subcontractor is a certified DBE and actually performs the work with their own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime Contractor's race-neutral DBE attainment. CONSULTANT is to calculate and credit participation by eligible DBE vendors of equipment, materials, and suppliers toward race-neutral DBE attainment, as follows: Sixty percent (60%) of expenditure(s) for equipment, materials and supplies required under the Contract, obtained from a regular dealer; or one hundred percent (100%) of expenditure(s) for equipment, materials and supplies required under the Contract, obtained from a DBE manufacturer. The following types of fees or commissions paid to DBE Subcontractors, Brokers, and Packagers may be credited toward the prime CONSULTANT's race-neutral DBE attainment, provided that the fee or commission is reasonable, and not excessive, as compared with fees or commissions customarily allowed for similar work, including: Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the Contract; Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies; Fees and commissions charged for providing any insurance specifically required in the performance of the Contract. CONSULTANT may count the participation of DBE trucking companies toward race-neutral DBE attainment, as follows: The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Contract. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE

who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE. For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE. If CONSULTANT listed a non-certified DBE 1st tier subcontractor to perform work on this contract, and the non-certified DBE subcontractor subcontracts a part of its work or purchases materials and/or supplies from a lower tier DBE certified Subcontractor or Vendor, the value of work performed by the lower tier DBE firm's own forces can be counted toward race-neutral DBE participation on the contract.

H. Performance of DBE Subcontractors: DBE subcontractors listed by CONSULTANT in its "DBE Race-Neutral Participation Listing" (Exhibit G-2) submitted at the time of proposal submittal shall perform the work and supply the materials for which they are listed, unless the CONSULTANT has received prior written authorization from the Authority to perform the work with other forces or to obtain the materials from other sources. CONSULTANT shall provide written notification to the AUTHORITY in a timely manner of any changes to its anticipated DBE participation. This notice should be provided prior to the commencement of that portion of the work.

I. Additional DBE Subcontractors: In the event CONSULTANT identifies additional DBE subcontractors or suppliers not previously identified by CONSULTANT for race-neutral DBE participation under the contract, CONSULTANT shall notify the Authority by submitting "Request for Additional DBE Firm" to enable CONSULTANT to capture all race-neutral DBE participation. CONSULTANT shall also submit, for each DBE identified after contract execution, a written confirmation from the DBE acknowledging that it is participating in the contract for a specified value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).

J. DBE Certification Status: If a listed DBE subcontractor is decertified during the life of the project, the decertified subcontractor shall notify CONSULTANT in writing with the date of decertification. If a non-DBE subcontractor becomes a certified DBE during the life of the project, the DBE subcontractor shall notify CONSULTANT in writing with the date of certification. CONSULTANT shall furnish the written documentation to AUTHORITY in a timely manner.

K. CONSULTANT's Assurance Clause Regarding Non-Discrimination: In compliance with State and Federal anti-discrimination laws, CONSULTANT shall affirm that they will not exclude or discriminate on the basis of race, color, national origin, or sex in consideration of contract award opportunities. Further, CONSULTANT shall affirm that they will consider, and utilize subcontractors and vendors, in a manner consistent with non-discrimination objectives.

ARTICLE 23. PROHIBITED INTERESTS

A. CONSULTANT 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.

B. No member of or delegate to, the Congress of the United States shall have any interest, direct or indirect, in this Agreement or to the benefits thereof.

ARTICLE 24. 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 under this Agreement, 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 is 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 artwork, 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.

ARTICLE 25. 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 26. 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 12, and a price shall be negotiated for all preliminary data.

ARTICLE 27. 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 28. 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 I, 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 29. 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 30. INCORPORATION OF FTA TERMS

All contractual provisions required by Department of Transportation (DOT), whether or not expressly set forth in this document, as set forth in Federal Transit Administration (FTA) Circular 4220.1F, as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. CONSULTANT shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause AUTHORITY to be in violation of the

FTA terms and conditions.

ARTICLE 31. FEDERAL CHANGES

CONSULTANT shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement between the AUTHORITY and FTA , as they may be amended or promulgated from time to time during this Agreement. CONSULTANT's failure to comply shall constitute a material breach of contract.

ARTICLE 32. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

AUTHORITY and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the AUTHORITY, CONSULTANT, or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from the underlying Agreement. CONSULTANT agrees to include these requirements in all of its subcontracts.

ARTICLE 33. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

A. CONSULTANT acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Accordingly, by signing this Agreement, CONSULTANT certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement of the FTA assisted project for which this Agreement's work is being performed. CONSULTANT also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose penalties of the Program Fraud Civil Remedies Act of 1986 on the CONSULTANT to the extent the Federal Government deems appropriate.

B. CONSULTANT also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under the authority of 49 U.S.C. §5307 et seq., the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n) (1) et seq. on the CONSULTANT, to the extent the Federal Government deems appropriate. CONSULTANT agrees to include this requirement in all of its subcontracts.

ARTICLE 34. RECYCLED PRODUCTS

CONSULTANT shall comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in subpart B of 40 CFR Part 247. CONSULTANT agrees to include this requirement in all of its subcontracts.

ARTICLE 35. ENERGY CONSERVATION REQUIREMENTS

CONSULTANT shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy Conservation Act.

ARTICLE 36. CLEAN AIR

CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. CONSULTANT shall report each violation to AUTHORITY, who will in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. CONSULTANT agrees to include this requirement in all of its subcontracts.

ARTICLE 37. CLEAN WATER REQUIREMENTS

CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. CONSULTANT shall

report each violation to AUTHORITY and understands and agrees that the AUTHORITY who will in turn, report each violation as required to assure notification to FTA and appropriate EPA Regional Office. CONSULTANT agrees to include this requirement in all of its subcontracts.

ARTICLE 38. BUY AMERICA REQUIREMENTS

CONSULTANT agrees to comply with 49 U.S.C 5323 (j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include microcomputer equipment and software.

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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-9-0552T to be executed on the date first above written.

CONSULTANT

ORANGE COUNTY TRANSPORTATION AUTHORITY

By _____

By _____

Will Kempton
Chief Executive Officer

APPROVED AS TO FORM:

By _____

Kennard R. Smart, Jr.
General Counsel

APPROVED:

By _____

Kenneth Phipps
Acting Executive Director
Finance and Administration

Date _____

EXHIBIT D

PARTY AND PARTICIPANT DISCLOSURE

EXHIBIT D
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 V. 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

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Art Brown, Director

Bill Campbell, Director

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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

Mark Rosen, Director

Gregory T. Winterbottom, Director

EXHIBIT E
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

EXHIBIT F
CERTIFICATION OF PRIMARY PARTICIPANT
REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS

The

Firm name/principal

certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared Ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

If unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

THE PRIMARY PARTICIPANT, _____,

Firm name/principal

CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

CERTIFICATION OF LOWER-TIER PARTICIPANTS
REGARDING
DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND
VOLUNTARY EXCLUSION

The

Firm name/principal

certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

If unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.

THE

Firm name/principal

CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

The undersigned chief legal counsel for the _____ hereby certifies that the _____ has authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Attorney

Date

**EXHIBIT G-1
RACE-NEUTRAL SOLICITATION PROVISIONS**

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION PROVISIONS

A. DBE Policy and Applicability

In accordance with federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), the Orange County Transportation Authority (Authority) has adopted a Disadvantaged Business Enterprise (DBE) Policy and Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs".

This DOT-assisted project is subject to these stipulated regulations. In order to ensure that the Authority achieves its overall DBE Program goals and objectives, the Authority encourages the participation of small businesses, including DBEs as defined in 49 CFR 26, in the performance of contracts financed in whole or in part with U.S. DOT funds. Pursuant to the intent of these Regulations, it is also the policy of the Authority to:

- Fulfill the spirit and intent of the Federal DBE Program regulations published under U.S. DOT Title 49 CFR, Part 26, by ensuring that DBEs have equitable access to participate in all of Authority's DOT-assisted contracting opportunities.
- Ensure that DBEs can fairly compete for and perform on all DOT-assisted contracts and subcontracts.
- Ensure non-discrimination in the award and administration of Authority's DOT-assisted contracts.
- Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
- Ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- Help remove barriers to the participation of DBEs in DOT-assisted contracts.
- Assist in the development of firms that can compete successfully in the marketplace outside the DBE Program.

Offerors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

Any terms used in this section that are defined in 49 CFR Part 26, or elsewhere in the Regulations, shall have the meaning set forth in the Regulations. In the event of any conflicts or inconsistencies between the Regulations and the Authority's DBE Program with respect to DOT-assisted contracts, the Regulations shall prevail.

B. Authority's New Race-Neutral DBE Policy Implementation Directives

Pursuant to recently released Race-Neutral DBE policy directives issued by the U.S. DOT in response to the Ninth Circuit U.S. Court of Appeals decision in *Western States Paving Co. v. Washington State Department of Transportation*, **the Authority has implemented a wholly Race-Neutral DBE Program.**

A Race-Neutral DBE Program is one that, while benefiting DBEs, is not solely focused on DBE firms. A Race-Neutral Program utilizes measures that can assist a wide variety of small businesses including DBEs, such as arranging solicitations, times for the presentation of proposals, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime Consultants to subcontract portions of work that they might, otherwise, perform with their own forces). However, under a Race-Neutral DBE Program, the Authority may no longer advertise DOT-assisted contracts containing numeric race-conscious goals or require an Offeror to utilize DBEs as a condition of award. Race-neutral DBE participation includes any time a DBE obtains a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE goal.

C. Definitions

The following definitions apply to the terms as used in these provisions:

- i. ***"Disadvantaged Business Enterprise (DBE)"*** means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- ii. ***"Small Business Concern"*** means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated

pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$19.57 million over the previous three fiscal years.

- iii. **"Socially and Economically Disadvantaged Individuals"** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, or by the Authority pursuant to 49 CFR part 26.65. Members of the following groups are presumed to be socially and economically disadvantaged:
 - a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - c. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;
 - e. "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh; and
 - f. Women, regardless of ethnicity or race.
- iv. **"Owned and Controlled"** means a business: (a) which is at least 51 percent owned by one or more "Socially and Economically Disadvantaged Individuals" or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more "Socially and Economically Disadvantaged Individuals"; and (b) whose management and daily business operations are controlled by one or more such individuals.
- v. **"Manufacturer"** means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Consultant.

- vi. **"Regular Dealer"** means a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment.
- vii. **"Other Socially and Economically Disadvantaged Individuals"** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who, on a case-by-case basis, are determined by Small Business Administration or the Authority to meet the social and economic disadvantage criteria described below.
- a. Social Disadvantage
- 1) The individual's social disadvantage must stem from his/her color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.
 - 2) The individual must demonstrate that he/she has personally suffered social disadvantage.
 - 3) The individual's social disadvantage must be rooted in treatment, which he/she has experienced in American society, not in other countries.
 - 4) The individual's social disadvantage must be chronic, longstanding and substantial, not fleeting or insignificant.
 - 5) The individual's social disadvantage must have negatively affected his/her entry into and/or advancement in the business world.
 - 6) A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.
- b. Economic Disadvantage
- 1) The individual's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area that are not socially disadvantaged.

- 2) The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

- availability of financing
- bonding capability
- availability of outside equity capital
- available markets

With respect to the individual and the business concern:

- personal and business assets
- personal and business net worth
- personal and business income and profits

D. DBE Proposal Submission Requirements

1. *"DBE Race-Neutral Participation Listing" (Exhibit G-2)*

If the Offeror is a DBE or intends to utilize DBE subconsultants and/or purchase goods or services from DBE vendors or DBE suppliers in the performance of this contract, the Offeror shall provide the following information for every DBE firm who will be proposed and/or listed to participate to facilitate capturing race-neutral DBE participation under this contract:

- a. The complete name and address of each DBE who will participate in the contract;
- b. A description of the work that each DBE will perform or provide;
- c. The dollar amount of the work to be performed or provided by the DBE;
- d. Valid DBE Certification eligibility status, in conformance with 49 CFR, Part 26;
- e. The Offeror shall also submit, for each DBE to perform under this contract, a written confirmation from the DBE acknowledging that it is participating in the contract for a specified value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).

The "DBE Race-Neutral Participation Listing" information must be submitted on Exhibit G-2, in a sealed envelope, and should be included with the proposal submittal; however, in the event that the referenced Exhibit is not included, the Exhibit shall be submitted to the Authority no later than 48 hours following proposal submission due date and timeline for the Offeror to be deemed responsive.

In the event that the Offeror is not a DBE and/or does not intend to utilize DBEs in the performance of this contract, the Offeror shall indicate "None" under the column entitled "DBE Firm Name" of the "DBE Race-Neutral Participation Listing" (Exhibit G-2) and submit accordingly.

The "DBE Race-Neutral Participation Listing" form content will not be considered in evaluating the proposal or determining award of any contract.

2. "Bidders List" (Exhibit G-3)

The U.S. Department of Transportation (DOT) requires the Authority to create and maintain a "Bidders List" containing information about all firms (DBE and non-DBE) that bid, propose or quote on the Authority's DOT-assisted contracts, in accordance with 49 CFR Part 26.11, for use in the Authority's overall annual DBE goal-setting process. Therefore, the Offeror shall provide the requested information for every firm who submitted a bid, proposal or quote, including the primary Offeror, whether successful or unsuccessful in their attempt to obtain a contract:

- a. Firm name;
- b. Firm address;
- c. Firm's status as a DBE or non-DBE;
- d. Age of the firm;
- e. Type of services provided by the firm; and
- f. Range of annual gross receipts for the last year.

The "Bidders List" information must be submitted on **Exhibit G-3** and should be included with the proposal submittal; however, in the event that the referenced Exhibit is not included, the Exhibit shall be submitted to the Authority no later than 48 hours following proposal submission due date and timeline for the Offeror to be deemed responsive.

The "Bidders List" content will not be considered in evaluating the proposal or determining award of any contract.

E. DBE Certification

The Authority requires all DBEs listed by Offeror for participation to be certified as eligible DBEs at the time of proposal submission. Only participation by DBEs certified under the DOT regulations published under 49 CFR Part 26 may be credited towards race-neutral DBE participation. It is the responsibility of the Offeror to verify the DBE certification status of all listed DBEs.

The Authority is a Certifying Member Agency of the California Unified Certification Program (UCP). The Authority will accept DBE certification from other certifying member agencies of the UCP, which certify the eligibility of DBEs in accordance with 49 CFR Part 26.81. A listing of California UCP certifying member agencies is available from the UCP website, which can be accessed at <http://www.californiaucp.com>.

F. DBE Eligibility and Commercially Useful Function Standards

- i. A DBE must be a small business concern as defined pursuant to Section 3 of the U.S. Small Business Act and relevant regulations promulgated pursuant thereto.
- ii. A DBE may participate as a prime consultant, subconsultant, joint venture partner with a prime or subconsultant, vendor of material or supplies, or as a trucking company.
- iii. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- iv. A DBE must perform a commercially useful function in accordance with 49 CFR 26.55 (i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work). A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume it is performing a commercially useful function.
- v. DBEs must be certified by the California Unified Certification Program (CUCP). Listings of DBEs certified by the CUCP are available from the following sources:
 - a. The CUCP web site, which can be accessed at <http://www.californiaucp.com>; or the Caltrans "Civil Rights" web site at <http://www.dot.ca.gov/hq/bep>.
 - b. The CUCP DBE Directory, which may be obtained from the Department of Transportation, Material Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815; Telephone: (916) 445-3520.

G. DBE Crediting Provisions

- i. When a DBE is proposed to participate in the contract, either as a prime Consultant or Subconsultant, only the value of the work proposed to be performed by the DBE with its own forces may be counted towards race-neutral DBE participation. If the Consultant is a DBE joint venture participant, only the DBE proportionate interest in the joint venture shall be counted.
- ii. If a DBE intends to subcontract part of the work of its subcontract to a lower tier Subconsultant, the value of the subcontracted work may be counted toward race-neutral DBE participation only if the DBE Subconsultant is a certified DBE and actually performs the work with their own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime Consultant's race-neutral DBE attainment.
- iii. Consultant is to calculate and credit participation by eligible DBE vendors of equipment, materials, and suppliers toward race-neutral DBE attainment, as follows:
 - a. Sixty percent (60%) of expenditure(s) for equipment, materials and supplies required under the Contract, obtained from a regular dealer; or
 - b. One hundred percent (100%) of expenditure(s) for equipment, materials and supplies required under the Contract, obtained from a DBE manufacturer.
- iv. The following types of fees or commissions paid to DBE Subconsultants, Brokers, and Packagers may be credited toward the prime Consultant's race-neutral DBE attainment, provided that the fee or commission is reasonable, and not excessive, as compared with fees or commissions customarily allowed for similar work, including:
 - a. Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the Contract;
 - b. Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies;
 - c. Fees and commissions charged for providing any insurance specifically required in the performance of the Contract.

- v. Consultant may count the participation of DBE trucking companies toward race-neutral DBE attainment, as follows:
 - a. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract.
 - b. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
 - c. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
 - d. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
 - e. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
 - f. For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
- vi. If the Consultant listed a non-certified DBE 1st tier Subconsultant to perform work on this contract, and the non-certified DBE subconsultant subcontracts a part of its work or purchases materials and/or supplies from a lower tier DBE certified Subconsultant or Vendor, the value of work performed by the lower tier DBE firm's own forces can be counted toward race-neutral DBE participation on the contract.

H. DBE "Frauds" and "Fronts"

Only legitimate DBEs are eligible to participate as DBEs in DOT-assisted contracts. Therefore, Offerors are hereby cautioned against knowingly and willfully using "fronts". The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitute criminal violations. Further, any indication of fraud, waste, abuse or mismanagement of Federal funds should be immediately

reported to the Office of Inspector General, U.S. Department of Transportation at the toll-free hotline: (800) 424-9071; or to the following field office: FTA Special Agent-in-Charge, 210 Mission Street, Room 2210, San Francisco, CA 94105-1839; Telephone: (415) 744-3133; Fax: (415) 744-2726.

DBE RACE-NEUTRAL PARTICIPATION LISTING

Bidder/Offeror shall complete and submit **Exhibit G-2: "DBE Race-Neutral Participation Listing"** in a **sealed envelope** with the bid/proposal, but no later than 48 hours following bid opening or proposal due date and timeline. (NOTE: In the event of no race-neutral DBE participation, Bidder/Offeror shall mark "None" under the column entitled "DBE Firm Name".) The Bidder/Offeror shall refer to **RFP Section : "DBE Crediting Provisions"** for guidelines relative to DBE participation crediting. (Additional sheets may be duplicated as necessary.)

The DBE information and content provided under Exhibit G-2: "DBE Race-Neutral Participation Listing" will not be considered in evaluating the bid/proposal or determining award of any contract.

DBE Firm Name*:	DBE Certification No. and Expiration Date:	Provide Complete Description of Work to be Performed: _____ _____ _____ _____	
Business Address:		Check Appropriate Box Describing Subcontractor/Supplier Activity:	
Contact Person:		Subcontractor (100%)	Supplier (60%)
Telephone:	Fax:	Regular Dealer (60%)	Broker
License No., Classification and Expiration:		Manufacturer (100%)	Trucker
Subcontract Amount:			

*DBE certification letter must be attached for each listed DBE firm. DBEs must be certified on the date bids/proposals are opened.

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EXHIBIT G, FORM G-2

DBE Firm Name*:	DBE Certification No. and Expiration Date:	Provide Complete Description of Work to be Performed: _____ _____ _____ _____	
Business Address:		Check Appropriate Box Describing Subcontractor/Supplier Activity:	
Contact Person:		Subcontractor (100%)	Supplier (60%)
Telephone:	Fax:	Regular Dealer (60%)	Broker
License No., Classification and Expiration:		Manufacturer (100%)	Trucker
Subcontract Amount:			

*DBE certification letter must be attached for each listed DBE firm. DBEs must be certified on the date bids/proposals are opened.

DBE Firm Name*:	DBE Certification No. and Expiration Date:	Provide Complete Description of Work to be Performed: _____ _____ _____ _____	
Business Address:		Check Appropriate Box Describing Subcontractor/Supplier Activity:	
Contact Person:		Subcontractor (100%)	Supplier (60%)
Telephone:	Fax:	Regular Dealer (60%)	Broker
License No., Classification and Expiration:		Manufacturer (100%)	Trucker
Subcontract Amount:			

*DBE certification letter must be attached for each listed DBE firm. DBEs must be certified on the date bids/proposals are opened.

Bidder/Offeror:	
Business Address:	
Contact Name:	Title:
Phone: ()	Fax: ()

Total Contract Amount:	\$		
DBE Race-Neutral Participation Value (% of Total Contract Value): <i>(NOTE: Mark "NONE" if no DBEs will be utilized.)</i>	%	DBE Race-Neutral Participation Dollar (\$) Value: <i>(NOTE: Mark "NONE" if no DBEs will be utilized.)</i>	\$

Signature of Authorized Representative

Printed Name

Date

Title



Project:

**Information Systems Disaster Recovery
Solution**

**BIDDERS LIST
[EXHIBIT G, G-3]**

Bidder/Offeror: _____ **IFB/RFP No.:** **9-0552**

The Department of Transportation requires the AUTHORITY to create and maintain a "Bidders List" containing information about all firms (DBE and Non-DBE) that bid, propose or quote on the Authority's DOT-assisted contracts, in accordance with 49 CFR Part 26.11. The "Bidders List" is intended to be a count of all firms that are participating, or attempting to participate, on DOT-assisted contracts, whether successful or unsuccessful in their attempt to obtain a contract.

The Bidder/Offeror is to complete all requested information on **Form G-3: "Bidders List"** for every firm who submitted a bid, proposal or quote, including the primary Bidder/Offeror, and submit this information at the time of bid submission. However, if not elected to do so at the time of bid submission, Bidders/Offerors must submit such information at the request of the Authority within the prescribed timeline set forth in the solicitation. The AUTHORITY will utilize this information to assist in the AUTHORITY's overall annual DBE goal-setting process. ***The "Bidders List" content will not be considered in evaluating the bid/proposal or determining award of any contract.***

Prime Bidder's/Offeror's Information:	
Name of Prime Firm:	Phone: ()
Firm Address:	Fax: ()
Number of years in business:	Type of work/services/materials provided:
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? ☐ Yes ☐ No	Check the box below for your firm's annual gross receipts last year:
	☐ Less than \$1 million
	☐ Less than \$5 million
	☐ Less than \$10 million
	☐ Less than \$15 million
	☐ More than \$15 million

Project: Information Systems Disaster Recovery Solution

Provide the following information for every firm (DBE and non-DBE) that submitted a bid, proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract:

Firm Name:	Phone: ()
Firm Address:	Fax: ()
Number of years in business:	Type of work/services/materials provided:
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? ☐ Yes ☐ No	Check the box below for your firm's annual gross receipts last year:
	☐ Less than \$1 million
	☐ Less than \$5 million
	☐ Less than \$10 million
	☐ Less than \$15 million
	☐ More than \$15 million

Provide the following information for every firm (DBE and non-DBE) that submitted a bid, proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract:

Firm Name:	Phone: ()
Firm Address:	Fax: ()
Number of years in business:	Type of work/services/materials provided:
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? ☐ Yes ☐ No	Check the box below for your firm's annual gross receipts last year:
	☐ Less than \$1 million
	☐ Less than \$5 million
	☐ Less than \$10 million
	☐ Less than \$15 million
	☐ More than \$15 million

If necessary, this "Bidders List" form can be duplicated to include all firms (DBE and non-DBE) that have submitted a bid, proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract.

Failure of the Bidder/Offeror to submit the required "Bidders List" form will deem the Bidder/Offeror non-responsive.

CERTIFICATION REGARDING LOBBYING – EXHIBIT H

The undersigned (Contractor) certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person form making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards a tall tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

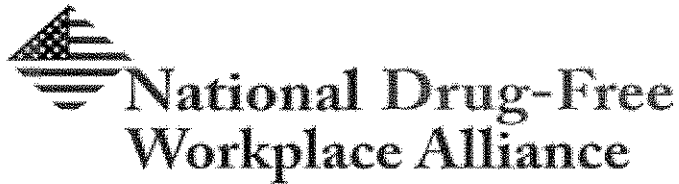
[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.* apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date



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 does not 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).

MONTHLY RACE-NEUTRAL DBE SUBCONSULTANTS PAID REPORT SUMMARY AND PAYMENT VERIFICATION (Form 103)									
Reporting Period (month): _____, 200____									
Contract Number: _____ Contract Award Date: _____ Prime Name: _____ Address: _____ Telephone No.: _____		Form 103 Report No.: _____ Original Contract Award Amount: _____ Current Contract Value: _____ % of Project Complete: _____ [A] divided by [B]		Report prepared by: _____ Title: _____ Report reviewed by: _____ Signature: _____ Title: _____		Prime's RACE-NEUTRAL DBE Attainment to Date: _____ #DIV/0! (Total Dollars Paid to DBEs divided by Total Dollars Paid to Prime)		Total Dollars Paid to DBEs this Reporting Period: _____ Total Dollars Paid to DBEs to Date: _____ Total Dollars Paid to Prime to Date: _____	
DBE SUBCONSULTANTS		Dollar Amount Paid This Month	Dollar Amount Paid To Date [C]	Type of Work Performed (Scope)	Original Dollar Amount Committed to DBE at Contract Award	Current Subcontract Value [D]	% of Work Completed [C] divided by [D]	FOR AUTHORITY USE ONLY	
Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: () _____ Prime ☐ Subconsultant ☐ Broker ☐ Supplier: Regular Dealer ☐ or Manufacturer ☐ Attach Verification of Payment: ☐ YES ☐ NO									
Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: () _____ Prime ☐ Subconsultant ☐ Broker ☐ Supplier: Regular Dealer ☐ or Manufacturer ☐ Attach Verification of Payment: ☐ YES ☐ NO									
Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: () _____ Prime ☐ Subconsultant ☐ Broker ☐ Supplier: Regular Dealer ☐ or Manufacturer ☐ Attach Verification of Payment: ☐ YES ☐ NO									
COMMENTS/ISSUES: _____ _____ _____									

If necessary, this form can be duplicated to list all DBE subconsultants paid in this reporting period.