

REQUEST FOR PROPOSALS (RFP) 9-0360

**On-Call Environmental Services
for Transit and Highway Projects**



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

Key RFP Dates

Issue Date:	May 22, 2009
Pre-Proposal Conference Date:	June 2, 2009
Question Submittal Date:	June 9, 2009
Proposal Submittal Date:	June 22, 2009
Interview Date:	July 14, 2009

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May 22, 2009

SUBJECT: NOTICE OF REQUEST FOR PROPOSALS
RFP 9-0360: "On-Call Environmental Services for Transit and Highway Projects"

Gentlemen/Ladies:

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to furnish on-call environmental services for transit and highway projects.

Proposals must be received in the Authority's office at or before 2:00 p.m. on June 22, 2009.

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

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

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: Robert Sechler, Senior Contract Administrator
Contract Administration and Materials Management**

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) 9-0360 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) 9-0360

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-9-0360, 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):
Professional Services

Commodity(s):
Environmental Engineering

A pre-proposal conference will be held on **June 2, 2009**, at 1:30 p.m. at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 109. All prospective Offerors are encouraged to attend the pre-proposal conference.

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

The Authority has established **July 14, 2009** as the date to conduct interviews. All prospective Offeror's are asked to keep this date available.

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

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

The award of any contracts pursuant to this RFP is subject to receipt of federal, state and/or local funds adequate to carry out the provisions of the Proposed Agreement including the identified Scope of Work.

The Authority has established a **seven (7) percent** Underutilized Disadvantaged Business Enterprise (UDBE) participation goal for these services of this solicitation.

Certain labor categories used in the performance of the Scope of Work will be subject to prevailing wage.

Sincerely,



Robert P. Sechler
Senior Contract Administrator
Contract 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 June 2, 2009, at 1:30 p.m at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 109. All prospective Offerors are strongly encouraged to attend the pre-proposal conference.

B. EXAMINATION OF PROPOSAL DOCUMENTS

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

C. ADDENDA

Any Authority changes to the requirements will be made by written addendum to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into the terms and conditions of any resulting Agreement. The Authority will not be bound to any modifications to or deviations from the requirements set forth in this RFP as the result of oral instructions. Offeror's shall acknowledge receipt of addenda in their proposals.

D. AUTHORITY CONTACT

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

Robert P. Sechler, Senior Contract Administrator
Contract Administration and Materials Management
600 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560.5568, Fax: 714.560.5792, E-Mail: rsechler@octa.net

E. CLARIFICATIONS**1. Examination of Documents**

Should an Offeror require clarifications to 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 **5:00 p.m. on June 11, 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.
 - (3) Facsimile: The Authority's fax number is (714) 560-5792.
 - (4) E-Mail: rsechler@octa.net.

3. Authority Responses

Responses from the Authority will be posted on CAMM NET, the Authority's interactive website, no later than June 11, 2009. Offerors may download responses from CAMM NET at www.octa.net/cammnet, or request responses be sent via U.S. Mail by e-mailing or faxing the request to Robert P. Sechler, Senior Contract Administrator.

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

Category(s):
Professional Services

Commodity(s):
Environmental Engineering

Inquiries received after 5:00 p.m. June 8, 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 June 22, 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: Robert Sechler, Senior Contract Administrator
Contract Administration and Materials Management**

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

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

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

3. Identification of Proposals

Offeror shall submit an **original and six (6) copies** of its proposal in a sealed package, addressed as shown above, bearing the Offeror's name and address and clearly marked as follows:

**"RFP 9-0360: On-Call Environmental
Services for Transit and Highway Projects"**

4. Acceptance of Proposals

- a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- b. The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice, and the Authority makes no representations that any contract will be awarded to any Offeror responding to this RFP.
- c. The Authority reserves the right to postpone proposal openings for its own convenience.
- d. Proposals received by the Authority are public information and must be made available to any person upon request.
- e. Submitted proposals are not to be copyrighted.

G. PRE-CONTRACTUAL EXPENSES

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

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

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

H. JOINT OFFERS

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

The proposed Agreement is shown in Section IV. The initial agreement term will be three (3) years, plus two (2) one-year option terms for a total of up to five (5) years. The Authority intends to award multiple contracts from this solicitation. Services will be performed under separate Contract Task Orders (CTO's) issued following contract award. Within the general Scope of Work shown in Section V, the Authority will, at its sole discretion, issue CTO's for specific tasks. CTO award will be based upon factors such as (1) experience in and understanding of the environmental circumstances of the particular site(s) which are the subject of the CTO; (2) capacity of firm to perform the CTO work within the required time frame, given ongoing commitments to other work; (3) appropriateness of resource allocation to task; and (5) reasonableness and affordability of price.

There is no guarantee that any firm awarded a contract will receive a minimum amount of work through CTO's.

L. PREVAILING WAGES

Certain labor categories utilized in the performance of services under this Agreement will be subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et. seq. It is required that all mechanics and laborers employed or working at the site be paid not less than the basic hourly rates of pay and fringe benefits as shown in the current minimum wage schedules. Offerors must use the wage schedules applicable at the time the contract is awarded.

M. CONFLICT OF INTEREST

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

N. DISADVANTAGED BUSINESS ENTERPRISE

The Authority has established a **seven (7) percent** Underutilized Disadvantaged Business Enterprise (UDBE) participation goal for the services of this solicitation.

SECTION II
PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT AND FORMS**A. PROPOSAL FORMAT AND CONTENT****1. Presentation**

Proposals shall be typed, with 12 pt font, double spaced and submitted on 8 1/2 x 11" size paper, using a single method of fastening. Charts and schedules may be included in 11" x 17" format. Offers should not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged, and presentations should be brief and concise. Proposals should not exceed fifty (50) pages in length, excluding any appendices.

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Robert P. Sechler, 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 contact person identified during period of proposal evaluation.
- b. Identification of all proposed subcontractors including legal name of company, whether the firm is a Underutilized Disadvantaged Business Enterprise (DBE), contact persons name and address, phone number and fax number. Relationship between Offeror and subcontractors, if applicable.
- c. Acknowledgment of receipt of all RFP addenda, if any.
- d. A statement to the effect that the proposal shall remain valid for a period of not less than 180 days from the date of submittal.
- e. Signature of a person authorized to bind Offeror to the terms of the proposal.
- f. Signed statement attesting that all information submitted with the proposal is true and correct.

3. Technical Proposal**a. Qualifications, Related Experience and References of Offeror**

This section of the proposal should establish the ability of Offeror to satisfactorily perform the required work by reasons of: experience

in performing work of the same or similar nature; Demonstrated experience working with local agencies and cities directly involved in this project; strength and stability of the Offeror; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references. The Offeror shall:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; number of employees.
- (2) Provide a general description of the firm's financial condition, identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project.
- (4) Describe experience in working with the various government agencies that may have jurisdiction over the approval of the work specified in this RFP. Please include specialized experience and professional competence in areas directly related to this RFP. **Include any past work performed for the Authority.**
- (5) Provide a list of past joint work by the Offeror and each subcontractor, if applicable. The list should clearly identify the project and provide a summary of the roles and responsibilities of each party.
- (6) Provide as a minimum of three (3) references should be provided. 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 that will be used by the Offeror to manage the project as well as identify key personnel assigned. The Offeror shall:

- (1) Provide education, experience and applicable professional credentials of project staff. Include applicable professional credentials of "key" project staff.
- (2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel. Include years of employment with current employer and each previous employer following completion of undergraduate education or acquisition of required licenses and other credentials.
- (3) Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, and proposed position for this project, current assignment, and level of commitment to that assignment, availability for this assignment and how long each person has been with the firm. "Key Personnel" are those staff who, taken as a whole, embody the core competencies needed to plan, mobilize, perform and close out the operations required by the scope of work. Lists of key personnel need not, and should not, include all professional or technical staff, even highly credentialed and compensated specialist staff, who may be assigned occasionally to the work.
- (4) Include a project organization chart that clearly delineates communication/reporting relationships among the project staff, including subconsultants.
- (5) Include a statement that key personnel will be available to the extent proposed for the duration of the project, acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

c. Work Plan

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

- (1) Describe the approach and work plan for completing the tasks specified in the Scope of Work. The work plan shall be of such detail to demonstrate the Offeror's ability to accomplish the project objectives and overall schedule.
- (2) Outline sequentially the activities that would be undertaken in completing the tasks and specify who in the firm would

perform them.

- (3) Furnish a project schedule for each task and subtask in terms of elapsed weeks from the project commencement date.
- (4) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.
- (5) Identify any special issues or problems that are likely to be encountered during this project and how the Offeror would propose to address them.
- (6) Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

d. Exceptions/Deviations

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

4. Cost and Price Proposal

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

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 AND RELATED INSTRUCTIONS

1. CERTIFICATIONS REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – ENCLOSURES 1A AND 1B

a. Policy

Unless otherwise permitted by law, any person or firm that is debarred, suspended, or voluntarily excluded, as defined in the Federal Highway Administration (FHWA) Circular 2015.1, 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. FHWA 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 **Enclosure 1a**, "Certification of Primary Participant Regarding Debarment, Suspension and other Responsibility Matters," 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 **Enclosure 1b**, "Certification of Lower Tier Participants Regarding Debarment, Suspension and other Responsibility Matters," and submit the certifications with the 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.

2. LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS

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, EXHIBIT C, "Limitation on Payments to Influence Certain Federal Transactions." and the following forms: **Enclosure 2**, "Certification of Restrictions on Lobbying," and **Enclosure 3**, Office of Management and Budget (OMB) Standard Form LLL entitled "Disclosure of Lobbying Activities."

The Offeror shall complete and submit with its proposal Enclosure 2, whether or not any lobbying efforts took place. If the Offeror did engage in lobbying activities, then the Offeror shall also complete and submit with its Proposal Enclosure 3.

3. DBE SOLICITATION PROVISIONS AND PARTICIPATION FORMS

The Offeror shall complete and submit with its proposal **Enclosures 4a through 4d** in accordance with the instructions set forth in EXHIBIT D "Disadvantaged Business Enterprise Requirements and Instructions."

4. STATUS OF PAST AND PRESENT CONTRACTS FORM – ENCLOSURE 5

The Offeror is required to complete, sign and submit with its proposal **Enclosure 5** entitled "Status of Past and Present Contracts". The 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. The 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, the Offeror must list the reason for termination. The 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 that the information provided is true and accurate. The Offeror shall submit one copy of the completed form(s) in the original proposal.

SECTION III
EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD**A. EVALUATION CRITERIA**

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

1. Qualifications of the Firm 35 %

Duration, diversity and depth of prime consultant's corporate experience in performing work of a closely similar nature; experience working with public agencies; financial strength and stability of the prime consultant and major subconsultants practical understanding of environmental and other laws applicable to work; possession by offeror team of staffing and other resources sufficient to respond timely and effectively to Authority's task assignments along with assignments from other clients; logistical capabilities of team with respect to probable task locations; strength, stability, experience and technical competence of subcontractors; satisfactory past performance as determined by client references.

2. Staffing and Project Organization 35 %

Qualifications of consultant team staff, particularly the operations manager and other key personnel; possession of minimum licensing or certifications required by law for the activities or functions which they will perform; possession of additional education or credentials beneficial to the activities or functions to be performed; duration, diversity and depth of experience of key personnel and other skilled technical or professional staff in performing work similar to the RFP Scope of Work. Completeness of team with respect to breadth of scope of work; references from past clients; appropriateness and effectiveness of consultant team organization, to include distribution of functions between prime consultant and subconsultants; credibility of commitment of key personnel as evidenced by their longevity with past and current employers.

3. Work Plan 30 %

Depth and breadth of offeror's knowledge of the environmental remediation field; completeness and depth of Offeror's understanding of the Authority's specific scope of work requirements; application of prior experience to Authority's work; clarity and practicability of approach to planning, mobilization, performance and closeout of various types of task assignments; ability of consultant team to carry out task assignments cost-effectively and timely, and in compliance with applicable laws and regulations; potential benefit to Authority of suggested technical or procedural innovations.

B. EVALUATION PROCEDURE

An evaluation committee will be appointed to review all proposals for this RFP. The evaluation committee is comprised of Authority staff and may include outside personnel. The committee members will evaluate the written proposals. Each member of the evaluation committee will then evaluate each proposal using the criteria identified in Section III. A. to arrive at a "proposal score" for each proposal. Based on the proposal scores, a list of Offeror's within a competitive range will be developed based upon the averages of each committee member's score for each proposal. During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established **July 14, 2009** as the date to conduct interviews. All prospective Offerors should keep this date available, as no other interview dates will be provided. Therefore, if an Offeror is unable to attend the interview on this date, its proposal may be eliminated from further consideration. The interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the Offeror's proposal and qualifications.

At the conclusion of the evaluation process, the evaluation committee will rank proposals and will recommend to the Authority's contracting officer the highest ranked Offerors for award and negotiation of a contract. .

C. AWARD

Staff will request cost proposals from the selected Offerors and negotiate a contract price and other terms and conditions. Staff will have the ability to terminate negotiations with any selected Offeror if no satisfactory agreement can be reached and to begin negotiations with lower-ranked Offerors until a satisfactory agreement has been achieved.

The selected Offeror may be asked to submit a Best and Final Offer (BAFO). In the BAFO request, the Offeror may be asked to provide additional information, confirm or clarify issues and submit a final cost/price offer. A deadline for submission of the BAFO will be stipulated.

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

The selected Offeror will be required to submit to an audit of its financial records to confirm its financial stability and the Offeror's accounting system.

D. NOTIFICATION OF AWARD AND DEBRIEFING

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

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

SECTION IV
PROPOSED AGREEMENT

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 key personnel listed in Part I of Attachment IV to Exhibit A to perform the above-specified services. No person identified under this list of key personnel, or his/her successor approved by AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon function or level of commitment hereunder be changed without the prior written consent of AUTHORITY. Should the services of any key person become no longer available to CONSULTANT, the resume and qualifications of the proposed replacement shall be submitted to AUTHORITY for approval as soon as possible, but in no event later than seven (7) calendar days prior to the departure of the incumbent key person, unless CONSULTANT is not provided with such notice by the departing employee. AUTHORITY shall respond to CONSULTANT within seven (7) calendar days following receipt of these qualifications concerning acceptance of the candidate for replacement.

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C. This Agreement is issued to place CONSULTANT and *[Names and agreement numbers of other on-call firms]* on an on-call list ("ON-CALL FIRMS"). As the need for consulting services arises during the terms of these Agreements, and within their overall Scopes of Work, Contract Task Orders (CTO's) will be issued to CONSULTANT at AUTHORITY's sole discretion. The AUTHORITY intends to solicit competitive CTO proposals among the ON-CALL FIRMS, and award CTO's based on firm and staffing expertise, firm capacity to perform the specific CTO work, work plan and pricing. Each CTO will define a scope of work, any other information necessary for the performance of the CTO, and total amount to be paid CONSULTANT for the CTO. The AUTHORITY does not guarantee that CONSULTANT or any of the ON-CALL FIRMS will receive a CTO, nor does the AUTHORITY make any guarantee that the Maximum Obligation amount identified in Article 6 will be expended.

D. CONSULTANT shall submit to AUTHORITY a written technical and cost proposal within the time stipulated in AUTHORITY's CTO proposal solicitation. The cost proposal shall be prepared using the hourly rates, unit prices and other direct costs set forth in EXHIBIT B. No work shall commence until a written CTO has been executed by both AUTHORITY and CONSULTANT. Failure of the CONSULTANT to perform in accordance with this provision may result in CONSULTANT's forfeiture of retention monies and/or termination of this Agreement.

ARTICLE 4. TERM OF AGREEMENT

A. This Agreement shall commence upon the effective first written above, and shall continue in full force and effect through September 30, 2012, ("Initial Term") unless earlier terminated or extended as provided in this Agreement.

B. AUTHORITY, at its sole discretion, may elect to extend the term of this Agreement up to an additional twelve (12) months, commencing October 1, 2012 and continuing through September 20, 2013 ("Option Term 1"), and thereupon require CONSULTANT to continue to provide services, and otherwise perform, in accordance with Exhibit A, entitled "Scope of Work", and Exhibit B, entitled "Pricing Schedules".

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C. AUTHORITY, at its sole discretion, may elect to extend the term of this Agreement up to an additional twelve (12) months, commencing October 1, 2013 and continuing through September 30, 2014 ("Option Term 2"), and thereupon require CONTRACTOR to continue to provide services, and otherwise perform, in accordance with Exhibit A, entitled "Scope of Work", and Exhibit B, entitled "Pricing Schedules".

D. AUTHORITY's election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for AUTHORITY's convenience or CONSULTANT's default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be from the effective first written above through September 30, 2014 which period encompasses the Initial Term and the two Option Terms.

ARTICLE 5. PAYMENT

A. For CONSULTANT's full and complete performance of its obligations under this Agreement and CTO's issued thereunder, and subject to the maximum cumulative payment obligation provisions set forth in Article 7, AUTHORITY shall pay CONSULTANT for each CTO on a time-and-materials basis in accordance with the payment provisions set forth in each CTO as follows:

B. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding to the work performed by CONSULTANT. Invoices shall be submitted in duplicate to AUTHORITY's Accounts Payable office. Each invoice shall include the following information:

1. Agreement No. C-9-0360 and CTO Numbers for which billed;
2. Work for which payment is being requested, including labor hours and billing rates;
3. Certified Payrolls;
4. Total amount invoiced for the month, and cumulative amount invoiced for Agreement.
5. Monthly Progress Report prepared by CONSULTANT summarizing work performed, milestones reached and deliverables produced;
6. Certification signed by the CONSULTANT or his/her designated alternate that (i)

The invoice is a true, complete and correct statement of earned amounts and progress for the CTO's billed ; (ii) The backup information included with the invoice is true, complete and correct in all material respects; (iii) All payments due and owing to subcontractors and suppliers have been made; (iv) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; (v) The invoice does not include any amount which CONSULTANT intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice; and

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

C. AUTHORITY shall remit payment within thirty (30) calendar days of the receipt and approval of each invoice.

D. At its sole discretion, AUTHORITY may decline to make full payment for any work until such time as CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required. AUTHORITY's payment for any work performed shall not constitute AUTHORITY's final acceptance of CONSULTANT's work under any CTO or part thereof. Final acceptance shall occur only after AUTHORITY's release of the retention described in paragraph 4 below.

E. 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 upon satisfactory completion of all work for a CTO, or upon CONSULTANT's completion, to AUTHORITY's satisfaction, of a milestone or phase within a CTO; 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.

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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 Two Hundred Fifty Thousand Dollars (\$250,000.00) 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:

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To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

ATTENTION:

ATTENTION: Robert P. Sechler

Senior Contract Administrator

(714) 560 – 5568 FAX: 714-560-5792

e-mail: rsechler@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-9-0360; and, the Contract Administrator's Name, Robert P. Sechler, 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) Contract Task Orders (CTOs) issued hereunder; (2) the provisions of this Agreement, including all exhibits; (3) the provisions of RFP 9-0360; (4) CONSULTANT's proposal dated _____ ; and (5) 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.

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

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

ARTICLE 15. INDEMNIFICATION

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

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ARTICLE 16. ASSIGNMENTS AND SUBCONTRACTS

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

B. AUTHORITY hereby consents to CONSULTANT's subcontracting portions of the Scope of Work to the parties identified and for the functions described in Part II of Attachment IV to Exhibit A. 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.

ARTICLE 17. AUDIT AND INSPECTION OF RECORDS

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.

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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, CONSULTANT is unable, or potentially unable to render impartial assistance or advice to AUTHORITY; CONSULTANT's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or CONSULTANT has an unfair competitive advantage. CONSULTANT is obligated to fully disclose to AUTHORITY in writing Conflict of Interest issues as soon as they are known to CONSULTANT. CONSULTANT is obligated to fully disclose to AUTHORITY in writing Conflict of Interest issues as soon as they are known to 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. 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 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 CONSULTANT's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

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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 AUTHORITY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to AUTHORITY as appropriate, and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with nondiscrimination provisions of this Agreement, 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. 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 CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, CONSULTANT may request AUTHORITY to enter into such litigation to protect the interests of the AUTHORITY, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

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ARTICLE 22. DISADVANTAGED BUSINESS ENTERPRISES

1. Subcontractors

A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the Authority and any Consultants, and no subcontract shall relieve the Consultant of his/her responsibilities and obligations hereunder. The Consultant agrees to be as fully responsible to the Authority for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Consultant. The Consultants obligation to pay its subcontractors is an independent obligation from the Authority's obligation to make payments to the Consultant.

B. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors.

C. Consultant shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Consultant by the Authority.

D. Any substitution of subcontractors must be approved in writing by the Authority's Contract Administrator in advance of assigning work to a substitute subcontractor.

2. Disadvantaged Business Enterprise (DBE) Participation

A. This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." Bidders who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

B. Consultants must give consideration to DBE firms as specified in 23 CFR 172.5(b), 49 CFR Part 26, and in Exhibit 10-1 "Notice to Bidders/Proposers Disadvantaged Business Enterprise Information." If the contract has an under-utilized DBE (UDBE) goal, the Consultant must meet the UDBE goal by using UDBEs as subcontractors or document a good faith effort to meet the goal. If a UDBE subcontractor is unable to perform, the Consultant must make a

good faith effort to replace him/her with another UDBE subcontractor if the goal is not otherwise met. A UDBE is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups:

1. Black American
2. Asian-Pacific American
3. Native American
4. Women

C. DBE and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The Consultant, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.

D. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

3. Performance of DBE Contractors and other DBE Subcontractors/Suppliers

A. A DBE performs a commercially useful function when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function,

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function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing, and other relevant factors.

B. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

C. If a DBE does not perform or exercise responsibility for at least thirty percent of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

4. Prompt Payment of Funds Withheld to Subcontractors

A. The Authority shall hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the agency, of the contract work, and pay retainage to the prime consultant based on these acceptances. The prime consultant, or subcontractor, shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR 26.29) requires that any delay or postponement of payment over 30-days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime consultant or subcontractor in the event of a dispute involving late payment or nonpayment by the prime consultant, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE prime contractors and subcontractors.

B. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

C. The Consultant shall also incorporate in all subcontract agreements "a contract clause providing that the Consultant will not be reimbursed for work performed by subconsultant unless and until the Consultant ensures that the subconsultant are promptly paid for the work they have satisfactorily performed".

D. Failure to comply with these prompt payment provisions or delay in issuing payment without prior written approval from the Authority will constitute noncompliance, which will result in the application of appropriate administrative sanctions, including, but not limited to, a penalty of 2% of the amount due per month to the affected subconsultant for every month that payment is not made.

5. DBE Records

A. The Consultant shall maintain records of materials purchased and/or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime Consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

B. "Monthly Race-Conscious DBE Subcontractors Paid Report Summary and Payment Verification" (Form 103) (Exhibit H-6). If the Consultant is a DBE firm and/or has proposed to utilize DBE firms, the Consultant will be required to complete and submit a Form 103 to the Authority by the 10th of each month for the previous month until completion of the contract to facilitate reporting of DBE participation, following the first month of contract activity. The Consultant shall report the total dollar value paid to DBEs/UDBEs for the applicable reporting period. The Consultant shall also report the DBE/UDBE's scope of work and the total subcontract value of commitment for each DBE reported.

C. Consultant is advised not to report the participation of DBE/UDBEs toward the Consultant's DBE attainment until the amount being counted has been paid to the DBE.

D. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form (Exhibit H-5) entitled, "Final Report-Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontractors," CEM-2402F (Exhibit 17-F in Chapter 17 of the LAP), certified correct by the Consultant or the Consultants' authorized representative and shall be furnished to the Authority with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to the Contractor when a satisfactory "Final Report Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontractors" is submitted to the Contract Manager.

1. Prior to the fifteenth of each month, the Consultant shall submit documentation to the Authority's Contract Administrator showing the amount paid to DBE trucking companies. The Consultant shall also obtain and submit documentation to the Authority's Contract Administrator showing the amount paid by DBE trucking companies to all firms, including owner-operators, for the leasing of trucks. If the DBE leases trucks from a non-DBE, the Consultant may count only the fee or commission the DBE receives as a result of the lease arrangement.

2. The Consultant shall also submit to the Authority's Contract Administrator documentation showing the truck number, name of owner, California Highway Patrol CA number, and if applicable, the DBE certification number of the truck owner for all trucks used during that month. This documentation shall be submitted on the Caltrans' Monthly DBE Trucking Verification, CEM-2404(F) form provided to the Contractor by the Authority's Contract Administrator.

6. DBE Certification and de-certification Status

A. If a DBE subcontractor is decertified during the life of the Agreement, the decertified subcontractor shall notify the Contractor in writing with the date of de-certification. If a subcontractor becomes a certified DBE during the life of the Agreement, the subcontractor shall notify the Contractor in writing with the date of certification. Any changes should be reported to the Agency's Contract Manager within 30 days.

B. Materials or supplies purchased from DBEs will count towards DBE credit, and if a DBE is also a UDBE, purchases will count towards the UDBE goal under the following conditions:

C. If the materials or supplies are obtained from a DBE manufacturer, 100 % of the cost of the materials or supplies will count toward the DBE participation. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises, the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.

E. If the materials or supplies purchased from a DBE regular dealer, count 60% of the cost of the materials or supplies toward DBE goals. A regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement, are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

F. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment, shall be by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this section.

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G. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

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

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1 or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall
2 not use AUTHORITY's name, photographs of the project, or any other publicity pertaining to the project
3 in any professional publication, magazine, trade paper, newspaper, seminar or other medium without
4 the express written consent of AUTHORITY.

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

10 **ARTICLE 25. PATENT AND COPYRIGHT INFRINGEMENT**

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

23 B. CONSULTANT shall have sole control of the defense of any such claim or suit and all
24 negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify AUTHORITY
25 under any settlement made without CONSULTANT's consent or in the event AUTHORITY fails to
26 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 C, 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. HEALTH AND SAFETY REQUIREMENTS

CONSULTANT shall comply with all of the requirements set forth in Exhibit C, LEVEL I SAFETY SPECIFICATIONS . As used therein, "Contractor" shall mean "Consultant," and "Subcontractor" shall mean "Sub-consultant."

ARTICLE 30. 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 31. INCORPORATION OF FEDERAL TERMS

All contractual provisions required by United States Department of Transportation (USDOT), including the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) whether or not expressly set forth in this document, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all federally 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 32. FEDERAL CHANGES

CONSULTANT shall at all times comply with all applicable USDOT regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement between the AUTHORITY and USDOT , 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 33. 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 34. 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 USDOT 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 35. 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 36. 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 37. 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 USDOT and the appropriate Environmental Protection Agency (EPA) Regional Office. CONSULTANT agrees to include this requirement in all of its subcontracts.

ARTICLE 38. 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 USDOT and appropriate EPA Regional Office. CONSULTANT agrees to include this requirement in all of its subcontracts.

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-0360 to be executed on the date first above written.

CONSULTANT

ORANGE COUNTY TRANSPORTATION AUTHORITY

By _____

By _____

Kathleen Perez
Manager, Capital Projects

APPROVED AS TO FORM:

By _____

Kennard R. Smart, Jr.
General Counsel

LEVEL 3 SAFETY SPECIFICATIONS

APPLICATION - Level 3 Safety Specifications apply to contracts, as determined by the Authority, including subcontracts, with contractors that are entered into by and between the Authority or in the case of subcontracts, that arise out of a contract entered into by the Authority. The scope of these contracts require the contractor to manage recognized hazards with a potential of injury or property damage and may require routine unescorted access to Authority property, and including, but not limited to, work in and around maintenance areas, shop and bus base areas, on-board buses, highways, and rail construction sites.

Examples of Level 3 scopes of work may include, but are not limited to, facility modifications, demolition, construction, highway construction, rail construction, underground storage tank testing, equipment installation and similar activities.

PART I – GENERAL

1.0 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

- A. The Contractor, its sub-tier contractors, suppliers, and employees have the obligation to comply with all Authority HSEC requirements, as well as all federal, state, and local regulations pertaining to scope of work, contracts or agreements with the Authority including California Department of Transportation safety requirements and special provisions. Additionally, manufacturer requirements are considered incorporated by reference as applicable to this scope of work.
- B. Observance of repeated unsafe acts or conditions, serious violation of health and safety standards, non-conformance of Authority health, safety and environmental compliance (HSEC) requirements, or disregard for the intent of these safety specifications to protect people and property, by Contractor may be reason for termination for cause, of agreements with the Authority, at the sole discretion of the Authority.
- C. The Authority HSEC requirements, and references contained within this scope of work shall not be considered all-inclusive as to the hazards that might be encountered. Safe work practices shall be pre-planned and performed, and safe conditions shall be maintained during the course of this work scope.
- D. The Contractor shall specifically acknowledge that it has primary responsibility to prevent and correct all health, safety and environmental hazards for which it and its employees, or its sub-tier contractors (and their employees) are responsible. The Contractor shall further acknowledge their expertise in recognition and prevention of hazards in the operations for which they are responsible, that the Authority may not have such expertise, and is relying upon the Contractor for such expertise. The Authority retains the right to notify the Contractor of potential hazards and request the Contractor to evaluate and, as necessary, to eliminate those hazards.
- E. The Contractor shall provide all necessary tools, equipment, and related safety protective devices to execute the scope of work in compliance with the Authority's HSEC requirements, California Code of Regulations (CCR) Title 8 Standards, and recognized safe work practices.

- F. The Contractor shall instruct all its employees, and all associated sub-contractors under contract with the Contractor who work on Authority projects in the following; recognition, identification, and avoidance of unsafe acts and/or conditions applicable to its work.

PART II – SPECIFIC REQUIREMENTS

- 2.0 While these safety specifications are intended to promote safe work practices, Contractors are reminded of their obligation to comply with all federal (CFR 1926 & 1910 Standards), state (CCR Title 8 Standards), Local and municipal safety regulations, and Authority health, safety and environmental requirements applicable to their project scope. Failure to comply with these standards may be cause for termination of scope, contracts, or agreements with the Authority, at the sole discretion of the Authority.

2.1 REQUIRED DOCUMENTATION / REPORTING REQUIREMENTS

The Contractor at a minimum shall provide the following documents to the Authority's Project Manager. Items A through E below shall be submitted and accepted by the Authority's Project Manager prior to Contractor mobilization. Item F upon each occurrence, and items G through K, contractor shall verify the following documentation is in place, prior to and during contract scope, and make available to the Authority upon request within 72 hours.

- A. Comprehensive Project Specific Safety Work Plan.
- B. Company Safety Manual
- C. Certification of Compliance of Company's Injury Illness Prevention Program in accordance with California Code of Regulations (CCR) Title 8, Section 3203.
- D. Policy or Certification of Compliance Company's Substance Abuse Prevention Policy.
- E. The qualifications/certifications of assigned project competent person, and designated safety representative.
- F. Accident/Incident investigation report within 24 hours of event (immediate verbal notification to Authority Project Manager, followed by Written Report)

The required documentation shall be provided to the Authority's Project Manager upon request within 72 hours.

- G. A copy of Contractor weekly site safety inspection report with status of corrections.
- H. Contractors and sub-tier contractors competent person list (submit to Authority Project Manager monthly).
- I. Contractors and sub-tier contractors qualified equipment operators list (submit to Project Manager monthly).

- J. A monthly report that includes number of workers on project, a list of sub-tier contractors, work hours (month, year to date, & project cumulative) of each contractor, labor designation, OSHA Recordable injuries and illnesses segregated by medical treatment cases, restricted workday cases, number of restricted days, lost workday cases, and number of lost work days, and Recordable incident rate.

K. TRAINING DOCUMENTATION

To ensure that each employee is qualified to perform their assigned work, when applicable to scope work, contractor shall verify training documentation is in place, prior to and during contract scope, and make available to the Authority upon request within 72 hours. Training may be required by the Authority or CCR Title 8 (Cal/OSHA), and required for activity on Authority's property and/or Authority controlled projects.

2.2 HAZARD COMMUNICATION (§5194)

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

2.3 DESIGNATED SAFETY REPRESENTATIVE

- A. Before beginning on-site activities, the Contractor shall designate an on-site Safety Representative. This person shall be a competent or qualified individual as defined by the Occupational, Safety, and Health Administration (OSHA), familiar with applicable CCR Title 8 Standards, and has the authority to affect changes in work procedures that may include schedule and budget impacts.
- B. The Contractor's safety representative for Authority projects are subject to Acceptance by the Authority Project Manager. All contact information of the safety representative (name, phone, fax and pager/cell phone number) shall be provided to the Authority Project Manager.
- C. QUALIFICATIONS – Safety Representative shall possess knowledge equal to CIH, CSP, CHST, OSHA 10 hour training, or similar professional standing. Rare circumstances may require an exception for these minimum qualification requirements, and shall be at the discretion of the Authority Project Manager and HSEC.
 - 1. Competent Person, means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

2. Qualified Person, means one who by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his ability to solve or resolve problems relating to the subject matter, the work, or the project.
- D. Authority's Project Manager reserves the right to require the Contractor to provide one full-time qualified person as a safety representative whenever the Contractor and its sub-tier contractors, suppliers, and vendors meets or exceeds 10 workers, or warranted by scope risk.

2.4 SITE SAFETY ORIENTATION

The Contractor shall conduct and document a project site safety orientation for all Contractor personnel, sub-tier contractors, suppliers, vendors, and new employees assigned to the project prior to performing any work on Authority projects. The safety orientation at a minimum shall include, as applicable, Personal Protection Equipment (PPE) requirements, ANSI class 2 reflective vests, designated smoking, eating, and parking areas, traffic routing, and barricade requirements. When required by scope, additional orientation shall include fall protection, energy isolation/lock-out/tag-out (LOTO), confined space, hot work permit, security requirements, and similar project safety requirements.

2.5 INCIDENT NOTIFICATION AND INVESTIGATION

- A. The Authority shall be promptly notified of any of the following types of incidents:
 1. Damage to Authority property (or incidents involving third party property damage);
 2. Reportable and/or Recordable injuries (as defined by the U. S. Occupational Safety and Health Administration);
 3. Incidents impacting the environment, i.e. spills or releases on Authority property.

Notifications shall be made to Authority representatives, employees and/or agents. This includes incidents occurring to contractors, vendors, visitors, or members of the general public that arise from the performance of Authority contract work. A comprehensive investigation and written report shall be submitted to Authority's Project Manager within 24 hours of the incident.

- G. A serious injury or incident may require a formal incident review at the discretion of the Authority's Project Manager. The incident review shall be conducted within 7 calendar days of the incident. The serious incident presentation shall include action taken for the welfare of the injured, a status report of the injured, causation factors leading to the incident, a root cause analysis, and a detailed recovery plan that identifies corrective actions to prevent a similar incident, and actions to enhance safety awareness.
- H. A serious incident includes; An injury or illness to one or more employees, occurring in a place of employment or in connection with any employment, which requires inpatient hospitalization for a period in excess of twenty-four hours for other than medical observation, or in which an employee suffers the loss of any member of the

body, or suffers any serious degree of physical disfigurement. In addition, property damage that causes disruption of operations, delay of work schedule, causes a serious injury, causes third party or other property damage, or requires emergency services.

2.6 REGULAR INSPECTIONS & THIRD PARTY INSPECTIONS

- A. Frequent and regular inspections of the project jobsite shall be made by contractor safety representative, or another competent person designated by the Contractor. Unsafe acts and/or conditions noted during inspections shall be corrected immediately.
- B. The Contractor is advised that representatives of regulatory agencies (i.e., CAL-OSHA, EPA, SCAQMD, etc.), upon proper identification are entitled to access onto Authority property and projects. The Authority Project Manager shall be notified of their arrival as soon as possible when applicable for Contractor scope.

2.7 VEHICLE AND ROADWAY SAFETY REQUIREMENTS

- A. The Contractor shall ensure that all Contractor vehicles, including those of its sub-tier contractors, suppliers, vendors and employees are parked in designated parking areas, are identified by company name and/or logo, and comply with traffic routes, and posted traffic signs in areas other than the employee parking lots.
- B. Personal vehicles of the Contractor employees shall not be parked on the traveled way or shoulders including any section closed to public traffic, or areas of the community that may cause interference or complaints
- C. The Contractor shall comply with California Department of Transportation safety requirements and special provisions when working on highway projects.
- D. The Contractor shall conform to American Traffic Safety Services Association (Quality Standard for Work Zone Control Devices 1992).

2.8 LANGUAGE REQUIREMENTS

The Contractor for safety reasons shall ensure employees that do not read, or understand English, shall be within visual and hearing range of a bilingual supervisor or responsible designee at all times when on the Authority property or projects.

2.9 PERSONAL PROTECTIVE EQUIPMENT

Contractors, and all associated sub-tier contractors, vendors and suppliers are required to provide their own personal protective equipment (PPE), including eye, head, foot, and hand protection, respirators, reflective safety vests, and all other PPE required to perform their work safely on Authority projects.

- A. **RESPIRATORS (§5144)** - The required documentation for training and respirator use shall be provided to the Authority's Project Manager upon request within 72 hours. All compliance documentation as required by CCR Title 8 Standard, Section 5144, Respiratory Protective Equipment.

B. EYE PROTECTION – The Authority requires eye protection on construction projects and work areas that meet ANSI Z-87.1 Standards.

2.10 AERIAL DEVICES (§3648)

Aerial devices are defined in CCR Title 8 as any vehicle-mounted or self-propelled device, telescoping extensible or articulating, or both, which is primarily designed to position personnel. If aerial devices are to be used, the required documentation in CCR Title 8 Standard, Section 3648 shall be provided to the Authority's Project Manager upon request within 72 hours.

2.11 CONFINED SPACE ENTRY (§5157)

Before any employee will be allowed to enter a confined space, the required documentation as required by CCR Title 8 Standard, Section 5157 shall be provided to the Authority's Project Manager upon request within 72 hours.

A. RECOMMENDED, a copy of the most recent calibration record for each air monitoring unit, 3-gas monitor or "sniffer" to be used by the Entry Supervisor prior to entering permit-required confined spaces.

2.12 CRANES

A. MOBILE CRANES (§5006)

Prior to using mobile cranes the Contractor shall provide items 1, 2 & 3 of the following documentation a minimum of seven (7) days prior to activity, and item 4 each day of activity.

1. Cranes require a submittal of the annual certification, and copy of the cranes most recent quarterly inspection
2. A copy of each crane operator's qualification (NCCCO, or equivalent) of company-authorized crane operators that have been properly trained in the equipment's use and limitations. Operator certification as required by CCR Title 8 Standard, Section 5006.1.
3. A rigging plan is required for all lifts. Critical lifts require an engineered plan designed by a registered professional engineer licensed in California. Critical lifts include lifts equal or over 10 tons, lift and transit of load, 85% or greater of rated capacity, multiple cranes for one lift, lifts over buildings, equipment or structures.
4. Documented daily crane inspection report.

B. OVERHEAD CRANES

Before using the Authority overhead cranes, each Contractor shall designate a limited number of employees to attend a training session on the use and limitations of overhead cranes with designated Authority personnel.

2.13 DEMOLITION OPERATIONS (§1734)

Before starting demolition activities the required documentation shall be provided to the Authority's Project Manager upon request within 72 hours. All compliance documentation as required by CCR Title 8 Standard, Article 31.

2.14 EXCAVATION OPERATIONS (§1541)

Before starting excavation activities more than 5 feet deep into which people shall enter, The required documentation shall be provided to the Authority's Project Manager upon request within 72 hours. All compliance documentation as required by CCR Title 8 Standard, Section 1541.

A. A copy of the Contractor's Excavation Permit.

2.15 FALL PROTECTION (§1669-1671)

The following standards are required when performing work on Authority property. The required documentation shall be provided to the Authority's Project Manager upon request within 72 hours.

A. Fall protection is required for workers exposed to falls in excess of six (6) feet.

B. When conventional fall protections methods are impractical or create a greater hazard, a written plan in conformance with CCR Title 8, Article 24, shall be submitted to the Authority a minimum of seven (7) days in advance of the scheduled activity.

2.16 FORKLIFTS, BACKHOES AND OTHER INDUSTRIAL TRACTORS (§3664)

CCR Title 8 defines backhoes as "industrial tractors", the required documentation shall be provided to the Authority's Project Manager upon request within 72 hours. All compliance documentation as required by CCR Title, Section 3664, Operating Rules.

A. A copy of each operator's certificate or a list, of company-authorized industrial tractor operators that have been properly trained in the equipment's use and limitations. Please state which equipment, and model each operator has been authorized to operate (i.e. forklifts, backhoe, bulldozer, front-end loader, etc.).

2.17 HIGH VOLTAGE ELECTRICAL OPERATIONS (§2700-2974)

Any work on electrical equipment defined by OSHA as high-voltage, at or above 600 volts requires specialized training certifications and personal protective equipment. Before any high-voltage work commences, the Authority Project Manager must be notified and provide approval. The required documentation shall be provided to the Authority's Project Manager upon request within 72 hours.

A. A list of the name of the company-designated high voltage Qualified Electrical Worker(s).

2.18 POWDER-ACTUATED TOOLS (§1685)

Before using tools such as “Hilti guns” or other powder-actuated tools the required documentation shall be provided to the Authority’s Project Manager upon request within 72 hours.

- A. A copy of each qualified person’s valid operator card.

2.19 SCAFFOLDS (§1635.1-1677)

Scaffold Erection shall be in compliance with CCR Title 8. The required documentation shall be provided to the Authority’s Project Manager upon request within 72 hours. All compliance documentation as required by CCR Title 8, Sections 1635.1-1677.

- A. All scaffolds on Authority project shall be inspected by a competent person qualified for scaffolds in accordance with CCR Title 8 Standards.
- B. Contractor shall arrange for a third party inspection at least quarterly by a credentialed professional (insurance carrier, scaffold manufacturer representative, or similar) in addition to the contractors daily self inspections.
- C. A proper scaffold inspection and tagging system shall be maintained identifying compliance status (Example: Green/safe, Yellow/modified-fall protection required, Red/unsafe-do not use).
- D. Contractor shall have a fall protection plan that meets CCR Title 8 compliance for scaffold erectors, an erection/dismantling plan shall be submitted to Authority Project Manager for review prior to start of activity.
- E. Scaffold erection/dismantling shall install handrails beginning on the first level above ground erected, and erectors shall plan erection and dismantling in a manner to maximize handrail protection and minimize employees at unprotected areas.

2.20 WARNING SIGNS AND DEVICES

Signs, signals, and/or barricades shall be visible at all times when and where a hazard exists. Overhead tasks, roofing tasks, excavations, roadwork activity, demolition work, and other recognized hazards shall have guardrail protection, warning barricades, or similar protective measures acceptable to the Authority’s Project Manager. Signs, signals, and/or barricades shall be removed when the hazard no longer exists.

END OF DOCUMENT



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.

EXHIBIT D

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).

SECTION V
SCOPE OF WORK

SCOPE OF WORK

ON-CALL ENVIRONMENTAL SERVICES

1.0 General Work Description

The Orange County Transportation Authority (Authority) requires professional environmental services to assist with environmental issues associated with the Authority's Measure M projects, which consist of various improvements to Orange County freeways, transit and commuter rail infrastructure, or other Authority-owned properties. Within and adjacent to these properties it is highly probable that there will be hazardous substances. For purposes of this scope of work, "hazardous substances" are substances or combinations of substances as defined in Title 22, California Code of Regulations, Section 66680, Division 20, Health and Safety Code, Sections 25115 and 25117, or those substances defined in 49 CFR 171.8. The Authority intends to avoid, or at least minimize, costs and schedule delays to the Measure M projects by performing early assessment of known or potentially contaminated sites, and, as necessary, cost effective remediation.

The Consultant shall furnish environmental engineering services, field services, laboratory testing, and other related services including but not limited to, site assessments and investigations, remedial investigation/feasibility studies, remediation action plans, remediation action design, hazardous materials removal, transportation and disposal, and post-remediation monitoring at specified sites. All work shall be performed in accordance with all applicable and appropriate federal, state, and local agencies guidelines, rules, regulations, and criteria, including, but not limited to, the Comprehensive Environmental Response and Liability Act of 1980 (CERCLA), as amended; and National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part

Services under this Agreement will be requested on an "as-needed" basis, and will be authorized through the issuance of Contract Task Orders (CTOs). CTOs are site specific, work quantified, and time constrained. Each CTO will define the work to be performed, the total cost of performance and any other information that may be needed to perform the services required.

Completion of required environmental investigations and site remediation is typically on the "critical path" of a project schedule. Therefore, time will be of the essence in completing the work of a CTO, and the Consultant's ability to complete such work within a specified time period will be a major consideration in evaluating an on-call consultant's competitive standing for issuance of a CTO. Therefore the Consultant shall apply its best professional skills, knowledge, and abilities in projecting the resources and time needed perform the CTO work, and shall exercise its best efforts to complete such work within the agreed CTO performance period.

If required, site investigations will be conducted to a level necessary to determine the relative magnitude of the problem, and to develop an order-of-magnitude estimate of mitigation or cleanup costs. Site investigations shall include, but are not limited to, characterization of subsurface geologic and hydrologic conditions, identification and extent of contamination, and analysis of potential remedial actions.

2.0 Specific Tasks

2.1 Phase I - Initial Site Assessment

The Initial Site Assessment (ISA) is will identify hazardous, or potentially hazardous, environmental conditions within and adjacent to existing and proposed rights-of-way and facilities for Authority's Measure M or other transportation projects. The ISA shall include all pertinent information regarding listed hazardous waste and potential hazardous waste sites in the vicinity of the project. The Consultant may be required to review and update prior environmental reports or remediation work.

During the performance of an ISA, the Consultant shall review published lists of hazardous waste sites and, as necessary, search available files of federal, state, regional and local agencies such as, but not limited to:

- Environmental Protection Agency (EPA) (National Priority List, reports)
- California Environmental Protection Agency (Cal/EPA)
- Santa Ana Regional Water Quality Control Board (SARWQCB)
- Office of Emergency Services (hazardous materials management plans)
- Local health departments (site lists, permits, reports)
- Local fire departments (site lists, permits, reports)
- County Tax Assessor (parcel maps and files)
- County Court House, (maps and files)
- Utility companies (maps, plans, records)
- Caltrans (right-of-way maps, aerial photos and files)

As necessary, and as directed by the Authority, the Consultant shall also

- Review Sanborn Fire Insurance Maps, aerial photographs and other reports, maps and photographs, as necessary, to determine past and present land uses and to identify known or potential hazardous waste sites on parcels of land for future highway improvement projects. The time frame for this record search shall extend as far back as necessary, or to the limitation of available records, to determine the use and presence of any hazardous wastes or materials on the parcels of land in question.
- Review published data from the United States Geological Survey (USGS), state, and other available maps and reports in order to compile a general geologic map and general hydrologic profile of the right-of-way or facility.

As directed, the Consultant shall conduct a field survey for potential hazardous waste sites of all parcels of land within and adjacent to the proposed right-of-way or facility as specified in the CTO. During this phase it is not necessary to confirm the actual presence of hazardous waste in soil or groundwater on the site. Coordination and contacts with property owners and/or regulatory agencies shall be pre-approved by the Authority.

General requirements for ISA reports are provided in Attachment I.

2.2 Phase II - Site Investigations

The Consultant shall conduct site investigations, which may include, but are not limited to, items such as work plans, health and safety plans, surveys and surface geophysical investigations (if necessary,) drilling, sampling, laboratory analysis, and reporting. All elements of the site investigations must meet all applicable standards set forth by local, state and federal regulatory agencies. There shall be no deviation from the required standards. The investigative techniques (i.e., drilling methods, sampling collection and sample handling procedures, analytical methods, and equipment) must be procedurally acceptable to Authority and regulatory agencies.

During soil investigations, the drilling and sampling operations shall be reviewed by a Certified Industrial Hygienist (CIH), and supervised on-site by a Professional Engineer (PE), Certified Engineering Geologist (CEG), or Registered Geologist (RG). Personnel with specific registration(s) may be required in a CTO to conform to regulatory agency requirements.

2.2.1 Work Plans

A technical work plan shall be developed for all site investigations. The work plan shall be sufficiently detailed to fully describe the work to be performed. The Consultant shall submit a draft site specific work plan to the Authority Project Manager for review. The draft shall be revised based on Authority's comments and returned within the time limit specified in the CTO. The Authority shall review and approve the plan prior to start of fieldwork.

Consultant shall have all Work Plans reviewed by a Certified Industrial Hygienist (CIH), or a Certified Safety Professional (CSP). Interpretation of geology, hydrogeologic, and/or hydrologic information shall be completed under the supervision of a California Registered Geologist and/or Certified Engineering Geologist.

2.2.2 Health and Safety Plans

Throughout the performance of field soil investigations, the Consultant, its subcontractors, and their personnel are responsible for their own health and safety planning, monitoring and procedures.

All field soil investigations will require development of an appropriate Health and Safety Plan. Authority shall review and approve the plan prior to start of work. The Consultant shall submit a draft site specific Health and Safety Plan to Authority for review. The draft shall be revised based on Authority's comments and returned to Consultant within the time limit specified in the CTO. The Health and Safety Plan shall conform to all applicable regulatory requirements including, but not limited to, 8CCR 5192, and 8 CCR 3203.

Consultant shall have all Health and Safety Plans reviewed by a Certified Industrial Hygienist (CIH). The Consultant shall complete all work in accordance with the site Health and Safety Plan as

reviewed by Authority. The Consultant shall ensure that all employees, while on the project site, will conform to the plan requirements.

2.2.3 Surveys of Buildings, Containers, Etc.

The Consultant may be required to provide survey activities. Survey activities may include the surveying and testing, as applicable, of buildings, structures, stored materials, tank contents and containers to determine whether hazardous waste or materials are present. Typical surveys may include inspections for:

- Asbestos containing materials (ACM) in buildings and pipelines
- PCB containing materials in transformers, equipment and containers
- Fuels and other chemicals in tanks, barrels and storage containers
- Determination of whether or not hazardous materials have been used or stored in buildings or structures
- The presence of lead-based paint

Only when requested, will a Certified Industrial Hygienist (CIH) be utilized for survey plans and work. Requests for a CIH will be through the CTO process.

When surveys are included in a CTO, survey activities as well as results shall be included as a report or as part of the Site Investigation Report.

2.2.4 Surface Geophysical Investigations

Consultant shall provide surface geophysical services for the purpose of acquiring data as specified in the CTO. Surface geophysical work shall be coordinated and interpreted by a geophysicist certified by the State of California.

When geophysical activities are included in a CTO, in addition to the general soil investigation reporting requirements, geophysical activities and results shall be included as a report or as part of the Site Investigation Report.

2.2.5 Soil Gas Survey

Consultant shall provide subsurface soil gas sampling and analysis services. Gas survey personnel on site shall include a chemist or other experienced professional responsible for equipment operation.

When soil gas surveying is included in a CTO, in addition to the general soil investigation report requirements, soil gas survey activities and results shall be included as a report or as part of the Site Investigation Report.

2.2.6 Trenching

Trenching may be required for shallow soil investigation purposes. Excavation may be needed to determine shallow subsurface conditions or to excavate and expose subsurface structures such as tanks, pipes or sumps. Trenching activities shall be observed and supervised by a site engineer, geologist or engineering geologist.

When trenching activities are included in a CTO, in addition to the general soil investigation report requirements, trenching activities and results shall be included as part of the Site Investigation Report.

Excavation and trenching scope activity shall comply with 29 CFR 1926.650, and CCR Title 8 Standards, Article 6, Excavations Standards.

Consultant shall contact other necessary entities (dig alert) or personnel to determine whether underground installations, i.e. sewer, telephone, fuel, electric lines, etc., may be encountered and where they are located. Excavations and trenches shall be inspected by a "Competent Person" daily and after every rainfall to determine if they are safe. Daily inspections shall be recorded and documentation kept available on site and available for review upon request.

Excavations are considered class 'C' soil unless documented testing in accordance with 29 CFR 1926.650 and CCR Title 8 Standards supports a class 'B' soil classification and is confirmed and stamped by California registered professional engineer. In no case will excavations be classified as class 'A' soil.

2.2.7 Drilling

The Consultant shall provide drilling services that have the capability to drill through, coring, and sampling soft or poorly consolidated material, rock of varying densities, hardness, and degree of fracturing, engineered fill, asphalt, [Spell out >>PCC] and wastes. Consultant shall also provide drilling services that have the capability to properly drill, construct, and develop monitoring wells.

Monitoring wells may be required to determine the presence of groundwater contamination, the extent of the contamination, and the general characterization of the subsurface hydrogeological conditions. Monitoring wells shall be designed and constructed in accordance with appropriate regulations and requirements, so as to obtain water samples representative of the formation water.

Prior to drilling and installation of wells, the Consultant shall obtain all necessary well permit(s). The Consultant shall register all monitoring wells with the California Department of Water Resources. Copies of these records shall be included in the Site Investigation Report. Additionally, Drill rigs and equipment shall be inspected prior to each shift to ensure components are in a safe condition, and in compliance with the manufacturers recommendations.

2.2.8 Sampling

The objective of sampling is to obtain a representative sample of the subsurface ground materials and level of contamination at a site. Sampling intervals shall be site specific and reviewed and approved by Authority and/or regulatory agencies.

2.2.9 Laboratory Analysis

Laboratories used to perform chemical analysis shall be certified by the California Department of Health Services (DHS). Asbestos and lead samples shall be submitted to an American Industrial Hygiene Association (AIHA) accredited laboratory. All laboratories must have an established QA/QC Plan. For specific test methods not currently certified by DHS, the laboratory may perform laboratory analysis only if presently certified by DHS for comparable test methods, e.g. volatile organics, semivolatile organics, etc. or if it is a currently certified US EPA Contract laboratory. Expected turnaround time for chemical analysis shall be seven (7) calendar days, unless otherwise directed.

Analysis shall be performed in accordance with Contract Laboratory Program (CLP) protocol. The Consultant shall be responsible for sample transport from worksite to the laboratory, clean or new sample containers, labels, appropriate preservation, and chain of custody records.

2.2.9.1 Quality Assurance/Quality Control

Quality Assurance/Quality Control (QA/QC) shall be performed for each method of analysis with specificity for every appropriate analyte requested and/or representative analytes listed in the test method's QA/QC. QA/QC data shall be reported in summary form for all samples submitted.

The QA/QC summary reports shall include, but not be limited to:

- Constituent/analyte
- Specific test method
- Date
- Detection limit of the specific test method
- Percent accuracy
- Percent precision
- Signature of laboratory manager or director

2.2.10 Laboratory Reports

Complete copies of all laboratory reports, including QA/QC summary reports shall be placed in an appendix of the Site Investigation Report. Laboratory reports shall contain, but not be limited to, the following information:

- Written explanation of higher detection limits, laboratory contaminants, or other unusual results.
- Name, address, and telephone number of laboratory
- Laboratory number for each sample reported
- Consultant's number for each sample reported
- Date sample(s) were collected

- Date sample(s) were received by laboratory
- Date of laboratory testing
- Brief sample description (i.e. soil, water, sludge, etc.)
- Specific test method
- Extraction method utilized
- Test result for each sample and method
- Limit of detection for each test method
- Date of test report
- Signature and title of the manager or director of the appropriate laboratory section.

2.2.11 Reporting

General requirements for Site Investigation Reports are provided in Attachment II.

2.3 Remedial Investigation/Feasibility Study (RI/FS)

The Consultant shall perform a comprehensive Remedial Investigation/Feasibility Study (RI/FS) to develop sufficient information to make an informed remedial alternative selection that eliminates, reduces, and/or controls the risks to human health and the environment. All elements of the RI/FS Work plan shall conform to applicable federal, state, and local guidelines, rules, regulations, and criteria as negotiated with appropriate regulatory agencies. Appropriate professional personnel shall develop RI/FS work plans. Interpretation of geology, hydrogeology, and/or hydrology information shall be conducted under the supervision of a California Registered Geologist or Certified Engineering Geologist.

At the conclusion of the RI/FS, the Consultant shall prepare a RI/FS Report which shall include at a minimum, site characteristics, sources of contaminants, nature and extent of contamination, risk assessment, and a review of all potentially feasible remedial actions and associated costs.

A Risk Assessment, included as part of the RI/FS work, may be necessary to determine the risk to human health and the environment from contaminants in the soil and/or groundwater. The Risk Assessment shall describe the environmental fate and transport of the contaminant, and consider all potential contaminant migration pathways in addition to all potential exposure routes to a receptor such as inhalation, ingestion, and dermal absorption.

The Risk Assessment must provide a comparison of the contaminant concentration at a receptor (estimated by the fate and transport element) with appropriate health-based standards. If the contaminant concentration at the receptor exceeds the appropriate health-based standards, then a potential unacceptable excess risk to the receptor exists and a risk management decision must be made (i.e., removal, treatment, stabilization, etc.).

The Risk Assessment must include a professional conclusion that is presented in an objective and technically defensible manner. The Risk Assessment must include a discussion of strengths and weaknesses of the assessment by describing uncertainties, explicitly stating assumptions and limitations, as well as providing the scientific basis and rationale for each assumption. Conclusions regarding the potential risk to human health and/or the environment must be based on current federal, state, and local guidelines, rules, regulations, and requirements.

General requirements for RI/FS reports are provided in Attachment III.

2.4 Remedial Action Plan and Remedial Action Design

The Remedial Action Plan (RAP) shall compile and summarize site data gathered during the RI/FS, in order to identify, and subsequently design, plan, and implement a final remedial action for the specific site. The RAP shall clearly and concisely describe the selected and rejected alternatives to the extent that Authority is provided an opportunity to comment on the remedial action(s). The RAP must also set forth-specific remedial action objectives; rough order of magnitude cost estimates, and timeframes for completion of the remedial action(s).

The Consultant shall submit to the appropriate regulatory agencies and Authority a draft RAP, and if required a closure plan, for review and approval prior to circulation for public/responsible party input, and prior to being adopted as the final document for undertaking remedial action at the specific site.

A Remedial Action Design (RAD) shall be developed to provide technical and operational plans and engineering designs for implementation of the approved final RAP. Based on the selected alternative for remedial action as defined by the final RAP, the Consultant shall develop a RAD in accordance with regulatory requirements, which shall include detailed construction designs for the selected remedial alternative. In addition, the work plan shall include sampling protocol for screening and verification sampling, onsite and off-site transportation routes, health and safety protocol for field activities, and ongoing operation and maintenance requirements for post-construction activities. A schedule shall be developed for implementing the construction phase of the remedial action.

2.5 Site Remediation

As necessary, and as directed by Authority in writing, Consultant shall carry out site remediation. Activities will include, but not be limited to, the following:

2.5.1 Excavation and Loading

Provide labor and equipment to remove, in a safe and lawful manner, hazardous or otherwise contaminated material from buildings and grounds. This shall include extraction of electrical and mechanical fixtures and equipment, or capping and abandonment of such in accordance with applicable building codes.

2.5.2 Transportation and Disposal

Provide transportation of hazardous or otherwise contaminated material to legal dump sites or treatment facilities. Document transportation of such materials in accordance with applicable laws and regulations.

2.6 Remediation Oversight

If required, Consultant may provide remediation oversight to monitor and control the adherence to the Remedial Action Design (RAD), and to ensure that the work is completed in a timely and competent manner.

3.0 Other Requirements

3.1 Reports - Progress and Investigative

The Consultant shall submit to the Authority monthly progress reports to report status, difficulties or special problems encountered so that remedies can be developed. Included in the progress report Consultant shall report on costs expended per CTO and schedule status for current CTOs.

Unless otherwise stipulated, two (2) copies of the draft work plan, health and safety plan, and site investigation report must be submitted to Authority's Project Manager for review and approval. Work plans and investigation reports must be revised to address all comments, prior to being submitted in final form within the time specified in the CTO. Two (2) copies of the final work plan and final health and safety plan and three (3) copies (2 bound and 1 unbound) of the final investigation report must be submitted to the Authority's Project Manager unless another quantity is specified.

3.2 Deliverable Approval and Correction Procedures

All Consultant's data and documents produced under this Agreement shall be subject to acceptance by regulatory agencies, and Authority.

In the event of non-acceptance by regulatory agencies or Authority, the Consultant shall corrections or revisions within the time period specified by the Authority, typically from 7 and 21 calendar days, depending upon the extent of rework needed.

3.3 Meetings

The Consultant shall meet with the Authority at a designated pre-work site visit to view the site and discuss CTO execution. The Consultant shall provide a person at the pre-work site visit that will exercise responsible charge of the anticipated CTO.

The Consultant shall meet with the Authority designee, as needed, to discuss progress on its work assignments.

3.4 Monitoring and Review Procedures

Authority shall have the right to monitor and review the processes of the Consultant at any time by visiting the Consultant's facility, or by requiring meetings.

4.0 MISCELLANEOUS PROVISIONS

4.1 Health and Safety

Consultant shall at all times conduct its operations in such a manner as to avoid any risk of bodily harm to persons or damage to property. Consultant shall promptly take all precautions that are reasonable or necessary to safeguard against such risk, and shall make regular safety inspections of its operations. Consultant shall be solely responsible for the discovery, determination and correction of any unsafe conditions arising in connection with the performance of its services.

In addition, Consultant shall comply with all applicable health and safety laws, standards, codes, rules, and regulations, including any safety program established by the state of California and the U.S. Government as applicable. Consultant warrants the materials, equipment and facilities, whether temporary or permanent, furnished by Consultant in connection with the performance of

services shall comply therewith. Consultant shall cooperate and coordinate with Authority and with other Consultants on safety matters.

At the time any of Consultant's personnel are required to visit any work site, Consultant shall furnish suitable safety equipment and enforce the use of such equipment by those personnel. Consultant's personnel who visit any of the Work Sites on a regular basis shall have a thorough knowledge and understanding of the safety requirements.

Samples suspected of containing asbestos and/or lead shall be collected by personnel certified by the State of California to collect those samples.

The site Health and Safety Plan shall be developed by an industrial hygienist with sufficient knowledge to recognize and characterize the potential site hazards. During soil investigation activities a Site Safety Officer (SSO) will be designated and will be responsible for enforcing the site safety plan. Upon Authority' request, the site Health and Safety Plan shall be signed by a Certified Industrial Hygienist.

A copy of the Health and Safety Plan shall be distributed to all workers before the field investigation begins. All field investigation workers shall certify that they have read, understand, and agree to comply with the site Health and Safety Plan before the field investigation begins. Consultant shall ensure appropriate worker HAZWOPER training documents are available on site, are current, and available for review during site work activities.

The Consultant shall provide safe access to the Work Site for representatives of the applicable local and/or state regulatory agencies during normal field investigations work hours. Designated observation areas outside the work zone shall be established for these site visits. Such inspection tours shall be arranged in advance with the SSO. The SSO shall accompany the representatives while on the site. On Authority owned facilities, Consultant shall advise the Project Manager when safety meetings are to be held.

Consultant shall ensure appropriate worker HAZWOPER training documents are available on site, are current, and available for review during site work activities.

Consultant shall report to Authority any unsafe conditions observed by its personnel at any Work Site. Any of the Consultant's personnel that Authority determines do not have the requisite skills, knowledge, abilities, conscientiousness or diligence to perform their required tasks safely and effectively, shall, upon the Authority's written request to Consultant, be removed from the performance of services.

The Consultant shall require the full compliance with this clause by all of Consultant's subcontractors of any tier.

4.2 Site Safety Officer

The Consultant shall designate a Site Safety Officer (SSO) for each site under active investigation. A SSO or his/her designated representative shall be present at all times at each site under active investigation. The SSO shall hold one of the following recognized certifications: Certified Industrial Hygienist (CIH), Certified Safety Professional (CSP), or Construction Health and

Safety Technician (CHST). Both persons must be familiar with hazardous waste laws and regulations in California and with Cal/OSHA requirements. The SSO or his/her designated representative shall be available to accompany the Authority and/or representatives of the applicable regulatory agencies while they are on site.

The SSO shall direct the implementation and operation of the Health and Safety Plan, and shall enforce compliance with the Health and Safety Plan by all persons while they are within the site perimeter.

4.3 Owner/Regulatory Contacts

The Consultant shall only contact property owners as specifically directed and authorized by Authority. The Consultant shall coordinate with other agencies, such as the federal Environmental Protection Agency (EPA), California Environmental Protection Agency (Cal-EPA), Regional Water Quality Control Board (RWQCB), local environmental health agencies, and other authorities having jurisdiction, as necessary to complete field work. The Consultant shall notify and invite Authority representatives to all regulatory agency meetings related to this investigation.

4.4 Right-Of-Entry

The conditions of the right of entry agreement to the property will be explained to the Consultant during the pre-work site meeting. The Consultant shall know and follow the terms and conditions of the right of entry agreement at all times.

4.5 Permits and Licenses

Consultant shall be fully responsible for identifying and obtaining all necessary permits required to perform the services under this Agreement.

Consultant acknowledges that it has familiarized itself with the existing requirements of Authority and all applicable federal, state, county and municipal laws, codes, rules, and regulations and the conditions of any required licenses and permits as they were in effect on the date of this Agreement. Consultant shall comply with all the foregoing, and except as otherwise provided herein, Consultant shall procure all licenses and registrations and shall furnish any bonds, security, or deposits required to perform its work, and the costs thereof shall be included in the agreed CTO cost estimates or fixed prices. Any added costs due to Consultant's errors or omissions shall be borne by Consultant without any increase in the CTO cost or performance time.

4.6 Underground Services Alert (USA)

Before any CTO involving disturbance of the ground beyond surface sampling begins, the Consultant shall obtain an inquiry identification number from USA.

4.7 Traffic Control

Traffic control (barricades, portable flashing beacons, and detours), when necessary to accomplish the contract work, will be the responsibility of Consultant. The Consultant shall coordinate with Authority or local agency. Traffic control shall be addressed in the Health and Safety Plan.

4.8 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements

The Consultant shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, grass and other plantings) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under a CTO.

The Consultant shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to, or should be known by, the Consultant. The Consultant shall repair, at its own cost or expense, any damage to those facilities, including those that are the property of a third party, resulting from Consultant failure to comply with the requirements of this Agreement or any CTO issued thereunder, or from failure to exercise reasonable care in performing the work. If the Consultant fails or refuses to repair the damage promptly, the Authority may have the necessary work performed and charge the cost to the Consultant.

4.9 Project Diary

A Project Diary must be maintained to support all work performed. The diary must be filled out and signed as to be true and correct. It must identify the person responsible for project management and must include, but not be limited to; additional notations, observations or remarks to further clarify work.

4.10 Decontamination/Disposal

If required, all personnel shall be decontaminated before leaving the site as specified in the site Health and Safety Plan. Decontamination procedures shall generally follow the guidelines found in 8 CCR 5192 and shall be detailed in the site Health and Safety Plan.

Consultant shall equip, supply and maintain an on-site decontamination station for the drilling, installation and sampling equipment. Consultant shall ensure that this station has the capacity to contain all decontamination fluids used in the decontamination procedure. Consultant shall collect these fluids in appropriate containers.

Consultant shall wash and clean all equipment prior to initiation of work at the site. This includes drilling machines; pipe, rods, samplers, pumps, casing, screens and any other material brought on site. Before reuse of any equipment at another drilling location at the site, all equipment shall be decontaminated.

General requirements for decontamination include, but are not limited to:

- Auger flights and any other tools used in drilling, monitoring and sampling shall be steam cleaned before initial use and between boreholes.
- Before each use, sampling tubes, liners and bailers, shall be washed in a mixture of liquinox, or similar product, and clear water, rinsed in clear water, rinsed in distilled water and air dried.
- All suspect asbestos containing materials and lead paint materials shall be handled wet.

The Consultant shall avoid contamination of the project area and shall not dump waste oil, drilling fluids, rubbish or other materials on the ground. All equipment, unused materials, temporary

facilities and other miscellaneous items resulting from or used in the operation shall be removed from the site.

Material removed from trenches, drill holes etc., shall be properly collected in containers or stockpiled on plastic sheeting supplied by the Consultant.

4.11 Hazardous Waste Manifest

For any said hazardous material or contamination found within the existing State highway right of way, the State of California (State) will sign the manifest, if the hazardous waste is of HM-1 Category. HM-1 Category is hazardous waste which State or federal regulatory control agencies having jurisdiction have determined must be remediated regardless of whether distributed by work or not. If hazardous waste is of HM-2 Category, State and Consultant will jointly sign the manifests. HM-2 Category is hazardous waste which State and federal regulatory agencies having jurisdiction would have not regulated or would have allowed to remain in place if undistributed or otherwise protected in place should work not proceed.

For any hazardous material or contamination found within the existing OCTA right-of-way, OCTA will sign the manifest.

4.12 Regulatory Requirements

Consultant agrees that it will not store any hazardous substances at the job site for periods in excess of ninety (90) days or in violation of the applicable site storage limitations imposed by law, the site (?) Owner, Authority, whichever shall be more restrictive. Consultant further agrees that it will not permit any accumulation in excess of the small quantity generator exclusion of 40 CFR Part 261 or other applicable law, as amended. Consultant agrees to report to the appropriate governmental agencies all discharges, releases, and spills of hazardous substances and/or wastes required to be reported by law and to immediately notify Authority of same.

4.13 Expert Testimony

The need may arise for Consultant and subcontracted personnel to provide expert testimony during hearings and/or court proceedings in connection with the tasks performed under this Agreement. Therefore, the Consultant shall make available expert consulting services in support of future proceedings, including litigation support and shall enter into any intent agreement as necessary with subcontractors or subconsultants to ensure the availability of their personnel provided under this Agreement to provide expert consulting services.

Should the Consultant or any subcontractors at any tier, ever testify in court in any case related to this Agreement, all his/her work will be considered proprietary to the Authority. In such a case, the Consultant and/or subcontractor of any tier shall not release any information to adverse parties.

4.14 Disclosure of Information

The Consultant shall notify, and obtain the written approval of the Authority prior to releasing any information to any third parties including the news media regarding any work under this Agreement except as required by law. The Consultant shall immediately notify the Authority of the receipt of a demand by a third party for the disclosure of field test data generated under the Agreement. This requirement shall flow down to all subcontractors.

SCOPE OF WORK

ATTACHMENT I

INITIAL SITE ASSESSMENT

INITIAL SITE ASSESSMENT REPORT

GENERAL REQUIREMENTS

Contents of the Initial Site Assessment Report should include, but not limited to the following:

1. Title sheet which identifies the CTO number, project name, project location, contract number, Consultant name, name of author, and date.
2. Signature page with signature and title of persons who prepared and reviewed the report.
3. Table of Contents.
4. Investigative Summary: This section should present and summarize the technical data and findings of the investigation.
5. Investigation narrative which shall include, but not limited to the following:
 - Investigation methods and evaluation criteria.
 - Known hazardous substance sites (name, location, contamination onsite, federal or state, impact, schedule for cleanup, etc.).
 - Potential hazardous substance sites in the vicinity of the ISA site (name, location, type of operation, reason to suspect potential area of impact, etc.).
 - Name, address, and telephone number of the business/owner(s) of each site.
 - Type of hazardous substance and/or containers involved at each site (i.e., sludge pits, ponds, underground/above ground storage tanks, etc.). This data shall be written in a clear and concise form, and summarized in table form.
 - Chemicals/hazardous materials that have been stored/used in the past at each site, and the known generators (if available) of the materials.
 - Permits, violations, plans, records, and any other information reviewed.
 - Sketches photographs, and/or descriptive comments as necessary to identify important features such as buildings, ponds, utility lines, etc.
 - Aquifer descriptions (depths to groundwater, gradient, conductivity, yield, quality, and beneficial users). Public sources such as Department of Water Resources reports and USGS reports will be sources of this type of information.
 - Geologic units: Geologic and hydrologic information should be scaled to the freeway project. The shallow subsurface conditions (i.e., less than 50 feet) will have the greatest impact on construction.

- Location and use of all known groundwater monitoring wells in the subject corridor vicinity.
- All known or potential hazardous substance sites shall be identified with corresponding symbols and physical features such as geologic units, aquifer descriptions, and depth to groundwater on a project right-of-way map included in the ISA Report.
- How project may affect suspect sites (i.e., area of contamination vs. construction excavation).
- A list of sites recommended for site investigations shall be included, along with recommendations for follow-up investigations. These sites shall be ranked by significance using a rationale fully justified in the report and prioritized for scheduling this follow-up work.
- Degree of significance for each hazardous substance problem in terms of time to mitigate and approximate costs.
- Describe future plans, if any, of the Environmental Protection Agency, California Environmental Protection Agency (Department of Health Services), Regional Water Quality Control Board, or other agencies involved in remediating hazardous substance sites within or adjacent to the proposed right-of-way.
- Identify individuals or agencies contacted in developing the information included in the ISA Report.
- List contact names, telephone numbers, dates contacted, and information reviewed.
- Limitations in the adequacy and/or conclusions reached in this assessment shall be explained in detail.

**AGREEMENT NO. C-2-1210
EXHIBIT A
ATTACHMENT II**

**SCOPE OF WORK
ATTACHMENT II
SITE INVESTIGATION REPORT**

SITE INVESTIGATION REPORT

GENERAL REQUIREMENTS

The report shall be typed and bound in an 8 1/2" X 11" size. Contents of the Site Investigation Report should include, but is not limited to the following:

1. Title sheet, which identifies the Contract number, CTO number, project name, project location, Consultant name, and date.
2. Signature page to include signature and title of persons who prepared and reviewed the report.
3. Table of Contents.
4. Investigative Summary: This section should present and summarize the technical data and findings of the investigation.
5. Introduction: At a minimum this section should include:
 - Site Description
 - Surrounding Properties
 - Site history
 - Environmental setting
 - Regional Geology
 - Site Geology and Hydrogeology
 - Purpose and Scope of work
6. Site Investigation Procedures: This section should provide a work plan and field work methods used for the investigation and should include, at a minimum:
 - Soil Boring Locations
 - Atmospheric Monitoring
 - Borehole Drilling, Sampling and Backfilling
 - Field Screening
 - Equipment Decontamination
 - Chemical Analyses Program
7. Site Investigation Results: This section should provide an evaluation of soil investigation results and should include, at a minimum:
 - Maps to scale showing the site location feature locations, boring and well locations, vertical and horizontal extent of contamination, contour maps of contaminant concentrations, and hydraulic gradient.
 - Cross-sections showing subsurface geologic and hydrogeologic conditions, sample results, and estimated extent of contamination. An estimate of volume of contaminated soil and groundwater present must be given along with assumptions and calculations used.

AGREEMENT NO. C-2-1210
EXHIBIT A
ATTACHMENT II

- Statistical analysis of sample results estimating distribution and average concentration, and statistical analysis that demonstrate trends in contaminant level and distribution.
- Backup data for maps, cross sections, and graphs.
- Summary of laboratory results.

8. Conclusions and Recommendations: This section should include, at a minimum:

- Nature, extent, and estimated volume of contamination
- Recommendations for additional work necessary to characterize the site and potential cost

9. Appendices: All data used to support the report including, but not limited to:

- Well and boring logs for both existing and new wells and borings (include all wells that can influence hydrogeologic conditions of the site).
- Copies of all permits (i.e., well permits) obtained from state, county, and/or local regulatory agencies.
- Laboratory analysis of each sample tested. Laboratory reports must include Chain-of-Custody forms.
- Survey elevations and location of wells or borings, benchmark, or monument locations.

10. References

SCOPE OF WORK

ATTACHMENT III

REMEDIAL INVESTIGATION/FEASIBILITY STUDY REPORT

REMEDIAL INVESTIGATION/FEASIBILITY STUDY REPORT

GENERAL REQUIREMENTS

The report shall be typed and bound in an 8 1/2" X 11" size. The Remedial Investigation/Feasibility Study Report should include, at a minimum the following:

1. Title sheet that identifies the Contract number, CTO number, project name, project location, Consultant name, and date.
2. Signature page to include signature and title of persons who prepared and reviewed the report.
3. Table of Contents.
4. Introduction: At a minimum this section should include, but not limited to:
 - Site Description
 - Surrounding Properties
 - Site history
 - Environmental setting
 - Regional Geology
 - Site Geology and Hydrogeology
 - Purpose and Scope of work
5. Study Area Investigation: This section should include, at a minimum:
 - Surface features (topographic mapping, natural and manmade features, etc.)
 - Contaminant source investigations
 - Meteorological investigations
 - Surface water and sediment investigations
 - Soil and vadose zone investigations
 - Groundwater investigations
6. Physical Characteristics of Study Area: This section at a minimum should include field activity results, which then determine physical characteristics including:
 - Surface features
 - Geology
 - Hydrogeology
 - Soils
 - Demography and land use
7. Nature and Extent of Contamination: This section should present results of soil characterization, both natural chemical components and contaminants in media.
8. Fate and Transport should include, at a minimum:

- Potential routes of migration
 - Contaminant persistence
 - Contaminant migration
9. Risk Assessment should include, at a minimum:
- Human health evaluation
 - Environmental evaluation
10. Identification and Screening Technologies: This section should include, at a minimum the following:
- Remedial Action Objectives
 - General Response Actions
 - Identification of appropriate and effective technologies for remediation of soil and/or groundwater contamination at the site
11. Development and Screening of Alternatives: This section should include, but not limited to:
- Assembly of technologies into remedial alternatives capable of addressing all media/volumes/areas of contamination which are of concern
 - Discussion of rationale for combination of technologies/media into alternatives
 - Discuss screening/evaluating of alternatives
 - Screen alternatives on the basis of effectiveness, implementation, and cost
 - Discuss feasibility to implement alternatives given the site conditions, location, and time frame
 - Discussion of effectiveness of the treatment on the material in question
 - Discuss the reliability of the alternatives in terms of demonstrated effectiveness and the operation and maintenance requirements

AGREEMENT NO. C-2-1210
EXHIBIT A

12. Detailed Analysis of Alternatives: This section should include an analysis of the "No Action" alternative and at least two other remedial alternatives. Each alternate Analysis should address: time, operation and maintenance requirements, risks to health and environment, cost-effectiveness, level of cleanup, potential economic impact on the responsible party, the physical limitations of the site, controlling regulations and permits, public health concerns, direct and indirect capital costs, and the impact of the cleanup methods on the continuing site activities, future construction activities, and Authority use.
13. Summary and Conclusions
 - Summary
 - Recommendations
14. Recommended Remedial Alternative: Based on the results of the detailed analysis, this section should contain a detailed discussion of the recommended remedial alternative including the basis for this recommendation.
15. References
16. Appendices

PART I – LIST OF KEY PERSONNEL

<u>Names</u>	<u>Functions</u>

PART II – LIST OF SUBCONTRACTORS/SUBCONSULTANTS

<u>Subcontractor Name/Address</u>	<u>Function</u>

SECTION VI

FORMS AND RELATED INSTRUCTIONS

**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 bid 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 bid 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 bid, 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 bid.

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

**LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN
FEDERAL TRANSACTIONS**

A. DEFINITIONS

1. Authority, as used in this clause, means the Orange County Transportation Authority, acting on behalf of the Orange County Transit District.
2. Covered Federal action, as used in this clause, means any of the following Federal actions:
 - 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.
 - The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
3. Indian tribe and tribal organization, as used in this clause, shall have the meaning provided in Section 4 of the Indian Self-determination and Education Assistance Act (25 U.S.C. 4508) and include Alaskan Natives.
4. Influencing or attempting to influence, as used in this clause, means making, with the intent to influence, any communication to or appearance before 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 any covered Federal action.
5. Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public AUTHORITY, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.
6. Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:
 - An individual who is appointed to a position in the Government under title 5, United States code, including a position under a temporary appointment.
 - A member of the uniformed services, as defined in the subsection 101(3), Title 37, United States Code.

- A special Government employee, as defined in Section 202, Title 18, United States Code.
 - An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2.
7. Person, as used in this clause, means an individual, corporation, company, association, AUTHORITY, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
 8. Reasonable compensation, as used in this clause, means with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.
 9. Reasonable payment, as used in this clause means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.
 10. Recipient, as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
 11. Regularly employed, as used in this clause, means, with respect to an officer or employee of a person requesting or receiving by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

12. State, as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State regional or interstate entity having governmental duties and powers.

B. PROHIBITIONS

1. Section 1352 of Title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence 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 any of the following covered Federal actions: 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; or, the modification of any Federal contract, grant, loan, or cooperative agreement.
2. The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence 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 a Federal contract, grant, loan or cooperative agreement.
3. The prohibitions of the Act do not apply under the following conditions:
 - b. Agency and legislative liaison by own employees.
 - (1) The prohibition on the use of appropriated funds, in subparagraph B.1. of this clause, does not apply in the case of payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.
 - (2) For purposes of paragraph B.3.a.(1) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

- (3) The following agency and legislative liaison activities are permitted any time where they are not related to a specific solicitation for any covered Federal action:

Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities.

Technical discussions and other activities regarding the application of adaptation of the person's products or services for an agency's use.

- (4) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,

Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507, and subsequent amendments.

- (5) Only those services expressly authorized by paragraph B.3.a.(1) of this clause are permitted under this clause.

c. Professional and technical services

- (1) The prohibition on the use of appropriated funds, in subparagraph B.1. of this clause, does not apply in the case of:

A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid,

proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as condition for receiving that Federal action.

Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission or negotiation of any bid, proposal, or application or that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

- (2) For purposes of paragraph B.3.a.(1) of this clause, professional and technical services shall be limited to advise and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission, or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.

- (3) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.
- (4) Only those services expressly authorized by paragraph B.3.a.(1) and (2) of this clause are permitted under this clause.
- (5) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

d. Disclosure

- (1) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form OMB standard form LLL, Disclosure of Lobbying Activities, (Attachment to the bid package) if such person has made or had agreed to make any payment using non appropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph B.1. of this clause, if paid for with appropriated funds.
- (2) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph II.A. of this clause. An event that materially affects the accuracy of the information reported includes:
 - A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or
 - A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- (3) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.

- (4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the District at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

e. Agreement

The Contractor agrees not to make any payment prohibited by this clause.

f. Penalties

- (1) Any person who makes an expenditure prohibited under paragraph a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
- (2) Contractors may relay without liability on the representation made by their subcontractors in the certification and disclosure forms.

g. Cost Allowability:

Nothing in this clause is to be interpreted to make allowable or reasonable any costs, which will otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provisions.

**CERTIFICATION OF
RESTRICTIONS ON LOBBYING**

I, _____, hereby certify on behalf (name of offeror) of
_____ that:
(Firm name)

1. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence 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 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 for influencing or attempting to influence 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 the attached Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in all subcontracts, and that all subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is 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 section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, 200_

By _____
(Signature of authorized official)

(Title of authorized official)

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer application ☐ b. initial award ☐ c. post-award	3. Report Type: ☐ a. initial filing ☐ b. material changes For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, if known: Congressional District, if known: _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____
6. Federal Department/Agency: _____	7. Federal Program Name/Description: CFDA number, if applicable: _____	
8. Federal Action Number, if known: _____	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI) (attach Continuation Sheet(s) SF - LLL - A if necessary)		b. Individuals Performing Services (including address if different from No 10a) (last name, first name, MI): _____
11. Amount of Payment (check all that apply): \$ _____ ☐ actual ☐ planned	13. Type of Payment (check all that apply): ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other specify: _____	
12. Forum of Payment (check all that apply): ☐ a. cash ☐ b. in-kind; specify nature: _____ value: _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s) or Member(s) contracted for Payment indicated in Item, 11: (attach Continuation Sheet(s) SF-LLL-A if necessary)		
15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No		
16. Information requested through this form is authorized by Code 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.		Signature: _____ Print name: _____ Title: _____ Telephone No: _____ Date: _____
Federal Use Only		Authorized for Local Reproduction Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES

This DISCLOSURE FORMS SHALL BE COMPLETED BY the reporting entity, whether Subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence 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 a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address city, state, and zip code of the prime Federal recipient. Include Congressional District.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency, name if known. For example, Department of Transportation, United State Coast Guard.
7. Enter the Federal program name for description of the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g. Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a.). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box (es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box (es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Management and Budget Paperwork Reduction Project (0348-0446), Washington, D.C. 20503.
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DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____

**DISADVANTAGED BUSINESS ENTERPRISE
REQUIREMENTS AND INSTRUCTIONS**

1. TERMS AS USED IN THIS DOCUMENT

- The term "Disadvantaged Business Enterprise" or "DBE" means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- The term "Underutilized Disadvantaged Business Enterprise" or "UDBE" is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups:
 - Black American
 - Asian-Pacific American
 - Native American
 - Women
- The term "bidder" also means "proposer" or "offerer."
- The term "Agreement" also means "Contract."
- The term "Agency" also means the local entity entering into this contract with the Contractor or Consultant.
- The term "Small Business" or "SB" is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (See 49 CFR 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs"). The Offerer should ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The Offerer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Offerer's are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF UDBE AND DBE INFORMATION

"Enclosure 4a" Local Agency Proposer UDBE (Consultant Contract) Commitment"

If there is a UDBE goal on the contract, a "Local Agency Proposer UDBE (Consultant Contract) Commitment" form shall be included in the Request for Proposal. In order for an Offerer to be considered responsible and responsive, the Offerer must make good faith efforts to meet the goal established for the

contract. If the goal is not met, the bidder/proposer must document adequate good faith efforts. Only UDBE participation will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

"Enclosure 4b" Local Agency Proposer DBE (Consultant Contract) Information" (Successful Offerer Only)

A "Local Agency Proposer DBE (Consultant Contract) Information" form shall be included with the Request for Proposal. The purpose of the form is to collect data required under 49 CFR 26. For contracts with UDBE goals, this form collects DBE participation by DBEs owned by Hispanic American and Subcontinent Asian Americans. For contracts with no goals, this form collects information on all DBEs, including UDBEs. Even if no DBE participation will be reported, the Offerer must execute and return the form.

"Enclosure 4c" Bidders List

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 Offerer shall provide the requested information for every firm who submitted a bid, proposal or quote, including the primary Offerer, 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 ***Enclosure 4c*** 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 Offerer to be deemed responsive.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the Offerer's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department's (California Department of Transportation) DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A UDBE bidder, not bidding as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The bidder is a UDBE and will meet the goal by performing work with its own forces.
 - 2. The bidder will meet the goal through work performed by UDBE subcontractors, suppliers or trucking companies.
 - 3. The bidder, prior to bidding, made adequate good faith efforts to meet the goal.
- D. 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.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55; that is, a DBE firm 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.
- F. The bidder (prime contractor) shall list only one subcontractor for each portion of work as defined in their bid/proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
- G. An Offerer who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance. Bidder/Proposer may call (916) 440-0539 for web or download assistance.
- B. Access the CUCP database from the Department of Transportation, Civil Rights, Business Enterprise Program website at:
<http://www.dot.ca.gov/hq/bep/>.
- Click on the link in the left menu titled Find a Certified Firm
 - Click on Query Form link, located in the first sentence
 - Click on Certified DBE's (UCP) located on the first line in the center of the page
 - Click on Click To Access DBE Query Form
 - Searches can be performed by one or more criteria
 - Follow instructions on the screen
 - "Start Search," "Requery," "Civil Rights Home," and "Caltrans Home" links are located at the bottom of the query form
- C. How to Obtain a List of Certified DBEs without Internet Access

DBE Directory: If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the on-line database. A copy of the directory of certified DBEs may be ordered from the Caltrans Division of Procurement and Contracts/Material and Distribution Branch/Publication Unit, 1900 Royal Oaks Drive, Sacramento, CA 95815, Telephone: (916) 445-3520.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS DBE CREDIT, AND IF A DBE IS ALSO A UDBE, PURCHASES WILL COUNT TOWARDS THE UDBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count one hundred percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises, the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies are purchased from a DBE regular dealer, count sixty percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public

in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not an ad hoc or Agreement-by -Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not UDBE regular dealers within the meaning of this section.
 - D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.
- 7. FOR DBE TRUCKING COMPANIES: CREDIT FOR DBES WILL COUNT TOWARDS DBE CREDIT, AND IF A DBE IS A UDBE, CREDIT WILL COUNT TOWARDS THE UDBE GOAL, UNDER THE FOLLOWING CONDITIONS:**
- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Agreement, and there cannot be a contrived arrangement for the purpose of meeting the UDBE goal.
 - B. The DBE must itself own and operate at least one fully licensed, insured and operational truck used on the Agreement.
 - C. The DBE receives credit for the total value of the transportation services it provides on the Agreement 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 Agreement

- 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 the DBE.
- F. For the purposes of this Section D, a lease must indicate that the DBE has exclusive use 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, as 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.

Local Agency Proposer UDBE Commitment (Consultant Contracts)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE REVERSE SIDE OF THIS

AGENCY: _____ LOCATION: _____

PROJECT DESCRIPTION: _____

CONTRACT GOAL: \$ _____

PROPOSAL DATE: _____

PROPOSER'S NAME: _____

WORK ITEM NO.	DESCRIPTION OR SERVICES TO BE SUBCONTRACTED	DBE Cert. No. AND EXPIRATION DATE	NAME OF UDBEs (Must be certified on the date the proposals are opened - include UDBE address and phone number)	PERCENTAGE AMOUNT OF EACH UDBE

For Local Agency to Complete:

Local Agency Contract Number: _____

Federal Aid Project Number: _____

Federal Share: _____

Proposal Award Date: _____

Local Agency certifies that the UDBE certification(s) has been verified and all information is complete and accurate.

Print Name Signature Date
Local Agency Representative

(Area Code) Telephone Number: _____

Total Claimed
Participation

\$ _____

%

Signature of Proposer

Date (Area Code) Tel. No.

For Caltrans Review:

Print Name Signature Date
Caltrans District Local Assistance Engineer

Local Agency Bidder - UDBE Commitment (Rev 3/09)

Distribution: (1) Copy – If this Proposer is successful fax or scan a copy to the Caltrans District Local Assistance Engineer (DLAE) within 15 days of award. Failure to send a copy to the DLAE within 15 days of award may result in de-obligation of funds for this project. (2) Original – Local agency files

**INSTRUCTIONS - LOCAL AGENCY PROPOSER- UDBE COMMITMENT
(CONSULTANT CONTRACTS) (Revised 03/09)**

ALL PROPOSERS:

PLEASE NOTE: It is the proposer's responsibility to verify that the UDBE(s) falls into one of the following groups in order to count towards the UDBE contract goal: 1) Black American; 2) Asian-Pacific American; 3) Native American; 4) Women. This information shall be submitted with your proposal. Failure to submit the required UDBE commitment will be grounds for finding the proposal nonresponsive

UDBE is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups:

1. Black American
2. Asian-Pacific American
3. Native American
4. Women

The form requires specific information regarding the consultant contract: Agency, Location, Project Descriptions, Federal Aid Project Number (assigned by Caltrans-Local Assistance), Proposal Date, Proposer's Name, and Contract Goal.

The form has a column for the Work Item Number (or Item No's) and Description or Services to be Subcontracted to UDBEs. The UDBE should provide a certification number to the Consultant. Notify the Consultant in writing with the date of the decertification if their status should change during the course of the contract. The form has a column for the Names of certified UDBEs to perform the work (must be certified on the date proposals are received and include UDBE address and phone number). Enter the UDBE prime consultant and subconsultant certification numbers. Prime consultants shall indicate all work to be performed by UDBEs including, if the prime consultant is a UDBE, work performed by its own forces.

There is a column for the total UDBE percentage. Enter the Total Claimed UDBE Participation percentage of items of work submitted with the proposal pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the UDBE, describe exact portion of time to be performed or furnished by the UDBE.) See Notice to Bidders/Proposers Disadvantaged Business Enterprise Information to determine how to count the participation of UDBE firms. Note: If the proposer has not met the contract goal, the local agency must evaluate the proposer's good faith efforts to meet the goal in order to be considered for award of the contract.

Exhibit H-1 must be signed and dated by the consultant proposing. Also list a phone number in the space provided and print the name of the person to contact.

For the Successful Proposer only, local agencies should complete the Contract Award Date and Federal Share fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of award. Failure to submit a completed and accurate form within the 15-day time period may result in the de-obligation of funds on this project.

District DBE Coordinator should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.

**INSTRUCTIONS - LOCAL AGENCY PROPOSER DBE INFORMATION
(CONSULTANT CONTRACTS) (Revised 03/09)**

SUCCESSFUL PROPOSER:

The form requires specific information regarding the consultant contract: Agency, Location, Project Description, Federal Aid Project Number (assigned by Caltrans-Local Assistance), Proposal Date, and Successful Proposer's Name.

The form has a column for the Description or Services to be Subcontracted by DBEs. The DBE should provide a certification number to the prime consultant. The form has a column for the Names of DBE certified consultants to perform the work (must be certified on the date the proposal is received and include DBE address and phone number). Enter DBE prime consultant's and subconsultants' certification numbers. The prime consultant shall indicate all work to be performed by DBEs including, if the prime consultant is a DBE, work performed by its own forces.

Enter the Total Claimed DBE Participation percentage of items of work in the total DBE Dollar Amount column. (If 100% of item is not to be performed by the DBE, describe the exact portion of time to be performed by the DBE.) See Notice to Proposers/Bidders Disadvantaged Business Enterprise Information to determine how to count the participation of DBE firms.

Exhibit H-2 must be signed and dated by the successful proposer at contract execution. Also list a phone number in the space provided and print the name of the person to contact.

For the successful proposer, local agencies should complete the Contract Award Date and Federal Share fields and verify that all information is complete and accurate before signing and sending a copy of the form to the District Local Assistance Engineer within 15 days of contract execution. Failure to submit a completed and accurate form within the 15-day time period may result in the de-obligation of funds on this project.

District DBE Coordinator should verify that all information is complete and accurate. Once the information has been verified, the **District Local Assistance Engineer** signs and dates the form.



BIDDERS LIST

Bidder/Offerer: _____ **IFB/RFP No.:** _____

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/Offerer is to complete all requested information on **Form H-3: "Bidders List"** for every firm who submitted a bid, proposal or quote, including the primary Bidder/Offerer, and submit this information at the time of bid submission. However, if not elected to do so at the time of bid submission, Bidders/Offerers 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.

Prime Bidder's/Offerer's Information:	
Name of Prime's 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:
DBE Certification Eligibility (place an "X"): ___ African American ___ Asian Pacific American ___ Native American ___ Woman ___ Hispanic American ___ Subcontinent Asian American ___ Other	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:
DBE Certification Eligibility (place an "X"):	☐ Less than \$1 million
☐ African American ☐ Asian Pacific American ☐ Native American ☐ Woman ☐ Hispanic American ☐ Subcontinent Asian American ☐ Other	☐ Less than \$5 million
	☐ Less than \$10 million
	☐ Less than \$15 million
	☐ More than \$15 million

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:
DBE Certification Eligibility (place an "X"):	☐ Less than \$1 million
☐ African American ☐ Asian Pacific American ☐ Native American ☐ Woman ☐ Hispanic American ☐ Subcontinent Asian American ☐ Other	☐ 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/Offerer to submit the required "Bidders List" form will be grounds for finding the proposal non-responsive.

UDBE Information
Good Faith Efforts Form

Federal-aid Project No. _____ Bid Opening Date

The Orange County Transportation Authority established an Under-utilized Disadvantaged Business Enterprise (UDBE) goal of **seven percent (7%)** for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the "Local Agency Bidder – UDBE Commitment" form indicates that the bidder has met the UDBE goal. This will protect the bidder's eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a UDBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the "Local Agency Bidder – UDBE Commitment" form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled "Submission of UDBE Commitment" of the Special Provisions:

- A. The names and dates of each publication in which a request for UDBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

<u>Publications</u>	<u>Dates of Advertisement</u>
_____	_____
_____	_____
_____	_____

- B. The names and dates of written notices sent to certified UDBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the UDBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of UDBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates

- C. The items of work which the bidder made available to UDBE firms, including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate UDBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate UDBE participation was made available to UDBE firms.

Items of Work	Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract

- D. The names, addresses and phone numbers of rejected UDBE firms, the reasons for the Offerer's rejection of the UDBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each UDBE if the selected firm is not a UDBE:

Names, addresses and phone numbers of rejected UDBEs and the reasons for the bidder's rejection of the UDBEs:

Names, addresses and phone numbers of firms selected for the work above:

- E. Efforts made to assist interested UDBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to UDBEs:

- F. Efforts made to assist interested UDBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the UDBE subcontractor purchases or leases from the prime contractor or its affiliate:

- G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using UDBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization	Method/Date of Contact	Results

- H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.

STATUS OF PAST AND PRESENT CONTRACTS

On the form provided below, Offeror shall list the status of past and present contracts where the firm has either provided services as a prime contractor or a subcontractor during the past five (5) years in which the contract has ended or will end in a termination, settlement or in legal action. A separate form must be completed for each contract. Offeror shall provide an accurate contact name and telephone number for each contract and indicate the term of the contract and the original contract value.

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

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

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

Name _____ Date _____
Title _____