

REQUEST FOR PROPOSALS (RFP) 9-0453

**On-Call Utility Coordination
and Support Services**



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

Key RFP Dates

Issue Date:	July 1, 2009
Pre-Proposal Conference Date:	July 14, 2009
Question Submittal Date:	July 22, 2009
Proposal Submittal Date:	August 4, 2009
Interview Date:	August 26, 2009

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July 1, 2009

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS
RFP 9-0453: "On-Call Utility Coordination and Support Services"**

Gentlemen/Ladies:

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to furnish on-call utility coordination and support services for various ongoing and future capital projects.

Proposals must be received in the Authority's office at or before 2:00 p.m. on August 4, 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**

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**

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) 9-0453 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) 9-0453

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-0-0453, 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 Consulting
Professional Services

Commodity(s):

Consultants Services – Land Use
Real Estate Services
Engineering – Right-of-Way

A pre-proposal conference will be held on **July 14, 2009 at 9:00 a.m.** at the Authority's Administrative Office, 600 South Main Street, Orange, California, in conference Room 103/104. All prospective Offerors are encouraged to attend the pre-proposal conference.

The Authority has established **August 26, 2009** as the date to conduct interviews. All prospective Offerors are asked to keep this date available.

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 **zero (0) percent** Underutilized Disadvantaged Business Enterprise (UDBE) participation goal for the services of this solicitation, due to the limited viable UDBE subcontracting opportunities available.

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 July 14, 2009, at 9:00 a.m. at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103/104. All prospective Offerors are 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. Offerors shall acknowledge receipt of addenda in their proposals.

D. AUTHORITY CONTACT

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

Robert P. Sechler, Senior Contract Administrator
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 July 22, 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 **July 24, 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 Consulting
Professional Services

Commodity(s):

Consultants Services – Land Use
Real Estate Services
Engineering – Right-of-Way

Inquiries received after 5:00 p.m. July 22, 2009 will not be responded to.

F. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be received in the Orange County Transportation Authority's office at or before 2:00 p.m. on August 4, 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**

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**

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

The 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 9-0453: On-Call Utility
Coordination and Support Services"**

4. Acceptance of Proposals

- a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- b. The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice, and the Authority makes no representations that any contract will be awarded to any Offeror responding to this RFP.
- c. The Authority reserves the right to postpone proposal openings for its own convenience.
- d. Proposals received by 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 utility types and site work 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 and proportionality of resource allocation among CTO sub-tasks; and (4) reasonableness and affordability of price. Pricing will be on a time-and-materials basis.

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

L. PREVAILING WAGES

Not used.

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 **zero (0) percent** Underutilized Disadvantaged Business Enterprise (UDBE) participation goal for the services of this solicitation, due to the limited viable UDBE subcontracting opportunities available.

SECTION II
PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT

M. PROPOSAL FORMAT AND CONTENT

1. Format

Proposals should be typed with a standard 12 point font, double-spaced and submitted on 8 1/2" x 11" size paper, using a single method of fastening. Charts and schedules may be included in 11"x17" format. Offers should not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged and presentations should be brief and concise. Proposals should not exceed fifty (50) pages in length, excluding any appendices or forms to be submitted with the proposal.

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Attention: Robert 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 contract person identified during period of proposal evaluation.
- b. Identification of all proposed subcontractors including legal name of company, whether the firm is a Disadvantaged Business Enterprise (DBE), contact person's name and address, phone number and fax number; and relationship between the Offeror and subcontractors, if applicable.
- c. Acknowledgement of receipt of all RFP addenda, by addendum number.
- 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 a similar nature; demonstrated competence in the services to be provided; strength and stability of the firm; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references. 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; and number of employees.
- (2) Provide a general description of the firm's financial condition and identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project. Describe experience in working with the various government agencies identified in this RFP.
- (4) Identify subcontractors by company name, address, contact person, telephone number and project function. Describe Offeror's experience working with each subcontractor.
- (5) Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, address and telephone number of the person(s) at the client organization who is most knowledgeable about the work performed. **Ensure that reference addresses are current and that their phone numbers are active and direct (not general numbers of their employers).** Offeror may also supply references from other work not cited in this section as related experience.

b. Proposed Staffing and Project Organization

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

- (1) Provide education, experience, and applicable professional credentials of project staff.
- (2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel. Include years of employment with current employer and prior employers.
- (3) Indicate adequacy of labor resources utilizing a table projecting the percentage of individuals' time available for assignment to the task orders to be issued under an agreement awarded pursuant to this RFP.
- (4) Identify key personnel proposed to perform the work in the tasks and sub-tasks specified in the Scope of Work, and those tasks and subtasks to be performed regularly by subcontractors. Include the person's name, current location, proposed position for the services, current assignments and levels of commitment to those assignments; and their levels of availability for the services of this RFP. **"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.**
- (5) Include a project organization chart which clearly delineates communication and reporting relationships among the project staff and between the prime consultant and subcontractors.
- (6) Include a statement that key personnel will be available to the extent proposed for the duration of the on-call agreement, including the initial term and option terms; and acknowledge 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

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

- (1) Describe its general approach to completing the tasks and sub-tasks specified in the Scope of Work. This description shall be thorough and sufficiently detailed to demonstrate the

Offeror's ability to accomplish the objectives of the services.

- (2) Outline sequentially the activities that would typically be undertaken to perform a Contract Task Order (CTO).
- (3) Identify methods that the Offeror will use to ensure quality control as well as budget and schedule control for a CTO.
- (4) Identify any special issues or problems that are likely to be encountered in performing the Scope of Work tasks and sub-tasks, and how the Offeror would propose to address them.

The 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

The Offeror shall state any exceptions to or deviations from the requirements of this RFP, segregating "technical" exceptions from "contractual" exceptions. Where the 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 terms and conditions of the Proposed Agreement and any of its attachments or exhibits.

4. Cost and Price Proposal

The Offeror shall submit proposed pricing to provide the services for all of the work tasks described in Exhibit A, Scope of Work. The Offeror shall complete the PRICE PROPOSAL FORM included with this RFP (Exhibit B), and furnish any narrative required to explain the prices. The Agreement will have a time-and-materials type of payment provision, with the Consultant paid for actual hours worked plus other direct costs for a CTO. Each CTO will have an estimated price based upon the hourly rates and other direct cost rates in the initial or final Exhibit B made part of the Agreement. The PRICE PROPOSAL FORM shall be submitted in an original and six (6) copies, **but in a sealed envelope separate from the technical proposal.**

5. Appendices

Information considered by Offeror to be pertinent to this work, but which has not been specifically solicited in any of the aforementioned sections, may be placed in a separate appendix. 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. 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."

C. STATUS OF PAST AND PRESENT CONTRACTS FORM

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.

4. PARTY AND PARTICIPANT DISCLOSURE FORMS

In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Boards of Directors, The Offeror is required to complete, sign and submit the Party and Participant Disclosure Forms (**Enclosures 6a and 6b**) provided in this RFP. The Offeror is required to submit only one copy of the completed form(s) with the original proposal. The prime consultant and subcontractors must complete the form entitled "Party Disclosure Form" included with Enclosure 6a. The form entitled "Participant Disclosure Form," included with Enclosure 6b, must be completed by lobbyists or agents representing the prime consultant. Therefore, the prime consultant, subcontractors and agents will be required to report all campaign contributions from the proposal submittal date up and until the Board of Directors makes a selection, which is currently scheduled for **Mid-September 2009**.

SECTION III
EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

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

- 1. Qualifications of the Firm 30%**

Technical experience in performing work of a closely similar nature; experience working with public agencies; strength and stability of the firm; strength, stability, experience and technical competence of subcontractors; assessment by client references.
- 2. Staffing and Project Organization 30%**

Qualifications of project staff, particularly key personnel and especially the Project Manager; key personnel's level of involvement in performing related work cited in "Qualifications of the Firm" section; logic of project organization; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel.
- 3. Work Plan 20%**

Depth of Offeror's understanding of Authority's requirements and overall quality of work plan; logic, clarity and specificity of work plan; appropriateness of labor distribution among the tasks; ability to meet the project deadline; reasonableness of proposed schedule; utility of suggested technical or procedural innovations.
- 4. Cost and Price 20%**

Reasonableness and affordability of the proposed hourly rates and other direct costs compared with other offers received; adequacy of data in support of figures quoted; reasonableness of individual task budgets; basis on which prices are quoted.

B. EVALUATION PROCEDURE

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

During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established **August 26, 2009**, as the date to

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

At any time during the evaluation process, and before or after selection for award, the Authority may negotiate contract terms with some or all Offerors, and expressly reserves the right to negotiate with several Offerors simultaneously, and thereafter to award a contract to the Offeror or Offerors presenting the most favorable terms to the Authority. Offerors may also be asked to submit a Best and Final Offer (BAFO). The BAFO will include, but not necessarily be limited to, additional information, confirmation or clarification of issues, and submission of a final cost/price proposal.

At the conclusion of the evaluation process, the evaluation committee will recommend to the appropriate Board Committee, the Offeror with the highest final ranking or a short list of top ranked Offerors within the competitive range. The Board Committee will review the evaluation committee's recommendation and forward its decision to the full Board of Directors for final action.

C. AWARD

The Authority's Board of Directors, will consider the recommendation of staff and the Board Committee, and may accept the recommendation and approve contract award; modify the recommendation; or reject the recommendation.

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 the Offeror's most favorable terms and conditions, since the selection and award may be made without discussion with any Offeror.

D. NOTIFICATION OF AWARD AND DEBRIEFING

Offerors who submit a proposal in response to this RFP shall be notified via CAMMNET of the contract award. Such notification shall be made within three (3) days of the date the contract is awarded. Offerors who were not awarded a contract may obtain a debriefing concerning the strengths and weaknesses of their proposal. Unsuccessful Offerors, who wish to be debriefed, must request the debriefing in writing or electronic mail and the Authority must receive it within three (3) days of notification of the contract award.

SECTION IV

PROPOSED AGREEMENT

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

ARTICLE 2. AUTHORITY DESIGNEE

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

ARTICLE 3. SCOPE OF WORK

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

B. CONSULTANT shall provide the key personnel listed in Part I of Attachment 1 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. 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 November 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 December 1, 2012 and continuing through November 30, 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".

C. AUTHORITY, at its sole discretion, may elect to extend the term of this Agreement up to an additional twelve (12) months, commencing December 1, 2013 and continuing through November 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.

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ARTICLE 5. CONTRACT TASK ORDERS (CTO) AND PAYMENT

A. This Agreement is issued to place CONSULTANT and [Names and agreement numbers of other on-call firms] an on-call list ("ON-CALL FIRMS"). As the need for consulting services arises during the term of these Agreements, CTO's may be issued to CONSULTANT and/or other ON-CALL FIRMS at AUTHORITY's sole discretion. Each CTO will be issued on competitive basis for a specifically defined the Scope of Work, the total cost of the CTO to be paid to CONSULTANT, and any other information, which may be needed to perform the services. AUTHORITY does not guarantee that CONSULTANT or any of the ON-CALL FIRMS will receive an assignment, nor that the firms will receive an equal number of assignments, nor does the AUTHORITY make any guarantee that the CTO budgeted amount will be expended.

B. CONSULTANT shall submit to AUTHORITY, a written technical proposal and cost estimate within 48 hours from AUTHORITY's request. CONSULTANT shall submit a final written technical proposal and cost proposal within five (5) working days from AUTHORITY's initial request. 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 forfeiture of retention monies and/or termination of this Agreement.

C. For CONSULTANT's full and complete performance of its obligations under this Agreement, and subject to the maximum cumulative payment obligation provisions set forth in **Error! Reference source not found.**, AUTHORITY shall pay CONSULTANT on a Time and Expense basis in accordance with the following provisions.

1. For each full hour of labor satisfactorily performed by CONSULTANT's personnel under this Agreement, AUTHORITY shall pay CONSULTANT at the hourly labor rates specified in Exhibit B, entitled "Schedule of Fees," which is attached to and by this reference, incorporated in and made a part of this Agreement. These rates shall remain fixed for the term of this Agreement and are acknowledged to include CONSULTANT's direct labor costs, indirect costs and profit. Furthermore, AUTHORITY shall reimburse CONSULTANT for the exact amount of the expenses shown in Exhibit B,

which are directly incurred by its personnel in the performance of work under this Agreement. The AUTHORITY will not reimburse CONSULTANT for local meals or any other expenses not approved in the attached Exhibit B.

2. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding to the labor hours expended by CONSULTANT. Work completed shall be documented in a monthly progress report prepared by CONSULTANT, which report shall accompany each invoice submitted by CONSULTANT. CONSULTANT shall also furnish such other information as may be requested by AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY may decline to make full payment for any work until such time as CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required. AUTHORITY's payment in full for any work completed shall not constitute AUTHORITY's final acceptance of CONSULTANT's work under such task; final acceptance shall occur only when AUTHORITY's release of the retention described in paragraph 3.

3. As partial security against CONSULTANT's failure to satisfactorily fulfill all of its obligations under this Agreement, AUTHORITY shall retain percent (%) of the amount of each invoice submitted for payment by CONSULTANT. All retained funds shall be released by AUTHORITY and shall be paid to CONSULTANT within sixty (60) calendar days of payment of final invoice, unless AUTHORITY elects to audit CONSULTANT's records in accordance with **Error! Reference source not found.** 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.

4. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in duplicate to AUTHORITY's Accounts Payable office. Each invoice shall be accompanied by the monthly progress report specified in paragraph 2 of this Article. AUTHORITY shall remit payment within thirty (30) calendar days of the receipt and approval of each invoice. Each invoice shall include the following information:

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- a) Agreement No. C-9-0453; and CTO Number;
- b) Specify the work for which payment is being requested;
- c) Labor (staff name, hours charged, hourly billing rate, current charges and cumulative charges) performed during the billing period;
- d) Itemized expenses including support documentation incurred during the billing period;
- e) Total monthly invoice (including project-to-date cumulative invoice amount)
- f) Monthly Progress Report;
- g) Certification signed by the CONSULTANT or his/her designated alternate that i.) The invoice is a true, complete and correct statement of reimbursable costs and progress; ii.) The backup information included with the invoice is true, complete and correct in all material respects; iii.) All payments due and owing to subcontractors and suppliers have been made; iv.) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; v.) The invoice does not include any amount which CONSULTANT intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice; and
- h) Any other information as agreed or requested by AUTHORITY to substantiate the validity of an invoice.

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ARTICLE 5. 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 Nine Hundred Thousand Dollars (\$900,000) 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 6. NOTICES

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

To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority
550 South Main Street
P.O. Box 14184
Orange, CA 92863-1584

ATTENTION:

ATTENTION: Robert P. Sechler
Senior Contract Administrator
(714) 560 – 5568 FAX: 714-560-5792
e-mail: rsechler@octa.net

ARTICLE 7. 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 8. 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-9-0452; and, the Contract Administrator's Name, Robert P. Sechler, Senior Contract Administrator.

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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 9. 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 9-0453; (4) CONSULTANT's proposal dated_____ ; and (5) all other documents, if any, cited herein or incorporated by reference.

ARTICLE 10. 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 11. DISPUTES

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

B. The provisions of this Article shall not be pleaded in any suit involving a question of fact arising under this Agreement as limiting judicial review of any such decision to cases where fraud by such official or his representative or board is alleged, provided, however, that any such decision shall

be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this Article, CONSULTANT shall be afforded an opportunity to be heard and to offer evidence in support of its appeal.

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

ARTICLE 12. 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 6, 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, reprocurement costs of the same or similar services defaulted by CONSULTANT under this Agreement. Such termination shall comply with CFR Title 48, Chapter 1, Part 49, of the FAR.

ARTICLE 13. INDEMNIFICATION

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

ARTICLE 14. 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 I 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.

C. With AUTHORITY's prior written approval, CONSULTANT may, if a need for specialized skills or schedule exigency so warrants, subcontract portions of a CTO Scope of Work to entities other than those shown in Part II of Attachment I to Exhibit A.

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ARTICLE 15. 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.

ARTICLE 16. 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.

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ARTICLE 17. 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 18. 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.

ARTICLE 19. 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.

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.

ARTICLE 20. 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,

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

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

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

12 4. Prompt Payment of Funds Withheld to Subcontractors

13 A. The Authority shall hold retainage from the prime consultant and shall make
14 prompt and regular incremental acceptances of portions, as determined by the agency, of the contract
15 work, and pay retainage to the prime consultant based on these acceptances. The prime consultant, or
16 subcontractor, shall return all monies withheld in retention from a subcontractor within 30 days after
17 receiving payment for work satisfactorily completed and accepted including incremental acceptances of
18 portions of the contract work by the agency. Federal law (49 CFR 26.29) requires that any delay or
19 postponement of payment over 30-days may take place only for good cause and with the agency's prior
20 written approval. Any violation of this provision shall subject the violating prime consultant or
21 subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the
22 Business and Professions Code. These requirements shall not be construed to limit or impair any
23 contractual, administrative, or judicial remedies otherwise available to the prime consultant or
24 subcontractor in the event of a dispute involving late payment or nonpayment by the prime consultant,
25 deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both
26 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 21. 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 22. 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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or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall not use AUTHORITY's name, photographs of the project, or any other publicity pertaining to the project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without the express written consent of AUTHORITY.

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

ARTICLE 23. PATENT AND COPYRIGHT INFRINGEMENT

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

B. CONSULTANT shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify AUTHORITY under any settlement made without CONSULTANT's consent or in the event AUTHORITY fails to cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at

CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or claim, CONSULTANT, at no expense to AUTHORITY, shall obtain for AUTHORITY the right to use and sell said item, or shall substitute an equivalent item acceptable to AUTHORITY and extend this patent and copyright indemnity thereto.

ARTICLE 24. FINISHED AND PRELIMINARY DATA

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

B. It is expressly understood that any title to preliminary technical data is not passed to AUTHORITY but is retained by CONSULTANT. Preliminary data includes roughs, visualizations, software design documents, layouts and comprehensives prepared by CONSULTANT solely for the purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given for preparation of finished artwork. Preliminary data title and right thereto shall be made available to AUTHORITY if CONSULTANT causes AUTHORITY to exercise Article 10, and a price shall be negotiated for all preliminary data.

ARTICLE 25. 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 26. 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 27. HEALTH AND SAFETY REQUIREMENTS

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

ARTICLE 28. PRIVACY ACT

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

ARTICLE 29. 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 30. 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 31. 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 32. 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 33. 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 34. 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 35. 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 36. 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-9-0453 to be executed on the date first above written.

(CONSULTANT)

ORANGE COUNTY TRANSPORTATION AUTHORITY

By _____

By _____

James S. Kenan
Chief Executive Officer

APPROVED AS TO FORM:

By _____

Kennard R. Smart, Jr.
General Counsel

APPROVED:

By _____

Kia Mortazavi
Executive Director, Development

Date _____



DRUG-FREE WORKPLACE ACT OF 1988

THE FEDERAL LAW

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LEVEL 1 SAFETY SPECIFICATIONS

APPLICATION - Level 1 Safety Specifications apply to contracts as determined by the Authority, including subcontracts, with consultants 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 or consultant 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, rail construction sites.

Examples of Level 1 scopes of work may include, but are not limited to, performing engineering, design or oversight tasks, audits or inspections and similar activities.

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

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

standards, the more stringent requirements shall be achieved for the safeguard of public and workers.

1.2 HAZARD COMMUNICATION

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

1.3 ACCIDENT INVESTIGATION

- A. The Authority shall be promptly notified of any damage to the Authority's property, or incidents involving third party property damage, or reportable and/or recordable injuries (as defined by the U. S. Occupational Safety and Health Administration) to Authority employees and agents; Contractor, vendor employees or visitors and members of the general public that occurs or arises 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.
- B. 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.

1.4 PERSONAL PROTECTIVE EQUIPMENT

- A. The Consultant, its sub-tier Consultants, suppliers, and employees are required to comply with the Authority's personal protective equipment (PPE) policy while performing work at any Authority facility, i.e. eye protection policy, hearing protection policy, head protection, safety vests, work shoe policy.
- B. The Consultant, its sub-tier Consultants, suppliers, and employees are required to provide their own PPE, including eye, head, foot, and hand protection, safety vests, or other PPE required to perform their work safely on Authority projects. The Authority requires eye protection on construction projects and work areas that meet ANSI Z-87.1 Standards.

END OF SECTION

SECTION V
SCOPE OF WORK

**Orange County Transportation Authority
On-Call Utility Coordination and Support Services
SCOPE OF WORK**

GENERAL DESCRIPTION OF WORK

Consultant shall provide on-call utility coordination and support services in connection with various ongoing and future capital projects, to include commuter rail, highways, transit, and other physical plant. Services will include research, surveys, evaluation of relocation alternatives, acquisition and relocation assistance, coordination among owners and stakeholders, general project/program management, and other related services as required. Specific projects will be assigned by the use of contract task orders (CTO's). For the purposes of this Scope of Work, "utility" shall be defined as electricity, gas, water, telephone, telegraph and communications cable; and "utility infrastructure" shall be defined as all lines, pipes, conduits, banks, wires, towers, pylons, switchgear, control instruments, substations, valves, junctions, transformers, pumps and pumping stations, and any other apparatus or constructed work typically needed to convey the utility services to consumers.

SPECIFIC TASKS

Consultant's work will include some or all of the following specific tasks and sub-tasks, depending on the extent of utility involvement in, and duration of, a project.

1.0 Investigation and Data Collection**1.1 Project Familiarization**

Familiarize task management and lead technical staff with the attributes of each project which may affect utility infrastructure, in particular project limits, type of construction, utility needs during construction, excavation, and utility needs for completed work.

1.2 Initiate and Maintain Utility Contacts

Forward letters of project introduction, in format already prepared and found acceptable by Authority, to each utility owner that may be affected by the project. Research utility contacts and maintain utility contact list.

1.3 Research and Data Collection

Obtain existing maps, as-built drawings, design plans, franchise agreements, licenses, permits and other available materials from Authority, local agencies, private and public property owners, utility owners, and other entities, as appropriate. Prepare all agreements necessary for the protection in place or relocation of affected utility infrastructure.

EXHIBIT A**1.4 Organize and Evaluate Collected Data**

- Organize and index collected data.
- Determine status and quality of prior utility identification.
- Follow-up with utilities to acquire additional material to make up a complete and accurate data set.
- Review franchise agreements and all other agreements utility companies may have in place.
- Research all prior right claims.
- Determine liability for relocation costs.
- Maintain a utility file for each utility facility that may be impacted. Utility files will be kept current and in a condition to be audited without issues. Upon completion of the CTO, utility files will be transferred to such entity as Authority may designate.

1.5 Field Reviews

Perform field reviews of each work site to identify potential utility infrastructure in project area, and to verify documentary data. Identify field survey results in sketch and digital picture format. Field sketches will be compiled on project design base sheets.

The Consultant shall use proper personal protective equipment as required for field reviews (i.e. safety vests, etc.).

1.6 Potholing

Pothole underground utility infrastructure to determine exact locations and characteristics.

The Consultant shall ensure that a "Competent Person" contacts "Dig Alert" (1-800-227-2600) a minimum of 48 hours prior to potholing and utilize probing techniques while potholing. Consultant shall comply with CCR Title 8, Construction Safety Orders, including but not limited to trenching, energy isolation (LOTO), CalTrans traffic control standards, and use of proper personal protective equipment.

1.7 Data Review Meetings with Utility Owners

Schedule meetings with utility owners upon completion of compilation of researched, surveyed and potholed data to obtain concurrence on consistency and accuracy.

2.0 Utility Relocation Planning**2.1 Determine Potential Conflicts and Resolution Approaches**

Work with Authority, designers, utility owners, and local agencies to identify potential utility infrastructure locations and potential conflicts. Assist in determination of whether to relocate or protect in place.

2.2 Notifications and Easement Requests

Notify, or assist other entities in notifying affected utility owners that their infrastructures are or may potentially be in conflict with the project, advising of the need to relocate and to exercise their franchise rights. Send requests for utility easements or property rights.

2.3 Facilitate Utility Owner Relocation Planning

Submit plans (provided by others) to utility owners for their initiation or relocation designs.

2.4 Identification of Critical Path Utility Relocations

Assist Authority's coordination with design consultants and utility owners to determine utility infrastructure relocations that are most critical to the project's construction schedule, and coordinate with utility owners and other entities, as applicable, to ensure utility owner's design and construction activities can be accomplished in order to meet the project's construction schedule.

2.5 Evaluate Relocation Options

Assist Authority, designer, utility owners, and other agencies with evaluating utility relocation options which may have been overlooked, and which may be advantageous with respect to cost, schedule, environmental impact, and functionality.

2.6 Identify Long Lead Utility Relocations

Assist OCTA with identifying utility infrastructure relocations that have long lead or special procurement requirements.

2.7 Identify Construction Support Needs

Assist in development and coordination of necessary installation of utility services to support project construction schedule

3.0 Design Support

3.1 Redline Utility Sheets

Obtain redline utility sheets indicating existing type, size, and ownership, of each utility in a format approved by the Authority. Redlines will be done on base sheets provided by others at 35, 65, or 90 percent design. Consultant will review preliminary utility sheets to support its coordination activities.

EXHIBIT A**3.2 Design Review**

Participate in project design reviews to ensure consistency of developing project designs with planned utility infrastructure relocations.

4.0 Construction Support**4.1 Relocation Plan Review**

Prior to start of construction, review utility owner's relocation plans to ensure compatibility with project plans. Assist Authority in reviewing project construction schedule to ensure compatibility with of utility infrastructure relocations with the construction schedule.

4.2 Utility Service for Construction

Coordinate and facilitate installation of temporary utility services supporting construction activities.

5.0 Coordination

Act as liaison among Authority, utility owners, cities, other public agencies and private property owners to –

- Obtain relocation plans
- Facilitate relocation of affected utility infrastructure.
- Process payment requests for relocation of affected utility infrastructure.
- Obtain, and ensure appropriate distribution of as-builts for relocated utility infrastructure.
- Work with cities to effect facilitate relocation of utility infrastructure under franchise agreements.
- Make arrangements with the affected utilities with prior rights, to confirm prior rights claims, and relocate their infrastructure as required.
- Prepare all necessary documents, including, but not limited to, Claim Letter, Notice to Relocate, Utility Agreement, and amendments

6.0 Relocation Closeout

Prepare utility closeout file for each utility relocation

7.0 Reporting

Submit one copy of a monthly Progress Report to the Authority project manager consisting of a written narrative and an updated bar chart format of the Project Master schedule. The narrative portion of the monthly Progress Report shall describe overall progress of the work, discuss significant problems and present proposed corrective action, and show the status of major changes. This report shall be submitted according to the timetable specified in the CTO.

PART I – LIST OF KEY PERSONNEL

Names	Functions

PART II – LIST OF SUBCONSULTANTS/SUBCONTRACTORS

Subcontractor Name/Address	Function

SECTION VI
PRICE PROPOSAL

RFP 9-0453 ON-CALL UTILITY COORDINATION AND SUPPORT SERVICES PRICE PROPOSAL FORM

SCHEDULE I--- HOURLY RATES

Name	Job Title/Classification	Job Function	Prime or Sub-Consultant	Subconsultant Name if Applicable	Hourly Rate*
Project/Task Management Staff					
			Prime		\$
			Prime		\$
			Prime		\$
Senior Level Professional/Technical Staff					
					\$
					\$
					\$
					\$
Mid-Level Professional/Technical Staff					
					\$
					\$
					\$
					\$
					\$
Junior Level Professional/Technical Staff					
					\$
					\$
					\$
					\$
Administrative/Clerical/Support Staff					
					\$
					\$
					\$
					\$
					\$

* Hourly rates are “fully burdened,” and include all overhead, general costs, administrative costs and profit. INCLUDE ONLY SINGLE RATES FOR ANY LINE ITEM. RANGES OF RATES ARE NOT ACCEPTABLE

RFP 9-0453 ON-CALL UTILITY COORDINATION AND SUPPORT SERVICES PRICE PROPOSAL FORM

SCHEDULE II ----- OTHER DIRECT COSTS

TYPE OF COST	UNIT OF MEASURE	UNIT RATE**
Automobile	Mile	\$ Current IRS Rate
Reproduction		\$
Black & White 8.5 x 11	Each	\$
Black & White 11 x 17	Each	\$
Color 8.5 x 11	Each	\$
Color 11 x 17	Each	\$
		\$
		\$
		\$
		\$
		\$
		\$

***INLCUDE ONLY SINGLE RATES FOR ANY LINE ITEM. RANGES OF RATES ARE NOT ACCEPTABLE.**

1. I acknowledge receipt of RFP 9-0453 and Addenda No.(s)_____.					
2. This offer shall remain firm for _____ days (MINIMUM OF 180) from the date of proposal.					
COMPANY NAME	STREET ADDRESS/SUITE No.	CITY	STATE	ZIP	PHONE
					() -
SIGNATURE OF PERSON AUTHORIZED TO BIND OFFEROR		NAME AND TITLE			DATE SIGNED

SECTION VII

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	Less than \$5 million
__ Native American __ Woman	Less than \$10 million
__ Hispanic American __ Subcontinent Asian American	Less than \$15 million
__ Other	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	Less than \$5 million
__ Native American __ Woman	Less than \$10 million
__ Hispanic American __ Subcontinent Asian American	Less than \$15 million
__ Other	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 **five 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 _____

PARTY DISCLOSURE FORM

Information Sheet

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

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

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

- A. If you are an applicant for, or the subject of, any proceeding involving a license, permit, or other entitlement for use, you are prohibited from making a campaign contribution of more than \$250 to any board member or his or her alternate. This prohibition begins on the date your application is filed or the proceeding is otherwise initiated, and the prohibition ends three months after a final decision is rendered by the Board of Directors. In addition, no board member or alternate may solicit or accept a campaign contribution of more than \$250 from you during this period.
- B. These prohibitions also apply to your agents, and, if you are a closely held corporation, to your majority shareholder as well. These prohibitions also apply to your subcontractor(s), joint venturer(s), and partner(s) in this proceeding. Also included are parent companies and subsidiary companies directed and controlled by you, and political action committees directed and controlled by you.
- C. You must file the attached disclosure form and disclose whether you or your agent(s) have in the aggregate contributed more than \$250 to any board member or his or her alternate during the 12-month period preceding the filing of the application or the initiation of the proceeding.
- D. If you or your agent have in the aggregate contributed more than \$250 to any individual board member or his/or her alternate during the 12 months preceding the decision on the application or proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the board member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a party in the proceeding. The

Party Disclosure Form should be completed and filed with your proposal, or with the first written document you file or submit after the proceeding commences.

1. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts), and all franchises.
2. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit or other entitlement for use. If an individual acting as an agent is also acting in his or her capacity as an employee or member of a law, architectural, engineering, consulting firm, or similar business entity, both the business entity and the individual are "agents."
3. To determine whether a campaign contribution of more than \$250 has been made by you, campaign contributions made by you within the preceding 12 months must be aggregated with those made by your agent within the preceding 12 months or the period of the agency, whichever is shorter. Contributions made by your majority shareholder (if a closely held corporation), your subcontractor(s), your joint venturer(s), and your partner(s) in this proceeding must also be included as part of the aggregation. Campaign contributions made to different directors or their alternates are not aggregated.
4. A list of the members and alternates of the Board of Directors is attached.

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

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND ITS AFFILIATED AGENCIES

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

Party's Name: _____

Party's Address: _____

Street

City

State

Zip

Phone

Application or Proceeding

Title and Number: _____

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

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Date: _____

Signature of Party and/or Agent

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Peter Buffa, Chairman

Jerry Amante, Vice Chairman

Patricia Bates, Director

Art Brown, Director

Bill Campbell, Director

Carolyn V. Cavecche, Director

William H. Dalton, Director

Richard Dixon, Director

Paul G. Glaab, Director

Cathy Green, Director

Allan Mansoor, Director

John Moorlach, Director

Janet Nguyen, Director

Chris Norby, Director

Curt Pringle, Director

Miguel Pulido, Director

Gregory T. Winterbottom, Director

PARTICIPANT DISCLOSURE FORM

Information Sheet

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

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

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

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

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

- B. The attached disclosure form must be filed if you or your agent has contributed more than \$250 to any board member or alternate for the Orange County Transportation Authority or any of its affiliated agencies during the 12-month period preceding the beginning of your active support or opposition. (The disclosure form will assist the board members in complying with the law.)
- C. If you or your agent have made a contribution of more than \$250 to any board member or alternate during the 12 months preceding the decision in the proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a participant in the proceeding.

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

1. An individual or entity is a "participant" in a proceeding involving an application for a license, permit or other entitlement for use if:
 - a. The individual or entity is not an actual party to the proceeding, but does have a significant financial interest in the Orange County Transportation Authority's or one of its affiliated agencies' decision in the proceeding.

AND

- b. The individual or entity, directly or through an agent, does any of the following:
 - (1) Communicates directly, either in person or in writing, with a board member or alternate of the Orange County Transportation Authority or any of its affiliated agencies for the purpose of influencing the member's vote on the proposal;
 - (2) Communicates with an employee of the Orange County Transportation Authority or any of its affiliated agencies for the purpose of influencing a member's vote on the proposal; or
 - (3) Testifies or makes an oral statement before the Board of Directors of the Orange County Transportation Authority or any of its affiliated agencies.
2. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use; all contracts (other than competitively bid, labor, or personal employment contracts) and all franchises.
3. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit, or other entitlement for use. If an agent acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar business entity or corporation, both the business entity or corporation and the individual are agents.

4. To determine whether a campaign contribution of more than \$250 has been made by a participant or his or her agent, contributions made by the participant within the preceding 12 months shall be aggregated with those made by the agent within the preceding 12 months or the period of the agency, whichever is shorter. Campaign contributions made to different members or alternates are not aggregated.
5. A list of the members and alternates of the Board of Directors is attached.

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

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND ITS AFFILIATED AGENCIES

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

Party's Name: _____

Party's Address: _____

Street

City

State

Zip

Phone

Application or Proceeding
Title and Number: _____

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

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Date: _____

Signature of Party and/or Agent

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

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Cathy Green, Director

Allan Mansoor, Director

John Moorlach, Director

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Chris Norby, Director

Curt Pringle, Director

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Gregory T. Winterbottom, Director