

REQUEST FOR PROPOSALS (RFP) 9-0687

**PREPARATION OF A NATURAL COMMUNITY
CONSERVATION PLAN/
HABITAT CONSERVATION PLAN/
MASTER STREAMBED ALTERATION
AGREEMENT**



ORANGE COUNTY TRANSPORTATION AUTHORITY

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

Key RFP Dates

Issue Date:	September 28, 2009
Pre-Proposal Conference Date:	October 13, 2009
Question Submittal Date:	October 27, 2009
Proposal Submittal Date:	November 17, 2009
Interview Date:	December 15, 2009

TABLE OF CONTENTS

	<u>PAGE</u>
NOTICE FOR REQUEST FOR PROPOSALS	ii
SECTION I. INSTRUCTIONS TO OFFERORS	1
SECTION II. PROPOSAL CONTENT	7
SECTION III. EVALUATION AND AWARD	13
A. EVALUATION CRITERIA	14
B. EVALUATION PROCEDURE	14
C. AWARD	15
D. NOTIFICATION OF AWARD AND DEBRIEFING	15
SECTION IV. AGREEMENT	16
SECTION V. SCOPE OF WORK	17
SECTION VI. FORMS	18
A. PARTY AND PARTICIPANT DISCLOSURE FORM	
B. STATUS OF PAST AND PRESENT CONTRACT FORM	
C. SAFETY SPECIFICATIONS	



BOARD OF DIRECTORS

Peter Buffa
Chairman

Jerry Amante
Vice-Chairman

Patricia Bates
Director

Art Brown
Director

Bill Campbell
Director

Carolyn V. Cavecche
Director

William J. Dalton
Director

Richard Dixon
Director

Paul G. Glaab
Director

Cathy Green
Director

Allan Mansoor
Director

John Moorlach
Director

Janet Nguyen
Director

Chris Norby
Director

Curt Pringle
Director

Miguel Pulido
Director

Gregory T. Winterbottom
Director

Cindy Quon
Governor's
Ex-Officio Member

CHIEF EXECUTIVE OFFICE

Will Kempton
Chief Executive Officer

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS
RFP 9-0687: NATURAL COMMUNITY CONSERVATION
PLAN/HABITAT CONSERVATION PLAN/MASTER
STREAMBED ALTERATION AGREEMENT**

Gentlemen/Ladies:

The Orange County Transportation Authority invites proposals from qualified consultants to prepare a Natural Community Conservation Plan, Habitat Conservation Plan and a Master Streambed Alteration.

Proposals must be received in the Orange County Transportation Authority's office at or before 2:00 p.m. on November 17, 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: Sarah L. Strader, 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: Sarah L. Strader, 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) 9-0687 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) 9-0687

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

To receive all further information regarding this RFP 9-0687, firms must be registered on CAMMNET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

Commodities for this solicitation are:

<u>Category(s):</u>	<u>Commodity(s):</u>
Professional Consulting	Consultant Services General
	Consultant Services Land Use
	Environmental Consulting
Professional Services	Engineering Environmental
	Engineering General

A pre-proposal conference will be held on October 13, 2009, at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 154 at 2:30 p.m. All prospective Offerors are encouraged to attend the pre-proposal conference.

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

The Authority has established **December 15, 2009** as the date to conduct interviews. All prospective Offeror's will be asked to keep this date available.

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

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

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

The award of this contract is subject to receipt of federal, state and/or local funds adequate to carry out the provisions of the proposed agreement including the identified Scope of Work.

Sincerely,

A handwritten signature in cursive script, reading "Sarah L. Strader".

Sarah L. Strader

Senior Contract Administrator

Contracts Administration and Materials Management

SECTION I
INSTRUCTIONS TO OFFERORS

SECTION I. INSTRUCTIONS TO OFFERORS**A. PRE-PROPOSAL CONFERENCE**

A pre-proposal conference will be held on October 13, 2009, at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 154 at 2:30 p.m. All prospective Offerors are strongly encouraged to attend the pre-proposal conference.

B. EXAMINATION OF PROPOSAL DOCUMENTS

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

C. ADDENDA

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

D. AUTHORITY CONTACT

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

Sarah L. Strader, Senior Contract Administrator
Contracts Administration and Materials Management Department
600 South Main Street, P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560.5633, Fax: 714.560.5792, or E-Mail: sstrader@octa.net

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

Should an Offeror require clarifications of this RFP, the Offeror shall notify the Authority in writing in accordance with Section E.2 below. Should it be found that the point in question is not clearly and fully set forth, the Authority will issue a written addendum clarifying the matter, which will be sent to all firms registered on CAMMNET under the commodity codes specified in this RFP.

2. Submitting Requests

- a. All questions, including questions that could not be specifically answered at the pre-proposal conference must be put in writing and must be received by the Authority no later than 5:00 p.m., October 27, 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: Sarah L. Strader, Senior Contract Administrator e-mail address is sstrader@octa.net.

3. Authority Responses

Responses from the Authority will be posted on CAMMNET, the Authority's interactive website, no later than. Offerors may download responses from CAMMNET at www.octa.net/CAMMNET, or request responses be sent via U.S. Mail by e-mailing or faxing the request to Sarah L. Strader, Senior Contract Administrator.

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

Commodities for this solicitation are:

Category(s):
Professional Consulting

Commodity(s):
Consultant Services General
Consultant Services Land Use
Environmental Consulting

Professional Services

Engineering - Environmental
Engineering - General

Inquiries received after October 27, 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 November 17, 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: Sarah L. Strader, Senior Contract Administrator**

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

**Orange County Transportation Authority
Contracts Administration and Materials Management (Camm)
P.O. Box 14184
Orange, California 92863-1584
Attention: Sarah L. Strader, Senior Contract Administrator**

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

3. Identification of Proposals

Offeror shall submit **one original and eight 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 9-0687: PREPARATION OF A NATURAL COMMUNITY
CONSERVATION PLAN/HABITAT CONSERVATION PLAN/MASTER
STREAMBED ALTERATION AGREEMENT"**

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

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a firm-fixed price contract specifying firm-fixed prices for individual tasks specified in the Scope of Work included in this RFP as Section V.

L. PREVAILING WAGES

Certain labor categories under this project are subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et. seq. The proposer to whom a contract for the work is awarded by the Authority shall comply with the provision of the California Labor Code, including, without limitation, the obligation to pay the general prevailing rates of wages in the locality in which the work is to be performed in accordance with, without limitation, Sections 1773.1, 1774, 1775 and 1776 of the California Labor Code governing employment of apprentices. Copies of the prevailing rates of per diem wages are on file at the Authority's principal office at 550 S. Main Street, Orange, CAA 92868 and are available to any interested party on request.

M. CONFLICT OF INTEREST

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

N. CODE OF CONDUCT

CONSULTANT agrees to comply with the AUTHORITY's Code of Conduct as it relates to Third-Party contracts which is hereby referenced and by this reference is incorporated herein. CONSULTANT agrees to include these requirements in all of its subcontracts.

SECTION II
PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT AND FORMS

A. PROPOSAL FORMAT AND CONTENT

1. Presentation

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

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Sarah L. Strader, Senior Contract Administrator, and must, at a minimum, contain the following:

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

3. Technical Proposal

a. Qualifications, Related Experience and References of Offeror

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

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

Offeror to:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; number of employees.
- (2) Provide a general description of the firm's financial condition, identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project.
- (4) Describe experience in working with the various government agencies that may have jurisdiction over the approval of the work specified in this RFP. Please include specialized experience and professional competence in areas directly related to this RFP.
- (5) Provide a list of past joint work by the Offeror and each subcontractor, if applicable. The list should clearly identify the project and provide a summary of the roles and responsibilities of each party.
- (6) Provide as a minimum of three (3) references should be provided. Furnish the name, title, address and telephone number of the person(s) at the client organization who is most knowledgeable about the work performed. Offeror may also supply references from other work not cited in this section as related experience.

b. Proposed Staffing and Project Organization

This section of the proposal should establish the method that will be used by the Offeror to manage the project as well as identify key personnel assigned.

Offeror to:

- (1) Provide education, experience and applicable professional credentials of project staff. Include applicable professional credentials of "key" project staff.
- (2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel.
- (3) Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, and proposed position for this project, current assignment, and level of commitment to that assignment, availability for this assignment and how long each person has been with the firm.
- (4) Include a project organization chart that clearly delineates communication/reporting relationships among the project staff, including subconsultants.
- (5) Include a statement that key personnel will be available to the extent proposed for the duration of the project, acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

c. Work Plan

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

Offeror to:

- (1) Describe the approach and work plan for completing the tasks specified in the Scope of Work. The work plan shall be of such detail to demonstrate the Offeror's ability to accomplish the project objectives and overall schedule.
- (2) Outline sequentially the activities that would be undertaken in completing the tasks and specify who in the firm would perform them.
- (3) Furnish a project schedule for each task and subtask in terms of elapsed weeks from the project commencement date.
- (4) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.

- (5) Identify any special issues or problems that are likely to be encountered during this project and how the Offeror would propose to address them.
- (6) Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

d. Exceptions/Deviations

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

4. Cost and Price Proposal

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

5. Appendices

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

B. FORMS

1. Party and Participant Disclosure Forms

In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Boards of Directors, Offeror is required to complete and sign the Party and Participant Disclosure forms provided in this RFP and submit as part of the proposal.

Offeror is required to submit only one copy of the completed forms as part of its proposal and it should be included in only the original proposal. The form entitled "Party Disclosure Form" must be completed by the prime consultant and subcontractors. The form entitled "Participant Disclosure Form" must be completed by lobbyists or agents representing the prime consultant in this procurement. Reporting of Campaign Contributions is required up and until the Authority's Board of Directors makes a selection. Therefore, the prime consultant, subcontractors and agents will be required to report all campaign contributions from the date of proposal submittal up and until the Board takes action, which is currently scheduled for January 25, 2010 .

2. Status of Past and Present Contracts Form

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

3. Level I Safety Specifications

Offeror is advised that the Authority's safety requirements are to assist Offeror and any subconsultants in recognizing hazards with a potential of injury or property damage while working on Authority property or on the Authority's behalf.

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 35%

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

3. Work Plan 35%

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

B. EVALUATION PROCEDURE

An evaluation committee will be appointed to review all proposals for this RFP. The evaluation committee is comprised of Authority staff and may include outside personnel. The committee members will evaluate the written proposals. Each member of the evaluation committee will then evaluate each proposal using the criteria identified in Section III. A. to arrive at a "proposal score" for each proposal. Based on the proposal scores, a list of Offeror's within a competitive range will be developed based upon the totals of each committee member's score for each proposal. During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established

December 15, 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 consideration. The interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the Offeror's proposal and qualifications.

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

C. AWARD

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

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

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

D. NOTIFICATION OF AWARD AND DEBRIEFING

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

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

SECTION IV
PROPOSED AGREEMENT

1 PROPOSED AGREEMENT NO. C-9-0687

2 BETWEEN

3 ORANGE COUNTY TRANSPORTATION AUTHORITY

4 AND

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

10 **WITNESSETH:**

11 WHEREAS, AUTHORITY requires assistance from CONSULTANT to provide Natural
12 Community Conservation Plan, Habitat Conservation Plan, Master Streambed Alteration Agreement;
13 and

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

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

17 WHEREAS, CONSULTANT wishes to perform these services; and

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

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

21 **ARTICLE 1. COMPLETE AGREEMENT**

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

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

ARTICLE 2. AUTHORITY DESIGNEE

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

ARTICLE 3. SCOPE OF WORK

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

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

Names

Functions

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

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

ARTICLE 4. TERM OF AGREEMENT

This Agreement shall commence upon execution by both parties, and shall continue in full force and effect through March 14, 2012, unless earlier terminated or extended as provided in this Agreement.

ARTICLE 5. PAYMENT

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

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

<u>Tasks</u>	<u>Description</u>	<u>Firm Fixed Price</u>
1	Project Management/Coordination/Administration	.00
2	Public Involvement Process	.00
3	Biological Resources and Wetlands Data Inventory	.00
4	Conservation Strategies Development	.00
5	Assessment of Impacts and Level of Take	.00
6	Economic Analysis of Conservation Funding Mechanism	.00
7	Alternatives to Take Considered and Rejected	.00

8	Implementation Approach and Structure	.00
9	Administrative/Committee Drafts of NCCP/HCP Document	.00
10	Master Streambed Alteration Agreement	.00
11	CEQA ad NEPA Documentation Preparation	.00
12	NCCP/HCP/MSAA EIR/EIS Public Review	.00
TOTAL FIRM FIXED PRICE PAYMENT		.00

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

D. As partial security against CONSULTANT's failure to satisfactorily fulfill all of its obligations under this Agreement, AUTHORITY shall retain ten percent (10%) of the amount of each invoice submitted for payment by CONSULTANT. All retained funds shall be released by AUTHORITY and shall be paid to CONSULTANT within sixty (60) calendar days of payment of final invoice, unless AUTHORITY elects to audit CONSULTANT's records in accordance with Article 16 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.

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

within thirty (30) calendar days of the receipt and approval of each invoice. Each invoice shall include the following information:

1. Agreement No. C-9-06879-0687;
2. Specify the task number for which payment is being requested;
3. The time period covered by the invoice;
4. Total monthly invoice (including project-to-date cumulative invoice amount); and retention;
5. Monthly Progress Report;
6. Certification signed by the CONSULTANT or his/her designated alternate that a) The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup information included with the invoice is true, complete and correct in all material respects; c) All payments due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The invoice does not include any amount which CONSULTANT intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice.
7. Any other information as agreed or requested by AUTHORITY to substantiate the validity of an invoice.

ARTICLE 6. MAXIMUM OBLIGATION

Notwithstanding any provisions of this Agreement to the contrary, AUTHORITY and CONSULTANT mutually agree that AUTHORITY's maximum cumulative payment obligation (including obligation for CONSULTANT's profit) shall be _____ Dollars (\$0.00) which shall include all amounts payable to CONSULTANT for its subcontracts, leases, materials and costs arising from, or due to termination of, this Agreement.

/

/

/

ARTICLE 7. NOTICES

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

To CONSULTANT:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

ATTENTION:

ATTENTION: Sarah L. Strader

Senior Contract Administrator

(714) 560 – 5633; e-mail - *sstrader@octa.net*

ARTICLE 8. INDEPENDENT CONTRACTOR

CONSULTANT's relationship to AUTHORITY in the performance of this Agreement is that of an independent contractor. CONSULTANT's personnel performing services under this Agreement shall at all times be under CONSULTANT's exclusive direction and control and shall be employees of CONSULTANT and not employees of AUTHORITY. CONSULTANT shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

ARTICLE 9. INSURANCE

A. CONSULTANT shall procure and maintain insurance coverage during the entire term of this Agreement. 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 Liability, and Property Damage with a minimum limit of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

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

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

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

5. 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 the AUTHORITY.

C. CONSULTANT shall include on the face of the Certificate of Insurance the Agreement Number C-9-0687; and, Sarah L. Strader, Senior Contract Administrator.

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

ARTICLE 10. ORDER OF PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 9-0687;(3) CONSULTANT's proposal dated _____; (4) all other documents, if any, cited herein or incorporated by reference.

/

ARTICLE 11. CHANGES

By written notice or order, AUTHORITY may, from time to time, order work suspension and/or make changes in the general scope of this Agreement, including, but not limited to, the services furnished to AUTHORITY by 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 12. DISPUTES

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

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

C. Pending final decision of a dispute hereunder, CONSULTANT shall proceed diligently with the performance of this Agreement and in accordance with the decision of AUTHORITY's Director, Camm. This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Agreement, however, shall be construed as making final

the decision of any AUTHORITY official or representative on a question of law, which questions shall be settled in accordance with the laws of the state of California.

ARTICLE 13. TERMINATION

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

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 all reasonable costs incurred by AUTHORITY as a result of such default including, but not limited to, reprourement costs of the same or similar services defaulted by CONSULTANT under this Agreement.

ARTICLE 14. INDEMNIFICATION

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

ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS

A. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by CONSULTANT either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONSULTANT, without the prior written consent of AUTHORITY. Consent by

AUTHORITY shall not be deemed to relieve CONSULTANT of its obligations to comply fully with all terms and conditions of this Agreement.

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

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

ARTICLE 16. AUDIT AND INSPECTION OF RECORDS

CONSULTANT shall provide AUTHORITY, or other agents of AUTHORITY, such access to CONSULTANT's accounting books, records, payroll documents and facilities, as AUTHORITY deems necessary. CONSULTANT shall maintain such books, records, data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during CONSULTANT's performance hereunder and for a period of four (4) years from the date of final payment by AUTHORITY. AUTHORITY's right to audit books and records directly related to this Agreement shall also extend to all first-tier subcontractors identified in Article 15 of this Agreement. Consultant shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary.

ARTICLE 17. CONFLICT OF INTEREST

CONSULTANT agrees to avoid organizational conflicts of interest. An organizational conflict of interest means that due to other activities, relationships or contracts, the CONSULTANT is unable, or potentially unable to render impartial assistance or advice to the Authority; CONSULTANT's objectivity in performing the work identified in the Scope of Work is or might be

otherwise impaired; or the CONSULTANT has an unfair competitive advantage. CONSULTANT is obligated to fully disclose to the AUTHORITY in writing Conflict of Interest issues as soon as they are known to the CONSULTANT. All disclosures must be submitted in writing to AUTHORITY pursuant to the Notice provision herein. This disclosure requirement is for the entire term of this Agreement.

ARTICLE 18. CODE OF CONDUCT

CONSULTANT agrees to comply with the AUTHORITY's Code of Conduct as it relates to Third-Party contracts which is hereby referenced and by this reference is incorporated herein. CONSULTANT agrees to include these requirements in all of its subcontracts.

ARTICLE 19. FEDERAL, STATE AND LOCAL LAWS

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

ARTICLE 20. EQUAL EMPLOYMENT OPPORTUNITY

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

ARTICLE 21. PROHIBITED INTERESTS

CONSULTANT covenants that, for the term of this Agreement, no director, member, officer or employee of AUTHORITY during his/her tenure in office or for one (1) year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds 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 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 11, and a price shall be negotiated for all preliminary data.

ARTICLE 25. 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 ATTCHMENT A. CONSULTANT agrees to 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 26. FORCE MAJEURE

Either party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; or a material act or omission by the other party; when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

/

/

/

/

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-0687 to be executed on the date first above written.

CONSULTANT

ORANGE COUNTY TRANSPORTATION AUTHORITY

By _____

By _____

Will Kempton
Chief Executive Officer

APPROVED AS TO FORM:

By _____

Kennard R. Smart, Jr.
General Counsel

APPROVED:

By _____

Kia Mortazavi
Executive Director, Development



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

RFP 9-0687
ATTACHMENT A

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

SECTION V
SCOPE OF WORK

SCOPE OF WORK

ENVIRONMENTAL SERVICES

FOR

NCCP/HCP/MSAA JOINT PROGRAMMATIC EIR/EIS

**FOR THE RENEWED MEASURE M,
FREEWAY MITIGATION PROGRAM**

(ENVIRONMENTAL MITIGATION AND RESOURCE PROGRAM)

September 28, 2009

TABLE OF CONTENTS

Scope of Work

	<u>Page</u>
Section 1.0 Description of Project.....	1
1.1 Project Description.....	1
1.1-1 Background.....	1
1.1-2 Objective.....	3
1.1-3 Planning Area	5
1.1-4 Conservation Assessment Analysis	5
1.1-5 Statement of Intent.....	5
1.1-6 Timeframe for Completion – Project Management Plan	5
1.2 Standards.....	6
1.2-1 Conflicts.....	6
1.2-2 Environmental Documentation.....	6
Section 2.0 General Conditions and Requirements	7
2.1 Scope of Work General Conditions and Requirements	7
Section 3.0 Work Plan	8
3.1 Task 1 – Project Management/Coordination/Administration	8
3.1-1 Meetings	9
3.1-2 Progress Reports	9
3.1-3 Quality Assurance/Quality Control Plan	9
3.2 Task 2 – Public Involvement Process	10
3.2-1 Public Involvement and Outreach Requirements	11
3.2-2 Coordination	11
3.2-3 Advisory Committees’ Support/Facilitation/Information	12
3.2-3a OCTA Board of Directors.....	12
3.2-3b Environmental Oversight Committee	12
3.2-3c Independent Science Advisory Panel.....	12
3.3 Task 3 – Biological Resources and Wetlands Data Inventory.....	13
3.3-1 Develop Biological Resources and Wetland Inventory Plan.....	14
3.3-2 Develop Preliminary NCCP/HCP Conservation Goals	14
3.3-2a Define Preliminary Conservation Goals.....	14
3.3-2b Determination of Existing Information and Identify Data Gaps	14
3.3-2c Biological Resources and Wetland Inventory Work Plan	15
3.3-3 Biological Resources and Wetlands Data Inventory and Mapping	15
3.4 Task 4 - Conservation Strategies Development.....	16
3.4-1 Develop Biological Goals and Objectives.....	16
3.4-2 Approach to Conservation	16
3.4-3 Conservation Concepts.....	17

3.4-4 Ecosystem Level Conservation Measures	17
3.4-5 Natural Community Conservation Measures	17
3.4-6 Species-Specific Conservation Measures	17
3.4-7 Implementation Schedule	17
3.4-8 Monitoring and Research.....	18
3.4-9 Adaptive Management.....	18
3.4-10 Summary of the Approach to Minimization and Mitigation of Effects	18
3.5 Task 5 – Assessment of Impacts and Level of Take.....	18
3.6 Task 6 – Economic Analysis of Conservation Funding Mechanism.....	19
3.7 Task 7 – Alternatives to Take Considered and Rejected	20
3.8 Task 8 – Implementation Approach and Structure	20
3.9 Task 9 – Administrative/Committee Drafts of NCCP/HCP Document.....	21
3.10 Task 10 – Master Streambed Alteration Agreement.....	21
3.11 Task 11 – CEQA and NEPA Documentation	22
3.11-1 Participation in Project Coordination Meetings	23
3.11-2 Draft Work Plans	23
3.11-3 Draft Chapters of EIR/EIS.....	23
3.11-4 Working Draft of EIR/EIS.....	25
3.11-5 Administrative Draft EIR/EIS	25
3.11-6 Preprint Draft EIR/EIS	26
3.12 Task 12 – NCCP/HCP/MSAA Joint Programmatic EIR/EIS Public Review	26
3.12-1 Local, State, and Federal Notices	26
3.12-2 Participation in Scoping and Public Hearings	26
3.12-3 Response to Comments Matrix.....	27
3.12-4 EIR/EIS Decision Documents	27
3.12-5 Public Review Draft NCCP/HCP/MSAA Joint Programmatic EIR/EIS	27
3.12-6 Adm. Draft of NCCP/HCP/MSAA Joint Programmatic EIR/EIS	28
3.12-7 Preprint Copy of Final NCCP/HCP/MSAA Joint Programmatic EIR/EIS	28
3.12-8 Final NCCP/HCP/MSAA Joint Programmatic EIR/EIS Preparation/Distribution	29
3.12-9 Notice of Determination/Record of Decision	29
Attachment A Mitigation and Resource Protection Program Oversight Committee Charter	30
Attachment B Environmental Oversight Committee Roster	32
Attachment C Renewed Measure M Property Acquisition Criteria.....	33
Attachment D Renewed Measure M Property Restoration Criteria.....	36
Attachment E Draft Criteria for Allocation of Measure M Funding for Property and Habitat Management.....	39

SCOPE OF WORK

SECTION 1

DESCRIPTION OF PROJECT

1.1 PROJECT DESCRIPTION

1.1-1 Background

On November 7, 2006, Orange County voters approved the renewal of the Measure M one-half cent sales tax for transportation improvements by a vote of 69.7 percent. With the approval of the Renewed Measure M (M2), the voters agreed to continue investment of local tax dollars in Orange County's transportation infrastructure for another 30 years.

Subject to a Master Agreement between Orange County Transportation Authority (OCTA) and the United States Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG), and the California Department of Transportation (Caltrans), an Environmental and Resource Mitigation Program (Program) will be implemented. The Program provides high-value environmental benefits in exchange for streamlined project approvals for 13 M2 freeway improvement projects, which are listed below. Accordingly, a minimum of 5 percent of the total M2 freeway expenditures, estimated at \$243.5 million in 2005 dollars, would be dedicated to this environmental mitigation effort. Based on the current economic conditions, the updated sales tax revenue is estimated to be +/- 30% lower than the 2005 projections.

- 1) **Project A: I-5 Improvements between SR-55 and SR-57**
Reduce freeway congestion through improvements at the SR-55/I-5 interchange area between the Fourth Street and Newport Boulevard ramps on I-5, and between Fourth Street and Edinger Avenue on SR-55. Also, add capacity on I-5 between SR-55 and SR-57 to relieve congestion at the "Orange Crush."
- 2) **Project B: I-5 Improvements from SR-55 to El Toro "Y"**
Build new lanes and improve the interchanges in the area between SR-55 and the SR-133 (near the El Toro "Y"). The project will also make improvements at local interchanges, such as Jamboree Road.
- 3) **Project C: I-5 Improvements south of the El Toro "Y"**
Add new lanes to I-5 from the vicinity of the El Toro Interchange in Lake Forest to the vicinity of SR-73 in Mission Viejo. Also, add new lanes on I-5 between Coast Highway and Avenida Pico interchanges to reduce freeway congestion in San Clemente.

- 4) **Project D: I-5 Local Interchange Upgrades**
Update and improve key I-5 interchanges such as Avenida Pico, Ortega Highway, Avery Parkway, La Paz Road, El Toro Road, and others to relieve street congestion around older interchanges and on ramps.
- 5) **Project E: SR-22 Access Improvements**
Construct interchange improvements at Euclid Street, Brookhurst Street, and Harbor Boulevard to reduce freeway and local street congestion.
- 6) **Project F: SR-55 Improvements (between SR-22 and I-405)**
Add new lanes to SR-55 between SR-22 and I-405, generally within existing right-of-way, including merging lanes between interchanges to smooth traffic flow. This project also provides for freeway operational improvements for the portion of SR-55 between SR-91 and SR-22.
- 7) **Project G: SR-57 Improvements**
Build a new northbound lane between Orangewood Avenue and Lambert Road. Other projects include improvements to the Lambert interchange and the addition of a northbound truck-climbing lane between Lambert and the county line.
- 8) **Project H: SR-91 Improvements from I-5 to SR-57**
Add capacity in the westbound direction and provide operational improvements at on and off ramps to the SR-91 between I-5 and SR-57.
- 9) **Project I: SR-91 Improvements from SR-57 to SR-55 Interchange Area**
Improve the SR-91/SR-55 to SR-91/SR-57 interchange complex, including nearby local interchanges such as Tustin Avenue and Lakeview, as well as adding freeway capacity between SR-55 and SR-57.
- 10) **Project J: SR-91 Improvements from SR-55 to Orange/Riverside County Line**
Adds capacity on SR-91 beginning at SR-55 to the Orange/Riverside County Line. This will be done in coordination with the Riverside County Transportation Commission's (RCTC) plans to improve the SR-91 freeway into Riverside County. The first priority will be to improve the segment of SR-91 east of SR-241. The goal is to provide up to four new lanes of capacity between SR-241 and Riverside County Line by making best available use of freeway property, adding reversible lanes, building elevated sections and improving connections to SR-241. This project also includes improvements to the segment of SR-91 between SR-241 and SR-55. The concept is to generally add one new lane in each direction and improve the interchanges.

11) Project K: I-405 Improvements between I-605 freeway in Los Alamitos area and SR-55

Add new lanes to I-405 between I-605 and SR-55. The project will make best use of available freeway property, update interchanges and widen various local overcrossings according to city and regional plans.

12) Project L: I-405 Improvements between SR-55 and I-5

Add new lanes to the freeway from SR-55 to the I-5. The project will also improve chokepoints at interchanges and add merging lanes near on/off ramps such as Lake Forest Drive, Irvine Center Drive and SR-133 to improve the overall freeway operations in the I-405/I-5 El Toro “Y” area.

13) Project M: I-605 Freeway Access Improvements

Improve freeway access at I-605/Katella Avenue serving the communities of Los Alamitos and Cypress. Specific improvements will be subject to approved plans developed in cooperation with local jurisdictions and affected communities.

The Environmental Oversight Committee (EOC), a steering advisory committee, has been organized to assist OCTA in its role as project lead for the NCCP/HCP and will recommend proposed plan policies to OCTA’s Board of Directors.

The EOC has a Master Agreement Working Group, charged with developing recommendations for a draft framework for the Master Agreement between OCTA and the Resources Agencies to implement the M2 freeway mitigation program. There is also a Habitat Impacts Working Group, charged with determining habitat impacts for the 13 M2 freeway improvement projects.

The Environmental Mitigation Program has the potential to minimize or reduce regulatory delays in the implementation of the 13 M2 freeway improvement projects. The specific type of mitigation will be determined by OCTA working in conjunction with various stakeholders. The various forms of mitigation may include acquisition and/or restoration of land for conservation.

1.1-2 Objective

OCTA is issuing a Request for Proposals (RFP) C9-0687 for professional and technical CONSULTANT services for developing a NCCP/HCP Joint Programmatic Environmental Impact Report/Environmental Impact Statement (EIR/EIS), which is to include a Master Streambed Alteration Agreement (MSAA) for the 13 freeway improvement projects under M2. The NCCP/HCP/MSAA Joint Programmatic EIR/EIS is reference as the “Project” or the “planning/environmental document” herein.

The NCCP/HCP will identify the Covered Activities¹ that may result in take of Covered Species² within the Planning Area. Anticipated Covered Activities currently consist of 13 M2 freeway projects as they pertain to direct, indirect, cumulative and growth inducing impacts along with other existing and planned projects within the study area of the M2 freeway improvements.

The CONSULTANT shall prepare a EIR/EIS with a MSAA to ensure that the following planning goals are met:

- Conservation and management of covered species within the planning area;
- The preservation, restoration and enhancement of aquatic, riparian and terrestrial natural communities and ecosystems that support covered species within the planning area;
- A means to implement Covered Activities in a manner that complies with applicable state and federal fish and wildlife protection laws and other environmental laws, inclusive of the California and Federal Endangered Species Acts (CESA and ESA), the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA);
- A basis for permits necessary to lawfully take covered species;
- A comprehensive means to coordinate and standardize mitigation and compensation requirements for covered activities within the planning area;
- An accounting process that will document net environmental benefit from regional, programmatic mitigation in exchange for net benefit in the delivery of transportation improvements through streamlined and timely approvals and permitting;
- A less costly, more efficient project review process that results in greater conservation values than project-by-project, species-by-species review; and
- Clear expectations and regulatory assurances regarding covered activities occurring within the planning area.

The CONSULTANT shall prepare the NCCP/HCP as well as the MSAA to ensure compliance with provisions of CEQA, NEPA, the Natural Community Conservation Planning Act (NCCPA) of 1991 (Fish and Game Code Section 2800-2840), the Federal Five Point Policy Guidance for preparing habitat conservation plans and conducting the incidental take permit program under Section 10(a)(1)(B) of the Endangered Species Act, CESA and FESA, and other applicable state laws and regulations which are applicable. The USFWS will serve as the lead agency under NEPA and OCTA as the lead agency under CEQA. The CONSULTANT will also be responsible for implementing the

¹ "Covered Activities" means those certain activities that will be addressed in the NCCP/HCP and for which the OCTA and Caltrans may seek take authorizations pursuant to the California Fish and Game Code section 2835 and the Federal Endangered Species Act ("ESA").

² "Covered Species" means those species identified in the NCCP/HCP, both listed and non-listed, whose conservation and management are provided for in the NCCP/HCP, and which may be authorized for take under state and/or federal law once the NCCP/HCP is approved.

CEQA/NEPA public involvement process and providing support to OCTA on public outreach.

1.1-3 Planning Area

The planning area includes all of Orange County, which consists of approximately 798 square miles encompassing 34 cities and unincorporated areas with consideration of adjacent areas outside of the County.

1.1-4 Conservation Assessment Analysis

A conservation assessment is under way, which includes biological, physical, and land use information. It also includes a GIS database that can be used as a tool for the following purposes: a) conducting landscape level science-based conservation planning, b) researching and developing information documenting the life history, status, and trends of species and their habitats addressed by the planning process, and c) evaluating species and habitat distribution, habitat value, and selection of conservation areas.

1.1-5 Statement of Intent

The EIR/EIS shall address the environmental considerations associated with the approval and implementation of the NCCP/HCP and shall consist of the following elements:

- Creation and long-term management of habitat protection;
- Development of potential avoidance, minimization, and mitigation measures for Covered Activities;
- Receipt of state and federal permits authorizing impacts to Covered Species as a result of conducting Covered Activities

1.1-6 Timeframe for Completion - Project Management Plan

The timeframe to complete the NCCP/HCP/MSAA EIR/EIS is projected to be 24 months or earlier. Advance mitigation credit provision of the planning agreement and the likelihood of acquisitions and/or restoration expenditures will take place concurrently with the preparation and in advance of the completion of the NCCP/HCP/MSAA EIR/EIS. All submittals shall contain a Project Management Plan to describe all of the tasks to be completed in Section 3, Work Plan. Submittals that do not possess a Project Management Plan will be deemed incomplete.

The Project Management Plan shall clearly define the roles, responsibilities, procedures, and processes to ensure that the deliverables will result in the Project being managed on time, within budget, with the highest degree of quality, and in a manner to ensure public trust, support, and confidence in the Project.

A detailed project budget and schedule, herein reference to as the Project Master Schedule (PMS), to complete all of the tasks shall also be incorporated into the Project

Management Plan. The PMS shall include activities, start dates, durations, product submittal dates, and relationships among work tasks (including critical path items).

The PMS shall be prepared using the Critical Path Method and shall be consistent with the tasks that have been laid out. Inclusions of additional critical path items are to be added as necessary. The PMS shall reflect the various levels of reviews for the draft and final environmental documents. The PMS shall include:

- Project milestones and delivery of intermediate project deliverables,
- Reviews for the draft and final environmental documents and intermediate project deliverables by OCTA staff and EOC's Working Groups, and
- Work items of agencies and other third parties that may affect or be affected by the CONSULTANT's activities.

1.2 STANDARDS

1.2-1 Conflicts

In case of conflict, ambiguities, discrepancies, errors or omissions among the reference materials obtained by CONSULTANT from other agencies, CONSULTANT shall submit the matter to OCTA for clarification. Any work affected by these inconsistencies, which is performed by CONSULTANT prior to clarification by OCTA, shall be at CONSULTANT's risk.

1.2-2 Environmental Documentation

Environmental documentation work shall be prepared in conformance with both CEQA and NEPA guidelines and regulations, inclusive of, however not limited to:

- FESA, Section 10 permit (incidental take) issued by the USFWS,
- Clean Water Act, Section 401 Compliance (water quality) administered by the Santa Ana and San Diego Regional Water Quality Boards,
- Clean Water Act, Section 404 permit (wetland fill) issued by the U.S. Army Corps of Engineers,
- Fish and Game Code, Section 1600 permit (stream bed alteration) issued by CDFG,
- NCCPA (Fish and Game Code, Section 2800-2840),
- CESA, Section 2081 permit (incidental take) issued by the CDFG, and
- National Historical Preservation Act, Section 106 compliance (cultural resources) administered by the State Historic Preservation Office.

SECTION 2

GENERAL CONDITIONS AND REQUIREMENTS

2.1 SCOPE OF WORK GENERAL CONDITIONS AND REQUIREMENTS

- 2.1-1 CONSULTANT shall implement Project as directed by OCTA Project Manager.
- 2.1-2 The above paragraph does not relieve the CONSULTANT of their professional responsibility. In those instances where the CONSULTANT believes a better solution to a problem is possible, CONSULTANT shall promptly confer OCTA.
- 2.1-3 CONSULTANT shall be responsible for the accuracy, consistency and completeness of reports, studies, data, plans, and estimates prepared for Project.
- 2.1-4 Materials produced by CONSULTANT are subject to approval and acceptance by OCTA, USFWS, CDFG, and Caltrans. In the event of non-acceptance due to errors, inconsistencies and omissions, CONSULTANT shall have ten (10) business days to make corrections.
- 2.1-5 The reports, studies, plans, estimates and other documents for Project shall be of a quality acceptable to the foregoing agencies. The minimum acceptable criteria for Project products shall be well organized, technically and grammatically correct, and thoroughly checked.
- 2.1-6 CONSULTANT shall meet with OCTA and the EOC's Working Groups to discuss Project objectives and requirements, and to serve as a forum for resolving any issues related to the development of the Project.
- 2.1-7 OCTA reserves the right to monitor and review the progress and/or processes of the CONSULTANT.
- 2.1-8 CONSULTANT shall confer with OCTA prior to contacting governmental regulatory and resource agencies, and others for the purpose of obtaining information, expertise and assistance in developing baseline data and resource inventories. The CONSULTANT shall maintain a record of such contacts and shall transmit copies of those records to OCTA. These records shall be transmitted monthly or more frequently, if warranted.
- 2.1-9 The CONSULTANT team shall be responsible for supporting and assisting OCTA staff in the Board approval process during the preparation of the Project. These may include but are not limited to: providing project materials for Board packages, assisting and/or making Board presentations, researching /investigating of information requested by the Board, and attending additional meetings as necessary. The CONSULTANT shall obtain approval from OCTA prior to making any changes to key personnel, removal without prior consent from OCTA Project Manager shall be deemed as out of contract compliance.

SECTION 3

WORK PLAN

A Work Plan consisting of twelve (12) major tasks (not necessarily sequential) is outlined below. The CONSULTANT's proposal shall augment this proposal with specific schedules by task and subtasks as well as include appropriate detail and supplemental information.

- Task 1 – Project Management/Coordination/Administration
- Task 2 – Public Involvement Process
- Task 3 – Biological Resources and Wetlands Data Inventory
- Task 4 – Conservation Strategies Development
- Task 5 – Assessment of Impacts and Level of Take
- Task 6 – Economic Analysis of Conservation Funding Mechanism
- Task 7 – Alternatives to Take Considered and Rejected
- Task 8 – Implementation Approach and Structure
- Task 9 – Administrative/Committee Drafts of NCCP/HCP Document
- Task 10 – Master Streambed Alteration Agreement
- Task 11 – CEQA and NEPA Documentation Preparation
- Task 12 – NCCP/HCP/MSAA EIR/EIS Public Review

3.1 Task 1 - Project Management/Coordination/Administration

Purpose: To provide overall implementation Project, including facilitating OCTA in coordinating with local, state and federal regulatory agencies, tracking progress of the work, administering subcontracts, attending public workshops, preparing invoices, and conducting project meetings.

Methodology: The CONSULTANT's Project Manager shall provide overall project management, coordination, and supervision of project staff to facilitate the performance of the work in accordance with the scope and requirements of OCTA. CONSULTANT shall maintain coordination with other members of OCTA staff and regulatory agencies associated with the Project. A kick-off meeting shall be held upon contract execution to review project objectives and requirements, receive initial information from agencies, establish communication plan and protocols, and address other issues as necessary to ensure a successful project initiation. Thereafter, CONSULTANT shall continue to actively participate in meetings to discuss progress, coordinate design activities, obtain direction, exchange project information, and identify issues to be resolved. CONSULTANT's approach to managing the Project will require integration of various technical studies and public involvement processes.

Deliverables:

- Finalize Project Management Plan, including PMS discussed in Section 1.1-6.

3.1-1 Meetings

Purpose: To discuss and resolve issues pertinent to the analysis, design, and potential environmental impacts of the Project, obtain direction for the study, and to create a forum for participating shareholders. CONSULTANT shall provide PMS that include project milestones, task durations, products, and responsible parties.

Methodology: Project meetings with OCTA, the EOC, and their respective Working Groups shall be held as necessary (estimated up to sixty [60]); to discuss policy, procedure, make decisions affecting the direction of the Project, review assignments/progress, and identify issues to be resolved. CONSULTANT shall assist OCTA's Project Manager in preparing and distributing meeting notices, agendas, handout material relevant to the agenda, and meeting minutes.

Deliverables:

- Project meeting notices, agendas, handouts, and minutes.
- Progress Plans.

3.1-2 Progress Reports

Purpose: To track the actual progress relative to the PMS and to ensure that all significant completion dates of the Project are being met.

Methodology: At the end of each month, CONSULTANT shall report the progress of the work (See Proposed Agreement, ARTICLE X PAYMENT). Progress reports shall be based on percent complete or estimated progress toward completion. Progress payments will be based upon percent complete on major tasks.

CONSULTANT shall submit one copy of a monthly Progress Report to the OCTA Project Manager consisting of a written narrative and a PMS Gantt chart. The report shall be received no later than the tenth (10th) calendar day of the month.

Deliverables:

- Monthly Progress Reports.
- Budget Tracking (updated regularly).

3.1-3 Quality Assurance/Quality Control Plan

Purpose: The Quality Assurance/Quality Control (QA/QC) Plan is intended to ensure that the tasks are being prepared, developed is acceptable to the OCTA, and satisfies the CONSULTANT's internal QA/QC standards.

Methodology: CONSULTANT shall maintain a QA/QC Plan throughout the duration of this Agreement. The comprehensive quality assurance procedures should outline the

independent checking procedures to be performed on report preparation, calculations, ongoing peer reviews, audits, and management systems to maintain product quality, schedule, and budget adherence.

All deliverables shall be subjected to a quality control review utilizing CONSULTANT QA/QC Procedures. CONSULTANT shall prepare a response-to-comments matrix indicating how and where the changes to the documents have been made and when the revised documents are resubmitted to OCTA.

Deliverables:

- QA/QC Plan.
- Response to comment matrices.

3.2 Task 2 – Public Involvement Process

Purpose: The CONSULTANT shall prepare a Public Participation Plan (PPP) to engage the general public and interested agencies in the preparation of the NCCP/HCP. The PPP will provide information regarding development of the NCCP/HCP that will clarify the implementation process. The PPP will be developed to make the information gathering and decision-making activities that support the NCCP/HCP development and implementation visible and accessible to all interested or affected parties. It will establish a framework for the general public and interested agencies to identify and discuss potential issues to gain consensus on approval of the NCCP/HCP. To the greatest extent possible, the PPP will build upon, and not duplicate or replace, the existing public outreach and participation processes undertaken by OCTA as part of the implementation of Renewed Measure M, including the Freeway Mitigation Program.

The anticipated decision-making structure for the Project entails the following entities:

- OCTA Board of Directors, which is inclusive of the Transportation 2020 Committee.
- EOC.
- Independent Science Review Committee.

Methodology – The CONSULTANT shall utilize the PPP as a management tool to support the NCCP/HCP development and ensure its implementation is visible and accessible to interested or affected parties.

The PPP will encompass the following items:

- A public participation process that is broadly visible within the County and elsewhere, and provides access for all interested and affected parties, groups and agencies,
- Clear and understandable information to the public about the NCCP/HCP and its potential impacts on the physical, biological, economic and social environment,
- A framework to provide meaningful opportunities for the public and agencies to identify/discuss potential issues, including forums for soliciting and exchanging ideas,

- Actively designed to engage interested parties in the development and evaluation of proposed conservation measures and project alternatives,
- Identify key issues that must be addressed in the CEQA/NEPA review process, and
- Gain support and understanding for the NCCP/HCP and its implementation.

Emphasis shall be placed on early strategic public outreach as a means to: 1) build acceptance of the NCCP/HCP; 2) ensure the advisory committees, general public, and interested agencies receive accurate information about the Project and related policies as well as information gathering that supports technical studies; and 3) utilize a methodology that allows feedback and responses on all phases of the Project.

Public opinion may be solicited and exchanged through a broad distribution of information, and through multiple public forums and mechanisms made available to interested parties and agencies, inclusive of a dedicated website, which will be furnished, designed, and operated by the CONSULTANT. Materials will include meeting and event information, a project calendar, public feedback through interactive web capacity, project information materials and documents, links to other information sources.

3.2-1 Public Involvement/Outreach Requirements.

The PPP will comply with all applicable state and federal statutes, regulations, and advisories regarding public outreach and involvement including those listed below:

- NCCPA, California Department of Fish and Game Code section 2800 et seq.,
- CEQA, California Public Resources Code section 21000 et seq.,
- FESA, 16 U.S.C. section 1531 et seq.,
- NEPA, 42 U.S.C. section 4321 et seq.,
- Clean Water Act,
- Federal Advisory Committee Act, and
- Brown Open Meetings Act.

3.2-2 Coordination

The CONSULTANT will ensure that the public participation activities throughout the course of the NCCP/HCP process are well coordinated with technical portions of the Scope of Work.

- Coordinate regularly with OCTA Project Manager to deliver information about technical studies and policy development, to provide complete and timely meeting facilitation and information exchange, and to ensure timely provision of public outreach materials to the community and to stakeholders, based upon the schedule for project deliverables.

- Coordinate with the OCTA Project Manager on the progress of community outreach meetings and activities, and to ensure that program direction is consistent with Management Group priorities.
- Coordinate to ensure that comments by Advisory Committees (described in Section 3.2-3), the public and interested agencies/groups are made available to ensure timely refinement of applicable studies..

3.2-3 Advisory Committees Support/Facilitation/Information

Committees will be formed to further the work effort and obtain consensus through the NCCP/HCP process. A description of each committee involved in the NCCP/HCP process is described below.

3.2-3a - OCTA Board of Directors

An 18-member Board of Directors governs OCTA. The Board consists of 5 (five) county supervisors, 10 (ten) city members, 2 (two) public members and the Director of the Department of Transportation District 12 (Caltrans) as a non-voting member. The Board of Directors are responsible approval of the Project.

3.2.3b – Environmental Oversight Committee

The EOC's Working Groups will be in place to focus on specific issues pertaining to the NCCP/HCP process and for feedback on CONSULTANT's work. The EOC's Working Groups will meet on a monthly basis, at a minimum, to provide leadership for the development of the Project.

The CONSULTANT shall attend EOC meetings and their respective ad hoc subcommittee meetings and if needed provide updates/presentations on the progress of the Project. *Up to sixty (60) meetings with OCTA staff and/or the EOC and their respective Working Groups should be budgeted.*

3.2.3c Independent Science Advisory Panel

The Independent Science Advisory Panel (Panel) will be comprised of recognized experts in technical fields relevant to the NCCP/HCP and will operate independently from the EOC and the CONSULTANT.

The Science Facilitator will coordinate the Panel's review and recommendation of the conservation strategy and is responsible for ensuring that the Panel prepares quality deliverables on schedule. The Science Advisory Panel will be charged with the following tasks [California Fish and Game Code Section 2810(5)]:

- Recommendations of scientifically sound conservation strategies for species and natural communities proposed by the NCCP,

- Recommendations of a set of reserve design principles that address the needs of species, landscapes, ecosystems, and ecological processes in the planning area proposed to be addressed by the NCCP,
- Recommendation of management principles and conservation goals that can be used in developing a framework for the monitoring and adaptive management component of the plan, and
- Identification of data gaps and uncertainties so that risk factors can be evaluated.

Deliverables

- A Public Participation Plan, which details overall the structure of NCCP/HCP decision-making process and a schedule for committee involvement.
- Design and implementation of dedicated website.
- Presentations at a maximum of twelve (12) Board of Directors meetings, which is inclusive of their respective Board Advisory Committee, the Transportation 2020 Committee. A maximum of twelve (12) presentations given on a countywide level for interagency coordination.
- Attendance at a maximum of sixty (60) meetings with the OCTA staff, EOC and their respective Working Groups or Committees should be budgeted within the RFP's Price Summary Sheet.
- Meeting agendas and related materials.
- Preparation of meeting minutes.
- A meeting process and decision record made available to the Environmental Oversight Committee in a timely fashion.
- Timely, accurate and complete representation of each stakeholder group's comments, opinions and perspectives to the Environmental Oversight Committee.

3.3 Task 3: Biological Resources and Wetlands Data Inventory

In March 2009, OCTA entered into an separate agreement with the Conservation Biology Institute to update the M2 freeway improvement projects GIS database with data available from the Orange County Green Vision Map and other publicly available sources, such as the California Natural Diversity Database (CNDDDB), California Native Plant Society (CNPS), pertinent scientific literature, and phone conversations with local biologists to obtain conservation-related information that may not be publicly available (i.e., distribution of special status).

OCTA has also developed an assessment of potential habitat conservation sites within Orange County that may be eligible for acquisition and/or restoration. The conservation assessment is based on the inventory within the Orange County Green Vision Map as well as the list of potential properties solicited from OCTA's public outreach effort. The conservation assessment includes a draft list of species to be analyzed for potential

coverage under FESA and CESA as it related to the 13 M2 freeway improvement projects and other existing and planned projects within the planning area.

Methodology: The CONSULTANT shall review the existing baseline data information and identify additional information necessary that may be lacking. The CONSULTANT shall focus on identification and collection of data necessary to achieve conservation goals for ecosystems and habitats as well as data necessary to achieve adequate coverage for each target species.

All vector geographic data layers shall be delivered in either ESRI Shapefile or Personal Geodatabase (MS ACCESS) format. Aerial photography shall be delivered in tiled Tagged Image File Format (TIFF) with "world" files or Joint Photographic Experts Group (JPEG) with "world" files. Raster data can be delivered in ArcGRID format. The coordinate system for all geographic data layers shall be California Coordinate System State Plane, Zone VI (FIPS 0406), units = feet, North American Datum 1983.

3.3-1 Develop Biological Resources and Wetland Inventory Work Plan

In coordination with the EOC, Panel, and regulatory agencies, the CONSULTANT shall identify data gaps and methods for filling these gaps to complete a Biological Resources and Wetlands Inventory Work Plan. The Work Plan will describe data needs and methods by which additional data will be obtained. The Work Plan will be developed with a clear understanding of end products, focusing on the gathering of information necessary for successful planning/environmental document completion and permit issuance. The following subtasks shall be conducted:

3.3-2 Develop Preliminary NCCP/HCP Conservation Goals

3.3-2a Define Preliminary Conservation Goals

Preliminary conservation goals will be developed based on conservation principles identified by the Panel, which are typically general tenets or guidelines on habitat conservation and reserve design to determine what types of data are necessary and how alternative conservation strategies will be evaluated. The Resource Agencies (FWS, CDFG, ACOE, etc.) will coordinate to improve the initial biological goals once additional data is compiled and the conservation strategy takes shape. When developing these conservation goals, the CONSULTANT will take into consideration the need for the NCCP/HCP to be compatible with any 404 permitting process that may be developed concurrently or in the future.

3.3-2b Determination of Existing Information and Identify Data Gaps

Determine which existing information, including GIS data, should be used in the Biological Resources Inventory and Mapping. The CONSULTANT shall work

with the Resource Agencies to identify which information is appropriate for NCCP/HCP plan development and which data is necessary but currently lacking (data gaps). *Identification of data needs will also take into consideration compatibility with the 404 permitting process.*

The CONSULTANT will work closely with OCTA, the EOC, and the Panel to identify data gaps, which can be completed through incorporating information from other relevant environmental reports and studies.

The CONSULTANT shall develop methods for filling data gaps, including additional habitat mapping, biological surveys and/or ground truthing to be conducted, adding GIS data layers, and incorporation of data from existing reports and studies into the GIS database. The CONSULTANT shall identify target species that would be suitable and appropriate for predictive modeling.

3.3-2c Biological Resources Wetland Inventory Work Plan

The CONSULTANT shall prepare Biological Resources Wetland Inventory Work Plan describing (a) categories of wetland, hydrology, soils, vegetation types, and land cover to be mapped; (b) protocol for any additional mapping and assessment to be conducted based on recent aerial photography, including specification of scale and resolution; (c) existing mapping of vegetation and species occurrences; (d) brief summaries of studies conducted to date; and (e) a description of additional studies to be conducted and outline of categories/characteristics of data to be included within inventories.

Deliverables

- Biological Resources and Wetlands Inventory Work Plan.

3.3-3 Biological Resources and Wetlands Data Inventory and Mapping

The CONSULTANT shall be responsible for conducting additional studies and collecting additional data as identified in the Work Plan, and preparing a Biological Resources and Wetlands Inventory Report with associated Biological Resources Mapping and GIS data.

Deliverables

- Conduct additional studies and fill data gaps as identified in the Work Plan.
- Prepare draft and final Biological Resources and Wetlands Data Inventory and Mapping, incorporating newly compiled GIS data with original data .
- Prepare draft and final Biological Resources and Wetlands Inventory Report, incorporating summaries and results of all pertinent studies, and incorporating target species information. Provide information on NCCP/HCP target wildlife

and plant species, summarized in text, table, and graphic format. This will include all species point locality information (i.e., CNDDDB, etc.).

3.4 Task 4: Conservation Strategies Development

Purpose: The CONSULTANT shall develop conservation strategies for protecting habitats and targeted species to a level required under FESA, CESA, and the NCCPA. The CONSULTANT shall also take into consideration the EOC's criteria for habitat restoration/acquisition/management, which are attached herein as Attachment C, D, and E, respectively.

Important requirements of the conservation strategy shall include:

- Ensuring the integrity of existing wildlife and stream corridors;
- Preserving species population, diversity and habitats;
- Protecting critical habitat for endangered, threatened and/or sensitive species;
- Improving ecosystem function and integrity;
- Increasing the contiguity of existing network of publicly and privately protected natural lands;
- Protecting keystone species;
- Connecting core habitat areas;
- Restoring habitats to enhance species recovery;
- Enhancing habitats to better meet species needs; and
- Minimizing impacts on species and habitats.

Methodology: Sections 3.4-1 to 3.4-10 provide an outline that shall be utilized in developing the conservation strategy for the Project.

3.4-1 Develop Biological Goals and Objectives

The CONSULTANT shall develop biological objectives related to the ecosystem, covered natural communities, and covered species. This section will also describe the processes used to develop the biological objectives.

3.4-2 Approach to Conservation

The CONSULTANT shall identify the approaches to the OCTA conservation strategy, which shall include:

- Near-Term Implementation – The approach to conservation over the course of the near-term phase.
- Long-Term Implementation – The general approach to conservation over the course of the long-term phase.

- Conservation Measures – A description of conservation measures that would be implemented in the near-term and long-term implementation phases.
- Science Strategy – A description of the general approach to incorporating science into the near-term and long-term implementation phases.

3.4-3 Conservation Concepts

The CONSULTANT shall describe key conservation concepts that will be addressed in the conservation strategy, including:

- Habitat Protection, which involves the criteria for protecting important habitats.
- Physical Habitat Enhancement Concepts, which identifies key design concepts for enhancing the functions of existing habitats to benefit covered species and natural communities, and set out the criteria for identifying habitat areas suitable for enhancement.
- Habitat Restoration Concepts, which identifies key design concepts for restoring habitat for covered species.
- Other Conservation Concepts, including approaches to conserving covered species that are not habitat-related (i.e., control of non-native vegetation and avoidance/minimization of impacts).

3.4-4 Ecosystem Level Conservation Measures

The CONSULTANT shall describe ecosystem level conservation measures that have been designed to improve the overall ecosystem conditions and physical and biological processes in the planning area. If needed, near-term and long-term implementation measures will be distinguished.

3.4-5 Natural Community Conservation Measures

The CONSULTANT shall describe measures that would be undertaken to protect, enhance, and restore natural communities and their ecosystem functions. If needed, near-term and long-term implementation measures shall be distinguished.

3.4-6 Species-Specific Conservation Measures

The CONSULTANT shall describe conservation measures that will be implemented specifically to benefit covered species, including the expected outcomes for each covered species after full implementation of the conservation measures.

3.4-7 Implementation Schedule

The CONSULTANT shall describe the timeframe for implementing the conservation measures.

3.4-8 Monitoring and Research

The CONSULTANT shall describe OCTA's commitments for implementing a monitoring program to provide the information and monitoring necessary to adaptively manage OCTA preserves.

3.4-9 Adaptive Management

The CONSULTANT shall describe the components of the adaptive management program, including its purpose and scope.

3.4-10 Summary of the Approach to Minimization and Mitigation of Effects

The CONSULTANT shall describe the approach under the NCCP/HCP to ensure that the effects of covered activities are minimized and mitigated to the maximum extent practicable, consistent with the requirements of section 10 of the ESA.

Deliverables:

- Conservation Strategy Plan, inclusive of a monitoring program.

3.5 Task 5: Assessment of Impacts and Level of Take

Purpose: The impact assessment will estimate the impact to covered species as a result of the implementation of the NCCP/HCP, including the effect of covered activities. The analysis will consider the level of incidental take that is reasonably expected to occur within the planning area.

Methodology: The CONSULTANT shall address the potential effect of the covered activities involved with the 13 M2 freeway improvements. These potential effects are to be assessed for covered species, vegetation communities, jurisdictional wetlands and waters, etc. The assessment of impacts and level of take shall include the following:

- Regulatory context and environmental baseline, which provides the basis from which to identify impacts on covered natural communities and covered species.
- Impact assessment methods, which shall discuss the infrastructure construction and operations/maintenance, and implementation, inclusive of the methods used to conduct the impact assessment
- Impacts to covered natural communities of the covered activities, including the extent of each community that would remove and have impacts on ecosystems function.

- Impacts to the covered activities on each of the covered species and describes the estimated level of take. Potential impacts shall be assessed on the potential impacts on designated critical habitat in the planning area for each applicable species.
- Cumulative impacts to covered activities and the OCTA's NCCP/HCP conservation measures on covered species will be addressed.
- Indirect effects on listed species that are reasonably certain to be caused by the covered activities and conservation measures.

Deliverables:

- Impact and Level of Take Assessment.

3.6 Task 6: Economic Analysis of Conservation Funding Mechanisms

Purpose: The economic analysis will provide the framework for establishing a mechanism to analyze relative benefits of alternative conservation strategies as well as informing stakeholders of the financial benefits and costs of the plan. In turn, it will aid in the selection of the preferred conservation and funding strategies, and ultimately in the development of an implementation strategy via an agreement among the participating parties. The objectives of the economic analysis are to:

- Estimate the costs, both current and future, associated with each conservation strategy.
- Explore alternative funding options and strategies,
- Examine the effects of the plan on property values,
- Explore incentives available to encourage property owners to participate in the Project and help conserve habitat and species, and
- Determine the potential benefits of the Project relative to the mitigation of the 13 M2 projects in terms of efficiency, expense, and time.

Methodology: The CONSULTANT will articulate the results of Task 4, Conservation Strategies, in a manner that supports an economic analysis for planning-level estimates of land acquisition and restoration costs. The CONSULTANT shall estimate the approximate cost of plan implementation associated with the differing conservation alternatives and will include estimates of potential plan cost increases over time. Cost estimates will include land acquisition and restoration costs as well as operating, maintenance, and management costs. The CONSULTANT will estimate land values of properties of interest for acquisition. Land value estimates will consider such factors as distance from city and/or urban growth boundaries, zoning, "highest and best use(s)," regulatory requirements related to habitat values, topography/grade, etc.

Deliverables:

- Economic Analysis Plan.

3.7 Task 7: Alternatives to Take Considered and Rejected

Purpose: As required under the FESA, the NCCP/HCP will include an assessment of alternatives to the proposed taking of covered species and provide reasons why such alternatives are not being chosen.

Methodology: The “Alternatives Analyzed” section should include:

- Any specific alternative, whether considered before or after the NCCP/HCP process was begun, that would reduce such take below levels anticipated for the Project;
- A “no action” alternative, which means that no permit would be issued and “take” would be avoided or that the Project would not be constructed or implemented.

Deliverables

- Assessment of alternatives to the proposed taking of covered species.

3.8 Task 8: Implementation Approach and Structure

Purpose: This task will involve focused discussions with the EOC and the resource agencies regarding the implementation approach and structure for the Project. A plan for a governance, funding, and administration of plan shall be developed to identify the entity (ies) to assume responsibility for plan implementation and oversight.

Methodology: The CONSULTANT shall develop a schedule and plan for implementing all the elements of the NCCP/HCP, which includes, but is not limited to:

- Existing or new organization that could implement the conservation actions;
- The structure and role of the existing organization or new organization that is being created to implement the plan;
- The role of the local agencies, stakeholders, and the public in implementing the plan;
- The role of outside reviewers (i.e., financial auditors, regulatory agencies, scientists) in implementing the plan;
- The timeline for implementation;
- The process of implementing procedures at the local level to adopt provisions of the plan (i.e., implementing ordinance, general plan amendment, etc.);
- Database establishment and tracking procedure;

- Compliance monitoring and reporting requirements, which shall encompass all permit conditions, reporting procedures, and monitoring report contents to the regulatory agencies; and
- Standards and procedures for amending the plan or the permit.

As part of the Implementation Approach Plan, the CONSULTANT shall develop a funding strategy that can cover the costs of the plan implementation. The cost estimate should be broken down by acquisition, restoration, management, monitoring, and administration.

Potential funding sources shall include establishing a mitigation bank, in lieu fee program funding from state and federal grants, and local/regional partnerships. The benefits and drawbacks of each source based on statutory requirements, and previous successes in other NCCP/HCP shall be described. Supplemental funding strategies shall also be recommended to deal with potential cost increases over time, the uncertainty of funding from some sources, the need for NCCP/HCP start-up costs, and the annual nature of operations, management, and maintenance costs.

Deliverables

- Implementation Approach Plan, inclusive of schedule and funding strategy.

3.9 Task 9: Administrative/Committee Drafts for the NCCP/HCP

The draft plan will undergo various review cycles before distribution for formal public input and comment.

Methodology: The CONSULTANT shall incorporate comments from foregoing groups to finalize the NCCP/HCP.

The CONSULTANT shall provide sufficient number of copies of the draft/final NCCP/HCP, including the management information to OCTA's Project Manager who will distribute the documents to participating agencies and for the public review.

Deliverables

- Administrative/Committee Drafts for the NCCP/HCP

3.10 Task 10: Master Streambed Alteration Agreement

Purpose: Pursuant to Sections 1600 to 1607 of the Fish and Game Code, CDFG has jurisdiction over activities that affect the "bed, channel, or bank of any river, stream, or lake designated by the CDFG in which there is at any time an existing fish or wildlife resource, or from which these resources derive benefit." Section 1602(a) of the Streambed Act states that "an entity may not substantially divert or obstruct the natural

flow of, or substantially change or use any material form the bed, channel, or bank of, any river, stream, or lake.....unless” certain requirements are met including, for issuance of a final agreement that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.”

Under Fish and Game Code Section 1605(g), CDFG may enter into long-term agreements if certain conditions are met, including provisions for providing a status report addressing the topics identified in that subsection and provisions for department review and consultation regarding the status report.

Methodology: OCTA and CDFG will be entering into a Staffing Agreement, whereas CDFG will be provided additional staff sources for the Project. As part of this Staffing Agreement, CDFG will be drafting the Master Streambed Alteration Agreement (MSAA) related to this Project.

The CONSULTANT shall assist CDFG in drafting a MSAA based on information in the NCCP/HCP, EIR/EIS, and other relevant sources. This will be used to streamline CDFG review of future projects consistent with the provisions in the MSAA. Individual project proponents will be required to submit a formal project description to CDFG to ensure consistency with the MSAA.

Deliverables:

- Provide assistance to CDFG in drafting the MSAA.

3.11 Task 11: CEQA and NEPA Documentation

Purpose: A Joint Environmental Impact Report/Environmental Impact Statement (EIR/EIS) will be drafted to address the environmental considerations associated with the approval and implementation of the NCCP/HCP and MSAA.

Methodology: The EIR/EIS shall be prepared pursuant to NEPA (42 United States Code [USC] 4321; 40 Code of Federal Regulations [CFR] 1500.1; the President’s Council on Environmental Quality (CEQ) guidelines on implementing NEPA; and CEQA (Pub. Res. Code Sec.s 21000-21178.1).

For NEPA purposes and for preparation of the EIS, USFWS will serve as the lead agency. For CEQA purposes and preparation of the EIR, OCTA will serve as the lead agency. Actions to be addressed in the EIR/EIS are anticipated to include the following:

- Issuance of a federal Section 10(a)(1)(B) permit for incidental take of listed and unlisted covered species;
- Issuance of state authorization under Section 2835 of the State Fish and Game Code; and
- Approval of local actions of the various jurisdictions necessary for implementation of the NCCP/HCP.

3.11-1 Participation in Project Coordination Meetings

The CONSULTANT, during active development of the environmental analysis and documents, shall participate in coordination meetings as needed with OCTA and the EOC's Working Group.

3.11-2 Draft Work Plan

The CONSULTANT shall work with the EOC on approaches for analysis of the environmental issues to be addressed in the EIR/EIS. The CONSULTANT should also identify any governmental agencies or other parties whose input will be vital to the successful completion of the EIR/EIS.

A draft description of the Project and alternatives to be addressed in the EIR/EIS shall be prepared for review. The description of the Project and alternatives shall be based on information developed during the NCCP/HCP planning process and shall describe features of the Project and alternatives necessary to analyze environmental effects in the EIR/EIS as well as federal, state, and local actions to be addressed.

It is the intention of OCTA and the EOC to present the all planning/environmental documents in their entirety at all public scoping meetings and hearings.

Deliverables:

- Work Plan.

3.11-3 Draft Chapters of EIR/EIS

The sections of the EIR/EIS shall include the following:

Cover Sheet, which shall include name of the lead agencies and cooperating agencies, title and location, name, address, and telephone number of the lead agencies contact persons, one paragraph abstract, date by which comments must be received and comment submittal information.

Executive Summary, which shall be written as a true summary of EIR/EIS impacts and findings, and shall meet the requirements of CEQA and NEPA.

Table of Contents

Introduction, which shall clearly direct the reader on how to find information in the EIR/EIS. The Introduction shall provide a brief overview of the study area, explain the roles of the CEQA and NEPA lead, responsible and cooperating agencies and the legal authorities guiding each, and explain the connection between the individual elements of the NCCP/HCP and the analysis in and conclusions of the EIR/EIS.

Purpose and Need/Project Objectives, which shall fulfill both the requirements of NEPA (Purpose and Need) and CEQA (Projective Objectives) and provide the basis for the action and for defining the range of feasible alternatives that are considered in the EIR/EIS. The purpose and need section shall describe the goals, purpose, and objectives of the USFWS in approving the proposed HCP, the CDFG in approving the NCCP, and the local jurisdiction in approving and implementing the NCCP/HCP. This section shall also describe the goals and objectives of participating agencies as implementing partners.

Proposed Action and Alternatives, which shall describe alternatives, including a no projects/no action alternative, required by CEQA and NEPA, and a no take alternative developed for the NCCP/HCP, which is a component of Task 7 within Section 3.7.

In accordance with NEPA, the CEQ, and CEQA regulations, both the EIR and EIS will present a reasonable range of alternatives. The alternatives may include, but not be limited to the proposed action, the no-project alternative (no regional take permit issued), a reduced-take alternative, and at least one additional conservation strategy alternative. Each alternative shall be clearly and concisely compared, and will lead to the reasoning for the inclusion in (or elimination from) further environmental evaluation.

Alternatives will be identified in consultation with USFWS, CDFG, and the ACOE and may include alternative funding mechanisms, different permit terms, different levels of conservation, or combinations of these scenarios. These alternatives will be analyzed at the same level of detail as the proposed action to fulfill the requirements of NEPA and allow for meaningful comparison of the impacts of the alternatives with those of the proposed actions. This section shall also include, as appropriate, text regarding alternatives considered but eliminated from detailed study.

Affected Environment, Impacts, and Mitigation Measures, which shall focus on resource issues related to habitat management. Each subsection shall include a description of the setting for each resource topic. The setting shall provide the baseline for comparison of the impacts from the proposed project/action. Each resource section shall include a concise description of the methodology used in the impact analysis and the standards used to determine whether an impact is significant. The standards of significance shall be based on guidance from USFWS, CDFG, and the ACOE. The methodology for development of mitigation measures shall also be described. The impact analysis shall address the direct, indirect, and cumulative impacts that will result from implementation of the plan.

Cumulative impacts will be assessed based on specific criteria for cumulative projects established at the outset of the analysis. The CONSULTANT shall propose, for review and approval by USFWS, CDFG, and the ACOE, a set of cumulative impact criteria.

Other Analyses Required by CEQA and NEPA, which shall focus on 1) any significant irreversible environmental changes that would be involved in the proposed action that will be implemented; 2) the relationship between short-term uses of the environment,

maintenance, and enhancement of long-term productivity; 3) significant unavoidable adverse impact; 4) growth inducing effects of the proposed actions; and 5) proposed project consistency with regional plans or other requirements.

Growth Inducing and Cumulative Impact, which shall detail the NCCP/HCP Study Area and effects of the proposed covered activities.

List of Agencies and Organizations Consulted

List of Preparers

References

Appendices (including glossary and index)

Deliverables:

- Copies of draft chapters/text: 15 bound paper copies and 5 CDs distributed to a pre-identified distribution list.

3.11-4 Working Draft EIR/EIS

After a review of the draft sections by OCTA staff and the EOC's Working Group, the CONSULTANT shall revised the sections based on the comments received and compile them into a working Draft EIR/EIS.

Deliverables:

- Copies of Working Draft EIR/EIS - 15 bound paper copies and 5 CDs distributed to a pre-identified distribution list.

3.11-5 Administrative Draft EIR/EIS

After review of the Working Draft EIR/EIS, the CONSULTANT shall revise the document based on the comments received and submit an Administrative Draft EIR/EIS for review and comments.

Deliverables:

- Copies of Administrative Draft EIR/EIS - 15 bound paper copies and 5 CDs distributed to a pre-identified distribution list

3.11-6 Preprint Draft EIR/EIS

The CONSULTANT shall revised the Administrative Draft EIR/EIS based on comments received and submit a complete preprint copy of the Draft EIR/EIS for a final review and authorization to the EOC.

Deliverables:

- Copies of Pre-Print Draft EIR/EIS - 25 bound paper copies and 10 CDs distributed to a pre-identified distribution list.

3.12 Task 12: NCCP/HCP/MSAA EIR/EIS Public Review

3.12-1 Local, State, and Federal Notices

The Notices of Availability, Preparation, and Intent (NOA/NOP/NOI) shall describe the Project and indicate the appropriate environmental analyses have been initiated to request comments from stakeholders and interested parties. An environmental checklist shall accompany the NOP/NOI. The CONSULTANT will send the NOA/NOP/NOI to stakeholders, elected officials, affected agencies, and other special interest groups on the project mailing list. The CONSULTANT will advertise the public notice for the scoping meetings in widely circulated newspapers (e.g., *Times Orange County Edition* and *Orange County Register*) and in a local Spanish and Vietnamese newspaper. The CONSULTANT shall coordinate with OCTA to ensure that the notices are properly posted (e.g., newspaper, mass mailers, State Clearinghouse, and the Federal Register). The CONSULTANT shall designate an individual (with concurrence by the OCTA Project Manager) as the main point of contact with interested parties during CEQA/NEPA public review process.

3.12-2 Participation in Scoping Meetings and Public Hearings

The CONSULTANT shall provide support to OCTA and take the lead on providing technical information and staff support on public hearings during the Project public review period.

In coordination and consultation with OCTA, the CONSULTANT will also be responsible for providing copies of the draft planning/environmental documents for review/comment at local city halls and libraries.

Assumptions: The CONSULTANT shall attend and actively participate in the following public meetings:

- Public scoping meetings and
- Public hearing on the Project.

OCTA will arrange for hearing rooms, provide related logistics and support staffing, and provide display easels for the public hearing exhibits.

The CONSULTANT shall prepare meeting/public hearing reports based on the results of the meetings and the letters of comments received in response to the NOA/NOI/NOP. The reports shall collate and summarize the comments received and will identify environmental issues and alternatives to be addressed in the Project that emerge from the scoping process.

Deliverables:

- Preparing notifications (e.g., newspapers advertisements) for the Project's public scoping meetings and hearings.
- Coordinating and providing technical information including handouts, visual displays and other materials for the public hearings.
- Documentation and gathering of public comments for the Project records.

3.12-3 Response to Comments Matrix

Purpose: To document the responses on comments on the Project.

Methodology: The CONSULTANT shall be responsible for maintaining documentation and providing the adequate response to internal and public comments on the Project and Draft EIR/EIS in a response to comments matrix. The matrix shall be provided to OCTA for review and concurrence prior to the release of the Final EIR/EIS.

Deliverables:

- Response to Comments Matrix.

3.12-4 NCCP/HCP/MSAA EIR/EIS Decision Documents

The CONSULTANT shall assist OCTA in preparation of CEQA decision documents (Findings; Statement of Overriding Considerations, if necessary; Mitigation Monitoring and Reporting Program; Notice of Determination [NOD]). The CONSULTANT shall assist USFWS in preparation of NEPA decision documents including Records of Decision (ROD).

3.12-5 Public Review Draft NCCP/HCP/MSAA EIR/EIS

The CONSULTANT shall prepare the Draft planning/environmental document, including any revisions from the pre-print review, and distribute to affected agencies and the public.

Deliverables:

- Copies of Pre-Print Draft planning/environmental document – up to 150 bound paper copies and 50 CDs distributed to a pre-identified distribution list.
- Post the Draft planning/environmental document on the dedicated website for download.

3.12-6 Administrative Draft of Final NCCP/HCP/MSAA EIR/EIS

The CONSULTANT shall revise the Draft planning/environmental document based on substantial comments received from the public during the public review period and prepare an Administrative Draft Final EIR/EIS, which will include the following:

- The completed planning/environmental document including Technical Appendices (as modified in response to comments received).
- Letters of comments and responses.
- Mitigation Monitoring Report (if required)

The CONSULTANT shall provide the Administrative Draft of the Final planning/environmental document to the EOC for review and comment in response to comments and input.

Deliverables:

- 25 bound paper copies and 10 CDs of the Administrative Draft Final of the planning/environmental document distributed to a pre-identified distribution list.

3.12-7 Preprint Copy of Final NCCP/HCP/MSAA EIR/EIS

The CONSULTANT shall prepare a preprint copy of the Final planning/environmental document for review by OCTA, EOC, T2020, and the Board of Directors' approval.

Deliverables:

- 75 bound paper copies and 25 CDs of the Preprint Final planning/environmental document distributed to a pre-identified distribution list.

3.12-8 Prepare and Distribute Final NCCP/HCP/MSAA EIR/EIS

The CONSULTANT shall finalize and distribute the Final planning/environmental document to those who commented on the Draft and interested parties.

Deliverables:

- up to 150 bound paper copies and 50 CDs of the Final planning/environmental document distributed to a pre-identified distribution list.
- Post the Final planning/environmental document on the dedicated website for download.

3.12-9 Notice of Determination/Record of Decision (NOD/ROD)

Upon approval of the Final planning/environmental document, the CONSULTANT shall prepare the NOD/ROD pursuant to CEQA/NEPA, respectively. The NOD/ROD shall indicate OCTA's and USFWS's decision to proceed and include responses to public comments generated during the Draft EIR/EIS public review period. The CONSULTANT is responsible for assisting OCTA and USFWS in posting the NOD with the State Clearinghouse as well as the ROD in the Federal Register.

Attachment A

Mitigation and Resource Protection Program Oversight Committee Environmental Oversight Committee Committee Charter

Purpose

Renewed Measure M (M2) provides for the allocation of at least 5 percent of net freeway program revenues (or \$243.5 million in 2005 dollars) for programmatic mitigation of freeway projects, subject to a Master Agreement between the Orange County Transportation Authority (OCTA) and state and federal resource agencies. The intent is to provide for comprehensive, rather than piecemeal, mitigation of the impacts of freeway projects and to do so in a way that results in high-value environmental benefits in exchange for streamlined project approvals and greater certainty in the delivery of the freeway program as a whole.

The Environmental Oversight Committee (EOC) makes recommendations to the OCTA Board of Directors regarding the allocation of revenues for programmatic mitigation and monitors the implementation of the Master Agreement.

Line of Reporting

The EOC will provide recommendations to the OCTA Board of Directors. Currently, all matters related to M2 are considered first by the OCTA Transportation 2020 Committee, a subcommittee of the OCTA, for recommendation to the full OCTA Board.

Responsibilities

The EOC provides advice on the development and implementation of programmatic mitigation of freeway projects under M2. Activities undertaken by the EOC may consist of the following:

- Inventory and assessment of freeway impacts.
- Inventory and assessment of mitigation opportunities.
- Review and provide input on funding opportunities, including M2 financing, matching funds and grant funding.
- Review and provide input on both the monetary and environmental value of property or other mitigation elements.
- Review and provide input on the Master Agreement.
- Monitor implementation of the Master Agreement, including acquisitions, management, operations and maintenance activities.

Membership

The EOC shall consist of 12 members appointed by the OCTA Board of Directors as follows:

- Two members representing OCTA, one of whom shall serve as chairman;
- One member representing Caltrans;
- One member representing the California Department of Fish and Game;
- One member representing the United States Fish and Wildlife Service;
- One member representing the Army Corps of Engineers;
- One member representing the California Wildlife Conservation Board;
- One member representing the Measure M Taxpayers Oversight Committee;
- Two members representing non-governmental environmental organizations;
- Two members representing the public.

Members are expected to be able to devote at least 25 hours per year to Committee business. Alternates are not permitted.

Terms of Office

Terms of office are three years with no term limitations.

Meeting Time and Location

The committee meeting will take place on the first Wednesday of the month from 10 to 11:30 a.m. at the Orange County Transportation Authority, 600 South Main Street in Orange.

Selection of the Vice-Chair

The Vice-Chair will be selected by the EOC from among its members.

Duration of Existence

The EOC will continue throughout the duration of the implementation of the Master Agreement

Attachment B
Environmental Oversight Committee
Roster

Chairman Patricia Bates
OCTA Board of Directors
Orange County Supervisor, 5th District
County of Orange

Adam Probolsky
Chairman & CEO
Probolsky Research

Vice Chairman Melanie Schlotterbeck
Environmental Consultant
Environmental Coalition that Supported Measure
M

Dan Silver
Executive Director
Endangered Habitats League

Cathy Green
OCTA Board of Directors
Huntington Beach City Council Member
City of Huntington Beach

Jonathan Snyder
Wildlife Biologist
US Fish and Wildlife Service

Rose Coffin
OCTA Taxpayers Oversight Committee Member

Debbie Townsend
Assistant Executive Director, Land
Acquisition Program
California Wildlife Conservation Board

Mark Cohen
Senior Project Manager
US Army Corps of Engineers

Sylvia Vega
Deputy District Director,
Environmental Division
Caltrans, District 12

Veronica Chan (alternate)
Project Manager
US Army Corps of Engineers

Erinn Wilson
Staff Environmental Scientist
South Coast Region
CA Department of Fish & Game

Judy McKeehan
Environmental CONSULTANT

ATTACHMENT C

Renewed Measure M Property Acquisition Criteria

BIOLOGICAL ASSESSMENT CRITERIA

The following criteria are intended to guide the permitting/resource agencies in the recommendation of sites for the mitigation of habitat impacts by Renewed Measure M freeway projects. Each criterion includes a brief definition to clarify any potential misunderstandings. At a future date, and after more research and input, it is expected these criteria will include a mechanism for evaluating potential acquisitions.

- ☐ **Aligns with Impacted Habitats**
An inventory of the property shows it includes the same vegetative communities as those habitats lost to freeway projects, including habitats such as coastal sage scrub, riparian woodlands, grasslands, etc.
- ☐ **Conserves Sensitive Habitats**
The property's habitat includes the conservation and possible restoration of species, sub-species, and natural communities ranked as sensitive under California Natural Diversity Database (CNDDB).
- ☐ **Considers Property Acreage**
Generally larger properties are better.
- ☐ **Contains Target Species**
The potential property includes the presence of endangered, threatened, species of special concern, and other sensitive species impacted by freeway projects.
- ☐ **Considers the Threat of Development and Urgency**
The evaluation considers where the landowner is in CEQA and other permitting processes, quantifies the degree of the development threat, and determines if this acquisition creates an opportunity for leveraging expiring conservation funding.
- ☐ **Enhances Natural Lands Connectivity, including significant Wildlife Corridors**
Acquisition of this property would connect to existing protected areas, examine the effects on multiple taxa (such as birds, large mammals) and could be identified as an essential habitat linkage in regional or local plans.
- ☐ **Enhances Natural Lands Contiguity**
The property borders existing open spaces and acquisition increases the amount of core habitat or reduces edge effects.

☐ **Includes Species/Habitat Diversity**

The property includes a wide variety of habitat types and species (including subspecies, if known). Special emphasis would be provided for properties with examples of various stages of vegetative structural diversity and functional ecosystem diversity present (e.g., habitat with a natural flood regime).

☐ **Provides for Quality Habitat or Potential for Quality Habitat**

The property includes mature habitats or property constraints are minimal and property has a high potential to support high-quality habitat after acquisition.

OTHER CRITERIA

This list includes the secondary tier of evaluation criteria after the biological criteria are considered. It is expected that these criteria would require a simpler evaluation (such as yes, no, maybe) and the answers may merely play an informational role.

☐ **Aligns with Resource Agency Priorities**

The property is included on the DFG & USFWS's list of acquisition priorities.

☐ **Includes a Cooperative Landowner**

The landowner effectively coordinates with the entity responsible for acquisition to complete tasks required for acquisition.

☐ **Includes Support from Local and State Governments**

This acquisition is supported by local cities, appropriate JPA's, the county or other governmental entities.

☐ **Includes Support from the Community**

This acquisition is supported by the public, environmental and community organizations.

☐ **Utilizes Partnership & Leveraging Opportunities**

Working on this acquisition would be enhanced by existing conservation efforts, partnerships and/or includes existing funding.

CO-BENEFITS

The following criteria would assist in the event the above criteria are roughly equal. These may take on a simpler evaluation (such as yes, no, or maybe) and the answers may merely play an informational role.

Includes:

- Archeological Sites
- Cultural and Historical Sites
- Paleontological Sites
- Watershed Protection
- Proximity to Underserved Area

- Scenic/Viewshed
- Trail Connectors
- Economic Benefits (supports local businesses)

PROPERTY CONSTRAINTS

The following criteria are potential constraints to property acquisition, but detailed information regarding some of these constraints may not be available until later in the evaluation process.

☐ **Considers Cost**

In addition to streamlining OCTA's regulatory process, the intent of the comprehensive environmental mitigation program is to provide the greatest possible biological benefit for the region with the available funding. Consequently, the cost of potential acquisitions will be an important factor in selecting mitigation sites.

☐ **Consider Conflicting Easements or Inholdings**

The property may have restrictive deeds, easements, other agreements, and/or inholdings that would limit management/public use options.

☐ **Considers Neighboring Land Uses**

Neighboring land uses may decrease the habitat mitigation value of the mitigation property.

☐ **Considers Other Complications**

The property may have unidentified complications associated with acquisition and management including, vector control, vandalism, inadequate access, significant obstacles to restoring water quality (toxics, pesticides, salts), etc.

☐ **Considers the extent of Isolation or Habitat Fragmentation**

The property may be fragmented or isolated from other valuable habitats that may impede its long-term biological value. Fragmented or isolated habitats would make it challenging to have a variety of flora and fauna.

☐ **Determines Hazardous Conditions**

Through a Phase I – Environmental Site Assessment, determine the property's historical use and any potential or known hazardous materials on-site.

☐ **Understands Management Encroachments**

The property may have unauthorized users; there are adopted plans for future infrastructure that may be inconsistent with habitat mitigation; or the type and quantity of public use inside or adjacent to the property. (e.g. vegetative fuel modification zones are adjacent)

ATTACHMENT D

Renewed Measure M Property Restoration Criteria

BIOLOGICAL ASSESSMENT CRITERIA

The following criteria are intended to guide the permitting/resource agencies in the recommendation of restoration for the mitigation of habitat impacts by Renewed Measure M freeway projects. Each criterion includes a brief definition to clarify any potential misunderstandings. At a future date, and after more research and input, it is expected these criteria will include a mechanism for evaluating potential restoration projects.

☐ **Benefits Targeted Species**

The potential restoration site includes a net benefit (both immediate and long term) in the ecological value for target species through increased breeding/foraging habitat and increases connectivity between areas of suitable habitat.

☐ **Considers the Threat of Habitat Degradation and Urgency**

The threat of increasing the amount and coverage of non-native species determines restoration urgency, and there may be unique opportunities for restoration, such as burn areas.

☐ **Enhances Natural Lands Contiguity**

Restoration of this site will limit edge effect, supplement existing open space and improve the quantity and quality of core habitat.

☐ **Enhances of Already Conserved Lands for Habitat and Wildlife Connectivity**

Allows funding of restoration and management endowments on previously conserved lands to benefit species and wildlife connectivity in situations deemed appropriate by the permitting/resource agencies.

☐ **Evaluates Adequacy of Protection and Management**

The existing level of protection, anticipated public use inside and adjacent to the restoration site should be considered.

☐ **Restores Impacted Habitats**

An inventory of the property shows it includes the same vegetative communities as those habitats lost to freeway projects, including habitats such as: coastal sage scrub, riparian woodlands, grasslands, etc. and possibly includes ties to historical land coverage.

☐ **Restores Sensitive Habitats**

The property's habitat restoration includes the restoration of species, sub-species, and natural communities ranked as sensitive under CNDDDB (California Natural Diversity Database).

OTHER CRITERIA

This list includes the secondary tier of evaluation criteria after the biological criteria are considered. It is expected that these criteria would require a simpler evaluation (such as yes, no, maybe) and the answers may merely play an informational role.

☐ **Aligns with Resource Agency Priorities**

Proposed restoration meets resource agencies' particular requirements (e.g., the restoration satisfies the agencies' (ACOE, RWCB, and DFG) definition of habitat creation for the purposes of no-net loss policies for wetlands) and/or is determined to otherwise benefit fish and wildlife resources and the habitats upon which they depend.

☐ **Includes Support from Local and State Governments**

This acquisition is supported by local cities, appropriate JPA's, the county or other governmental entities.

☐ **Includes Support from the Community**

This acquisition is supported by the public, environmental and community organizations.

☐ **Utilizes Partnership & Leveraging Opportunities**

Working on this restoration project would be enhanced by existing conservation efforts, partnerships and/or includes existing funding.

CO-BENEFITS

Where applicable, the following criteria would assist in the event the above criteria are roughly equal. These may take on a simpler evaluation (such as yes, no, or maybe) and the answers may merely play an informational role.

Includes:

- Watershed Protection
- Proximity to Underserved Area
- Scenic/Viewshed/Enhanced recreation experience
- Economic Benefits (supports local businesses)
- Public Access
- Archeological Sites
- Cultural and Historical Sites
- Paleontological Sites
- Trail Connectors

RESTORATION CONSTRAINTS

The following criteria are potential constraints to restoration, but detailed information regarding some of these constraints may not be available until later in the evaluation process.

☐ **Considers Cost**

In addition to streamlining OCTA's regulatory process, the intent of the comprehensive environmental mitigation program is to provide the greatest possible biological benefit for the region with the available funding. Consequently, the cost of potential restoration will be an important factor in selecting mitigation sites.

☐ **Determines Hazardous Conditions**

Through a Phase I – Environmental Site Assessment, determine the property's historical use and any potential or known hazardous materials on-site.

☐ **Includes Access to Site**

The restoration site is accessible for restoration work, maintenance and management.

☐ **Includes Availability and Delivery of Water**

The water used for the restoration is available, does not increase environmental impacts when delivered to the site and works with local water agencies to ensure groundwater sources are not impacted by water withdrawal.

ATTACHMENT E

Draft Criteria for Allocation of Measure M Funding for Property and Habitat Management

Endowments will be provided through Measure M funding for long term management of the acquired and restored properties. The amount of funding provided will be determined in each case through the preparation of Property Analysis Record (PAR) or an equivalent method. A PAR analysis involves application of a computer database methodology developed by the Center for Natural Lands Management for estimating the required amount for endowments. Every effort will be made to work with partners to leverage the available Measure M funding to accomplish the necessary long-term management of acquired and restored habitat.

SECTION VI

FORMS

PARTY DISCLOSURE FORM**Information Sheet****ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

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

IMPORTANT NOTICE**Basic Provisions of Government Code Section 84308**

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

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

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

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND ITS AFFILIATED AGENCIES

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

Prime Firm's Name: _____

Party's Name: _____

Party's Address: _____

Street

City

State Zip Phone

Application or Proceeding
Title and Number: _____

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

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Date: _____

Signature of Party and/or Agent _____

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Peter Buffa, Chair

Jerry Amante, Vice Chairman

Patricia Bates, Director

Art Brown, Director

Bill Campbell, Director

Carolyn V. Cavecche, Director

William J. Dalton, Director

Richard Dixon, Director

Paul G. Glaab, Director

Cathy Green, Director

Allan Mansoor, Director

John Moorlach, Director

Janet Nguyen, Director

Chris Norby, Director

Curt Pringle, Director

Miguel Pulido, Director

Gregory T. Winterbottom, Director

PARTICIPANT DISCLOSURE FORM

Information Sheet

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

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

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

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

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

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

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

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

AND

- b. The individual or entity, directly or through an agent, does any of the following:
 - (1) Communicates directly, either in person or in writing, with a board member or alternate of the Orange County Transportation Authority or any of its affiliated agencies for the purpose of influencing the member's vote on the proposal;
 - (2) Communicates with an employee of the Orange County Transportation Authority or any of its affiliated agencies for the purpose of influencing a member's vote on the proposal; or
 - (3) Testifies or makes an oral statement before the Board of Directors of the Orange County Transportation Authority or any of its affiliated agencies.
2. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use; all contracts (other than competitively bid, labor, or personal employment contracts) and all franchises.
3. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit, or other entitlement for use. If an agent acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar business entity or corporation, both the business entity or corporation and the individual are agents.
4. To determine whether a campaign contribution of more than \$250 has been made by a participant or his or her agent, contributions made by the

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

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

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

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND ITS AFFILIATED AGENCIES

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

Prime's Firm Name: _____

Party's Name: _____

Party's Address: _____

Street

City

State

Zip

Phone

Application or Proceeding

Title and Number: _____

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

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Date: _____

Signature of Party and/or Agent

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Peter Buffa, Chair

Jerry Amante, Vice Chairman

Patricia Bates, Director

Art Brown, Director

Bill Campbell, Director

Carolyn V. Cavecche, Director

William J. Dalton, Director

Richard Dixon, Director

Paul G. Glaab, Director

Cathy Green, Director

Allan Mansoor, Director

John Moorlach, Director

Janet Nguyen, Director

Chris Norby, Director

Curt Pringle, Director

Miguel Pulido, Director

Gregory T. Winterbottom, Director

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 _____

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.

COMMODITY CODES

Safety specifications for the codes that follow generally apply to contracts that require work on Authority property or Authority controlled projects. Those exempt are generally delivery of parts or materials and some office services.

The following are **generally exempt** from safety specifications: Equipment, Parts, Rental, Supplies, Employment Services

200-1990	5330	5940-5970
2420-2890	5330	6150
5320	5560	

The following generally requires **Level 1** Safety Specifications

5920-5930	6410	6580-6700	6760-6770	6950-7100
5980	6550-6560	6715-6740	6790-6930	7120-8680

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