

DRAFT REQUEST FOR PROPOSALS (RFP) 5-4209

**PROGRAM MANAGEMENT CONSULTANT
SERVICES FOR THE LOSSAN AGENCY**



**ORANGE COUNTY TRANSPORTATION AUTHORITY
ON BEHALF OF THE LOSSAN AGENCY**

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

Key RFP Dates

Issue Date:	July 21, 2025
Pre-Proposal Conference Date:	July 30, 2025
Question Submittal Date:	August 1, 2025
Authority Responses:	August 8, 2025
Proposal Submittal Date:	August 20, 2025
Interview Date:	September 30, 2025

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July 21, 2025

NOTICE OF REQUEST FOR PROPOSALS

(RFP): 5-4209: “PROGRAM MANAGEMENT CONSULTANT SERVICES FOR THE LOSSAN AGENCY”

On behalf of the Los Angeles-San Diego-San Luis Obispo Rail Corridor Agency (LOSSAN Agency), the Orange County Transportation Authority (Authority) invites proposals from qualified consultants to provide program management consultant services. Consultant will function as an extension of staff to help with managing the growing responsibilities of the LOSSAN Agency and a capital program that is currently valued at approximately \$500 million, as described in the attached Exhibit A Scope of Work.

To prevent potential conflicts of interest, the following prohibitions apply to this solicitation:

Offeror(s) are advised that the prime consultant firm and all subconsultants (at any tier) the firm, awarded the contract for this solicitation, will be precluded from participating (at any tier) on any engineering, technical services and/or construction-related work for projects which they will be overseeing on behalf of LOSSAN Agency.

Furthermore, Offeror(s) are advised that the evaluation of conflicts of interest situations with regards to team composition will be done on a case-by-case basis when such evaluation is requested prior to submitting a proposal.

Please note that by submitting a Proposal, Offeror certifies that it is not subject to any Ukraine/Russia-related economic sanctions imposed by the State of California or the United States Government including, but not limited to, Presidential Executive Order Nos. 13660, 13661, 13662, 13685, and 14065. Any individual or entity that is the subject of any Ukraine/Russia-related economic sanction is not eligible to submit a Proposal. In submitting a Proposal, all Offerors agree to comply with all economic sanctions imposed by the State or U.S. Government.

Offerors are advised that by signing their proposal, they are certifying that they and their subconsultants are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

Offerors are advised that all Consultant proposals and supporting documents for the project contract are subject to audit or review by the California Department of Transportation (Caltrans) or the Federal Highway Administration (FHWA). The Cost Proposal is subject to an audit or Certified Public Accountant (CPA) Indirect Cost (Overhead) Audit Workpaper Review. The Cost Proposal shall be adjusted by the Consultant and approved by the Authority's Contract Administrator to conform to the Workpaper Review recommendations or audit recommendations. The Consultant agrees that individual terms of cost identified in the audit report shall be incorporated into the agreement by this reference if directed by the Authority at its sole discretion. Refusal by the Consultant to incorporate the Workpaper Review recommendations or audit recommendations will be considered a breach of the Agreement terms and cause for termination of the Agreement.

In response to Caltrans' audit/review requirements, Offeror and all their subconsultants will be required to submit, after award of contract, Caltrans' form titled "Certification of Indirect Costs and Financial Management System", a copy of which is attached to this RFP as Exhibit F. As part of this certification, the prime and all subconsultants must show their financial system's ability to segregate cost elements.

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

**Orange County Transportation Authority
Contracts Administration and Materials Management
600 South Main Street, (Lobby Receptionist)
Orange, California 92868
Attention: Gilbert Angon**

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: Gilbert Angon**

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

Note: The Authority utilizes a third-party delivery service therefore, Offerors should anticipate a 48-hour delay in delivery of proposals mailed to the P.O.

Box listed above. Proposals are considered received once time-stamped at the Authority's physical address.

Firms interested in obtaining a copy of this Request for Proposals (RFP) may do so by downloading the RFP from CAMM NET at <https://cammnet.octa.net>.

All firms interested in doing business with the Authority are required to register their business on-line at CAMM NET. The website can be found at <https://cammnet.octa.net>. From the site menu click on CAMM NET to register.

To receive all further information regarding this RFP 5-4209, firms and subconsultants must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

<u>Category:</u>	<u>Commodity:</u>
Professional Consulting	Architectural & Engineering Design Consulting Consultant Services - General Consultant Services - Transportation Planning Environmental Consulting
Professional Services	Architect Services, Professional Engineering - Architectural Engineering - Civil Engineering - Environmental Engineering - General Engineering - Right of Way Engineering - Structural Engineering Drawings Environmental - Architectural Impact Studies, Environmental Railroad; Rapid Transit; Monorail - Architectural
Construction	Construction Management Services
Services (General)	Administration of Contracts: Summary of Work, Quality Control, Project Close
Rail Services	Rail - Inspection & Testing Services Rail - Landscaping Services Rail - Property Management Services Rail - Right of Way

Security, Safety & Health
Equipment

Maintenance
Rail Systems Operations and
Management
Surveillance Systems

A pre-proposal conference will be held on **July 30, 2025, at 10:00 a.m.** at the Authority's Administrative Office, 550 South Main Street, Orange, California 92868, in Conference Room 08.

Participation via teleconference will also be available. Prospective Offerors may join or call in using the following credentials:

- https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZTFiNGE5MGItNzE5ZC00ODIiLTlINzYtMGM2ODU4ZGI0ZmM3%40thread.v2/0?context=%7b%22Tid%22%3a%221e952f6c-c8fc-4e38-b476-ab4dd5449420%22%2c%22Oid%22%3a%22da523135-8add-48f1-94ab-489ef0c78859%22%7d
- OR Call-in Number: +1 916-550-9867
- Conference ID: 383 798 972#

A copy of the presentation slides and pre-proposal conference registration sheet(s) will be issued via addendum prior to the date of the pre-proposal conference. All prospective Offerors are encouraged to attend the pre-proposal conference.

The Authority has established **September 30, 2025**, as the date to conduct interviews. All prospective Offerors 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.

All Offerors 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.

SECTION I: INSTRUCTIONS TO OFFERORS

SECTION I. INSTRUCTIONS TO OFFERORS

A. PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held on **July 30, 2025, at 10:00 a.m.** at the Authority's Administrative Office, 550 South Main Street, Orange, California 92868, in Conference Room 08.

Participation via teleconference will also be available. Prospective Offerors may join or call in using the following credentials:

- https://teams.microsoft.com/join/19%3ameeting_ZTFiNGE5MGItNzE5ZC00ODliLTlINzYtMGM2ODU4ZGI0ZmM3%40thread.v2/0?context=%7b%22Tid%22%3a%221e952f6c-c8fc-4e38-b476-ab4dd5449420%22%2c%22Oid%22%3a%22da523135-8add-48f1-94ab-489ef0c78859%22%7d
- OR Call-in Number: +1 916-550-9867
- Conference ID: 383 798 972#

A copy of the presentation slides and pre-proposal conference registration sheet(s) will be issued via addendum prior to the date of the pre-proposal conference. All prospective Offerors are encouraged to attend the pre-proposal conference.

B. EXAMINATION OF PROPOSAL DOCUMENTS

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

C. ADDENDA

The Authority reserves the right to revise the RFP documents. Any Authority changes to the requirements will be made by written addendum to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into the terms and conditions of any resulting Agreement. The Authority will not be bound to any modifications to or deviations from the requirements set forth in this RFP as the result of oral instructions. Offerors shall acknowledge receipt of addenda in their proposals. Failure to acknowledge receipt of Addenda may cause the proposal to be deemed non-responsive to this RFP and be rejected.

D. AUTHORITY CONTACT

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

Gilbert Angon, Senior Contract Administrator
Contracts Administration and Materials Management Department
600 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560.5687, Fax: 888.404.6282
Email: gangon@octa.net

Commencing on the date of the issuance of this RFP and continuing until award of the contract or cancellation of this RFP, no Offeror, subcontractor, lobbyist or agent hired by the Offeror shall have any contact or communications regarding this RFP with any Authority's staff; member of the evaluation committee for this RFP; or any contractor or consultant involved with the procurement, other than the Contract Administrator named above or unless expressly permitted by this RFP. Contact includes face-to-face, telephone, electronic mail (e-mail) or formal written communication. Any Offeror, subcontractor, lobbyist, or agent hired by the Offeror that engages in such prohibited communications may result in disqualification of the Offeror at the sole discretion of the Authority.

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 D.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 CAMM NET 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 received via e-mail at gangon@octa.net no later than 5:00 p.m., on August 1, 2025.
- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions RFP X-XXXX" in the subject line of the e-mail. The Authority is not responsible for failure to respond to a request that has not been labeled as such.

3. Authority Responses

Responses from the Authority will be posted on CAMM NET, no later than August 8, 2025. Offerors may download responses from CAMM NET at <https://cammnet.octa.net>, or request responses be sent via email.

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

<u>Category:</u>	<u>Commodity:</u>
Professional Consulting	Architectural & Engineering Design Consulting Consultant Services - General Consultant Services - Transportation Planning Environmental Consulting
Professional Services	Architect Services, Professional Engineering - Architectural Engineering - Civil Engineering - Environmental Engineering - General Engineering - Right of Way Engineering - Structural Engineering Drawings Environmental - Architectural Impact Studies, Environmental Railroad; Rapid Transit; Monorail - Architectural
Construction	Construction Management Services
Services (General)	Administration of Contracts: Summary of Work, Quality Control, Project Close
Rail Services	Rail - Inspection & Testing Services Rail - Landscaping Services Rail - Property Management Services Rail - Right of Way Maintenance Rail Systems Operations and Management
Security, Safety & Health Equipment	Surveillance Systems

Inquiries received after 5:00 p.m. on August 1, 2025, will not be responded to.

F. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be received in the Authority's office at or before 2:00 p.m. on August 20, 2025.

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 (CAMP)
600 South Main Street, (Lobby Receptionist)
Orange, California 92868
Attention: Gilbert Angon**

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

**Orange County Transportation Authority
Contracts Administration and Materials Management (CAMP)
P.O. Box 14184
Orange, California 92863-1584
Attention: Gilbert Angon, Contract Administrator**

Note: The Authority utilizes a third-party delivery service therefore, Offerors should anticipate a 48-hour delay in delivery of proposals mailed to the P.O. Box listed above. Proposals are considered received once time-stamped at the Authority's physical address.

3. Identification of Proposals

Offeror shall submit one (1) original hard copy of its proposal in a sealed package, addressed as shown above in F.2. The outer envelope must show the Offeror's name and address and clearly marked as follows: (RFP 5-4209 and "Program Management and Consultant Services for the LOSSAN Agency").

In addition to the above, Offerors shall also include one (1) electronic copy of their entire RFP submittal package in "PDF" format, on a CD, DVD, or flash drive.

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 issue a new RFP for the project.
- d. The Authority reserves the right to postpone proposal openings for its own convenience.
- e. Each proposal will be received with the understanding that acceptance by the Authority of the proposal to provide the services described herein shall constitute a contract between the Offeror and Authority which shall bind the Offeror on its part to furnish and deliver at the prices given and in accordance with conditions of said accepted proposal and specifications.
- f. The Authority reserves the right to investigate the qualifications of any Offeror, and/or require additional evidence of qualifications to perform the work.
- g. Submitted proposals are not to be copyrighted.

G. PRE-CONTRACTUAL EXPENSES

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

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

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

H. JOINT OFFERS

Where two or more firms desire to submit a single proposal in response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint venture. The LOSSAN Agency 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. Offeror is responsible for payment of all taxes for any goods, services, processes and operations incidental to or involved in the contract.

J. PROTEST PROCEDURES

The Authority has on file a set of written protest procedures applicable to this solicitation that may be obtained by contacting the Contract Administrator responsible for this procurement. Any protests filed by an Offeror in connection with this RFP must be submitted in accordance with the Authority's written procedures.

K. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a time and expense contract with fully burdened labor rates and anticipated expenses for work specified in the Scope of Work, included in the RFP as Exhibit A.

L. CONFLICT OF INTEREST

All Offerors responding to this RFP 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 LOSSAN Agency; 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.

All Offerors must disclose in their proposal and immediately throughout the course of the evaluation process if they have hired or retained an advocate to lobby LOSSAN Agency staff or the Board of Directors on their behalf.

Offerors hired to perform services for the LOSSAN Agency are prohibited from concurrently acting as an advocate for another firm who is competing for a contract with the LOSSAN Agency, either as a prime or subcontractor.

M. 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., and all applicable Federal requirements respecting prevailing wages.

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. The Offeror 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, CA 92868 and are available to any interested party on request.

N. CODE OF CONDUCT

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

O. CERTIFICATION OF CONTRACT COSTS AND FINANCIAL MANAGEMENT SYSTEM

Offeror and all their subconsultants will be required to submit, after award of contract, Caltrans' form titled "Certification of Indirect Costs and Financial Management System", a copy of which is attached to this RFP as Exhibit F. As part of this certification, the prime and all subconsultants must show their financial system's ability to segregate cost elements.

P. OWNERSHIP OF RECORDS/PUBLIC RECORDS ACT

All proposals and documents submitted in response to this RFP shall become the property of the LOSSAN Agency and a matter of public record pursuant to the California Public Records Act, Government Code sections 7920.000 et seq. (the "Act"). Offerors should familiarize themselves with the provisions of the Act requiring disclosure of public information. Offerors are discouraged from marking their proposal documents as "confidential" or "proprietary."

If a Proposal does include "confidential" or "proprietary" markings and the LOSSAN Agency receives a request pursuant to the Act, the LOSSAN Agency will endeavor (but cannot guarantee) to notify the Offeror of such a request. In order to protect any information submitted within a Proposal, the Offeror must pursue, at

its sole cost and expense, any and all appropriate legal action necessary to maintain the confidentiality of such information. The LOSSAN Agency generally does not consider pricing information, subcontractor lists, or key personnel, including resumes, as being exempt from disclosure under the Act. In no event shall the LOSSAN Agency or any of its officers, directors, employees, agents, representatives, or consultants be liable to a Offeror for the disclosure of any materials or information submitted in response to the RFP or by failing to notify a Offeror of a request seeking its Proposal. The LOSSAN Agency reserves the right to make an independent decision to disclose records and material.

Notwithstanding the above, all information regarding proposal responses will be held as confidential until such time as the evaluation has been completed; an award has been made by the Board of Directors or Authority Staff, as appropriate; and the contract has been fully negotiated.

Q. STATEMENT OF ECONOMIC INTERESTS

The awarded Offeror (including designated employees and subconsultants) may be required to file Statements of Economic Interests (Form 700) in accordance with the Political Reform Act (Government Code section 81000 et seq.). This applies to individuals who make, participate in making, or act in a staff capacity for making governmental decisions. The LOSSAN Agency determines which individuals are required to file a Form 700, and if such determination is made, the individuals must file Form 700s with the LOSSAN Agency's Clerk of the Board no later than 30 days after the execution of the Agreement, annually thereafter for the duration of the Agreement, and within 30 days of termination of the Agreement.

R. PROHIBITION

To prevent potential conflicts of interest, the following prohibitions apply to this solicitation:

Offeror(s) are advised that the prime consultant firm and all subconsultants (at any tier), awarded the contract for this solicitation, will be precluded from participating (at any tier) on any engineering, technical services and/or construction-related work for projects which they will be overseeing on behalf of LOSSAN Agency.

Furthermore, Offeror(s) are advised that the evaluation of conflicts of interest situations with regards to team composition will be done on a case-by-case basis when such evaluation is requested prior to submitting a proposal.

SECTION II: PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT

A. PROPOSAL FORMAT AND CONTENT

1. Format

Proposals should be typed with a standard 12-point font, double-spaced and submitted on 8 1/2" x 11" size paper, using a single method of fastening. Charts and schedules may be included in 11"x17" format. Proposals should not include any unnecessarily elaborate or promotional materials. Proposals should not exceed fifty (50) pages in length, excluding any appendices, cover letters, resumes, or forms.

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Gilbert Angon, Senior Contract Administrator and must, at a minimum, contain the following:

- a. Identification of Offeror that will have contractual responsibility with the LOSSAN Agency. Identification shall include legal name of company, corporate address, telephone and fax number, and email address. Include name, title, address, email address, and telephone number of the contact person identified during period of proposal evaluation.
- b. Acknowledgement of receipt of all RFP addenda, if any.
- c. 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.
- d. Signature of a person authorized to bind Offeror to the terms of the proposal.
- e. Signed statement attesting that all information submitted with the proposal is true and correct.

3. Technical Proposal

- a. Qualifications, Related Experience and References of Offeror

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

Offeror to:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; and number of employees.
- (2) Provide a general description of the firm's financial condition and identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project.
- (4) Identify subcontractors by company name, address, contact person, telephone number, email, and project function. Describe Offeror's experience working with each subcontractor.
- (5) Identify all firms hired or retained to provide lobbying or advocating services on behalf of the Offeror by company name, address, contact person, telephone number and email address. This information is required to be provided by the Offeror immediately during the evaluation process, if a lobbyist or advocate is hired or retained.
- (6) Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, address, telephone number, and email address of the person(s) at the client organization who is most knowledgeable about the work performed. Offeror may also supply references from other work not cited in this section as related experience.

b. Proposed Staffing and Project Organization

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

Offeror to:

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

c. Work Plan

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

Offeror to:

- (1) Describe the approach to completing the tasks specified in the Scope of Work. The approach to 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 would perform them.
- (3) Furnish a project schedule for completing the tasks in terms of elapsed weeks.
- (4) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.

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

d. Exceptions/Deviations

State any technical and/or contractual exceptions and/or deviations from the requirements of this RFP, including the LOSSAN Agency's technical requirements and contractual terms and conditions set forth in the Scope of Work (Exhibit A) and Proposed Agreement (Exhibit B), using the form entitled "Proposal Exceptions and/or Deviations" included in this RFP. This Proposal Exceptions and/or Deviations form must be included in the original proposal submitted by the Offeror. If no technical or contractual exceptions and/or deviations are submitted as part of the original proposal, Offerors are deemed to have accepted the LOSSAN Agency's technical requirements and contractual terms and conditions set forth in the Scope of Work (Exhibit A) and Proposed Agreement (Exhibit B). Offerors will not be allowed to submit the Proposal Exceptions and/or Deviations form or any technical and/or contractual exceptions after the proposal submittal date identified in the RFP. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed by Authority.

All exceptions and/or deviations will be reviewed by the Authority and will be assigned a "pass" or "fail" status. Exceptions and deviations that "pass" do not mean that the Authority has accepted the change but that it is a potential negotiable issue. Exceptions and deviations that receive a "fail" status means that the requested change is not something that the Authority would consider a potential negotiable issue. Offerors that receive a "fail" status on their exceptions and/or deviations will be notified by the Authority and will be allowed to retract the exception and/or deviation and continue in the evaluation process. Any exceptions and/or deviation that receive a "fail" status and the Offeror cannot or does not retract the requested change may result in the firm being eliminated from further evaluation.

4. Cost and Price Proposal

Offerors are asked to submit only the technical qualifications as requested in the 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. Campaign Contribution Disclosure Form

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 Board of Directors, Offeror is required to complete and sign the Campaign Contribution Disclosure Form provided in this RFP and submit as part of the proposal.

This form **must** be completed regardless of whether a campaign contribution has been made or not and regardless of the amount of the contribution.

The prime contractor, subconsultants, lobbyists and agents are required to report all campaign contributions made from the proposal submittal date up to and until the Board of Directors makes a selection.

Offeror is required to submit only **one** copy of the completed form(s) as part of its proposal and it must be included in only the **original** proposal.

Offeror is required to report any campaign contributions made by the prime contractor, subconsultants, lobbyists and agents after the proposal submittal date, and up to the anticipated Board of Directors selection. The offeror shall use the campaign contribution form for any additional reporting. The forms must be submitted at least 15 calendar days prior to the Board Committee date on and sent via e-mail to the Contract Administrator.

2. Status of Past and Present Contracts Form

Offeror shall complete and sign the form entitled "Status of Past and Present Contracts" provided in this RFP and submit as part of its proposal. Offeror shall identify the status of past and present contracts where the firm has either provided services as a prime vendor or a subcontractor during the

past five (5) years in which the contract has been the subject of or may be involved in litigation with the contracting authority. This includes, but is not limited to, claims, settlement agreements, arbitrations, administrative proceedings, and investigations arising out of the contract. Offeror shall have an ongoing obligation to update the Authority with any changes to the identified contracts and any new litigation, claims, settlement agreements, arbitrations, administrative proceedings, or investigations that arise subsequent to the submission of Offeror's proposal.

A separate form must be completed for each identified contract. Each form must be signed by the Offeror confirming 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. Safety Specifications

Offerors shall comply with Safety Specifications Level 1 as included in this RFP as Exhibit G, during the term of the awarded Agreement.

4. Certification of Indirect Costs and Financial Management System (Exhibit F)

This exhibit entitled "Certification of Indirect Costs and Financial Management System" (RFP 5-4209, Exhibit F) is to be completed by Offeror and all subconsultants after award of contract. As part of this certification, the prime and all subconsultants must show their financial system's ability to segregate cost elements.

5. Proposal Exceptions and/or Deviations Form

Offerors shall complete the form entitled "Proposal Exceptions and/or Deviations" provided in this RFP and submit it as part of the original proposal. For each exception and/or deviation, a new form should be used, identifying the exception and/or deviation and the rationale for requesting the change. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed nor considered by the Authority.

SECTION III: EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

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

- 1. Qualifications of the Firm 35%**
 Technical experience in performing work of a closely similar nature; strength and stability of the firm; strength, stability, experience and technical competence of subcontractors; assessment by client references .
- 2. Staffing and Project Organization 40%**
 Qualifications of project staff, particularly key personnel and especially the Project Manager; key personnel's level of involvement in performing related work cited in "Qualifications of the Firm" section; logic of project organization; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel.
- 3. Work Plan 25%**
 Depth of Offeror's understanding of LOSSAN Agency's requirements and overall quality of work plan; logic, clarity and specificity of work plan; appropriateness of resource allocation among the tasks; reasonableness of proposed schedule; utility of suggested technical or procedural innovations.

B. EVALUATION PROCEDURE

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

During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established **September 30, 2025**, as the date to conduct interviews. All prospective Offerors are asked to keep this date available. No other interview dates will be provided, therefore, if an Offeror is unable to attend the interview on this date, its proposal may be eliminated from further discussion. The interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the firm's proposal and qualifications.

At the conclusion of the evaluation process, the evaluation committee will recommend to the LOSSAN Agency Board of Directors, the Offeror with the highest final ranking or a short list of top ranked firms within the competitive range whose proposal(s) is most advantageous to the LOSSAN Agency.

C. AWARD

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

Offeror acknowledges that the LOSSAN Agency's Board of Directors reserves the right to award this contract in its sole and absolute discretion to any Offeror to this RFP regardless of the evaluation committee's recommendation.

The LOSSAN Agency reserves the right to award its total requirements to one Offeror or to apportion those requirements among several Offerors as the LOSSAN Agency 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 the Authority's Accounting department a current IRS W-9 form prior to commencing work.

D. NOTIFICATION OF AWARD AND DEBRIEFING

Offerors who submit a proposal in response to this RFP shall be notified via CAMM NET of the contract award. Such notification shall be made within three (3) business days of the date the contract is awarded.

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 the Authority must receive it within three (3) business days of notification of the contract award.

EXHIBIT A: SCOPE OF WORK

EXHIBIT B: PROPOSED AGREEMENT

EXHIBIT C: CAMPAIGN CONTRIBUTION DISCLOSURE FORM

EXHIBIT D: STATUS OF PAST AND PRESENT CONTRACT

EXHIBIT E: SAFETY SPECIFICATIONS

**EXHIBIT F: CONSULTANT CERTIFICATION OF CONTRACT COSTS AND
FINANCIAL MANAGEMENT SYSTEM**

EXHIBIT G: PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

**Scope of Work
Program Management Consultant Services**

I. Background

The Los Angeles-San Diego-San Luis Obispo Rail Corridor Agency (LOSSAN Agency) is responsible for the management of the state-funded, Amtrak-operated Pacific Surfliner intercity passenger rail service along the 351-mile corridor between San Diego and San Luis Obispo. The LOSSAN Agency is a joint powers authority originally formed in 1989 that works to increase ridership, revenue, capacity, reliability, coordination and safety through the six-county coastal rail line. Since assuming full administration and management responsibility from the California Department of Transportation (Caltrans) in July 2015, the duties and responsibilities of the LOSSAN Agency have significantly expanded, especially in the areas of capital projects and grants management.

The LOSSAN Agency is seeking a qualified consultant to act as an extension of staff to help with managing the growing responsibilities of the LOSSAN Agency and a capital program that is currently valued at approximately \$500 million. This includes current and on-going projects including rail capacity enhancing, facility expansion, and state of good repair projects. It also includes but is not limited to, coordinating with Amtrak and Caltrans on planning, tracking and oversight of maintenance and overhaul programs of rolling stock, applying for and managing various state and federal grants, and managing contracts with third parties and host railroads.

II. General Description of Services Required

Consultant shall function as an extension of the LOSSAN Agency's staff and assist LOSSAN Agency's staff by providing specialized services as required to effectively implement capital and service improvements for the Pacific Surfliner and along the LOSSAN rail corridor. Consultant shall have a vision for a capital program and assist in implementing that program using LOSSAN's SharePoint and PowerBI. Consultant shall provide document control, project management and technical expertise on an as-needed basis, assistance in the oversight of project implementation, administration and schedule, and project controls. Consultant's support shall include but not be limited to the following:

- Project Management assistance
- Project Study Reports, Environmental Review/ Compliance, and Preliminary Engineering for Projects
- Support of Signal, Trackwork, Station Improvements as needed.
- Construction Management for minor capital Projects as directed by the LOSSAN Agency
- Host Railroad, Member Agency, and other Consultant coordination.
- Utility Coordination

- Preparation of Independent Cost Estimates/ Financial Plans
- Document Control
- Project Delivery Plans/ Schedule Monitoring
- Contract Management and Development of Cooperative Agreements and Memoranda of Understanding (MOUs) with Cities, including City coordination and review of Railroad Agreements
- Project Controls/ Invoice Review

Consultant shall assist LOSSAN Agency's Project Managers and task leads, and provide specialized technical expertise as needed.

Consultant's area of knowledge and expertise shall include the following:

- Technical, design, and construction oversight.
- Design of stations, track, bridge, rail and traffic signal, grade crossings, grade separation, passenger communications, grants, contract management, project controls and scheduling, operations analysis, and other related disciplines.
- Passenger and freight rail in California and regulatory and/or funding requirements from various governing agencies including but not limited to Federal Transit Administration (FTA), Federal Railroad Administration (FRA), California Public Utilities Commission (CPUC), and other coordinating agencies.
- Requirements governing California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA), including various resource permitting agencies to deliver projects.

The LOSSAN Agency will provide overall management and may contract directly with the host railroads along the LOSSAN rail corridor for specialized railroad signal and trackwork.

III. Specific Expertise

The Consultant shall provide, either directly, through subconsultants, or a combination of both personnel with the following technical expertise obtained from direct experience working on projects during the planning, conceptual design, preliminary engineering, and construction engineering phases for the following types of work:

- Railroad infrastructure, including elements such as right-of-way, grading, track, drainage, and retaining structures.
- Tunnel, railroad bridge, pedestrian-railroad grade separations, highway-railroad grade crossings.
- Passenger rail stations including elements such as buildings, platforms, canopies, signage, lighting, structure, safety, and security.
- Passenger Information Display Systems (PIDS) and static signage located at stations and onboard trains.

- Agreements and contracts (such as construction and maintenance agreements, project cooperative agreements, and relocation agreements) with private entities, public agencies, and public utilities
- Planning, coordination, and oversight of design, procurement, implementation, and maintenance for various types of video surveillance systems
- Passenger locomotive and passenger car repair facilities (shops) and layover/storage facilities
- Wi-Fi and other onboard passenger communication and information systems, including development and maintenance of accessible information dashboards that summarize system status.
- Project management and document control systems
- Locomotive and rolling stock procurement, rebuilding, rehabilitation, and maintenance inspections.
- Passenger Rail Investment and Improvement Act (PRIIA) of 2008 and Section 209 related to state-supported services

IV. Scope of Services

The Consultant, under this contract, shall provide project management, design oversight, and various staff assistance services to support the planning, development, and implementation of capital improvement and rehabilitation projects initiated by the LOSSAN Agency, as well as projects started by third-party agencies that directly affect the safety and service of the Pacific Surfliner and its support facilities. The Consultant and its subconsultants must have experience planning and executing infrastructure projects on active Federal Railroad Administration (FRA) regulated mixed passenger or freight rail corridors.

The consultant shall also, upon request, provide project management; project engineering; coordination (interdisciplinary, third-party, etc.); resolution of issues; scheduling; budgeting; reporting; or technical assistance for projects in any phase or all phases of a project life cycle (planning, design, procurement, construction, and closeout).

The Consultant shall assign a Project Manager to manage all aspects of the project. The Consultant is further required to have an internal management capability to effectively manage assignments and costs, and to produce factual and detailed backup of charges invoiced.

The Consultant and subconsultant project management team shall have team members in key positions with knowledge of the railroad operating environment and with knowledge of the design, management and construction constraints and challenges associated with construction or rehabilitation projects on operating railroad corridors.

The Consultant shall provide assistance to the LOSSAN Agency in areas that may include, but not limited to, the following:

a. Overall Program and Project Management Assistance

Project and design management activities may be performed in conjunction with consultants working under other LOSSAN Agency contracts and agreements. The Consultant shall, upon request, provide oversight, support, or management for, but not limited to, the typical activities listed below:

1. Project Planning and Funding

- Assist with the development and preparation of strategic, long- and short-term and various other plans relevant to supporting service growth and capital improvements.
- Identification of project needs and specific project objectives
- Perform operations simulation and analysis as needed.
- Development of project concepts
- Development of new, or support of existing, asset management plans for infrastructure and rolling stock
- Development or review of agreements
- Preparation of project specific environmental constraints reports
- Review of third-party documents that may impact the LOSSAN rail corridor.
- Assist with the tracking of state and federal grant opportunities for funding projects.
- Assist in preparing grant applications for funding of specific projects.
- Ensure compliance with project funding requirements.

2. Project Controls and Schedule Monitoring

- Develop and maintain project schedules and reports using state-of-the art scheduling and reporting tools and practices.
- Prepare progress status and grant funding reports.
- Maintenance of project documentation per the established procedures or direction of the LOSSAN Agency
- Development and tracking of project risk assessment and risk management plans.
- Assist with development of grant funding plans and tracking of grant balances.
- Completion of project closeout activities as required for each project.

3. Conceptual Project Development

- Preparation of project definition studies or project study reports
- Determination, evaluation, recommendation of alternatives
- Analysis of environmental impacts
- Preparation of statutory and categorical exemptions
- Support management of projects during design phases.
- Review available information and develop preliminary assessments of various property parcels specific to planned projects.

- Provide the right of way engineering support.
- Coordination of design projects across multiple disciplines

4. *Preliminary Engineering and Environmental Assessment*

- Assist with preparing preliminary engineering scope of work and schedules.
- Prepare utility and other third-party agreements.
- Support right-of-way analysis and acquisition efforts.
- Coordinate preparation, review, and responses to special design consideration reports.
- Assist in coordination of projects with other agencies, stakeholders and the public.
- Prepare preliminary engineering designs and environmental assessment as directed.
- Assist with developing independent cost estimates for final design and construction phases.
- Assist in the identification of alternatives for evaluation in environmental documents.
- Assist with preparing and reviewing environmental documents and exclusions.

5. *Final Design*

- Assist with reviewing previously prepared reports and preliminary engineering designs prepared by third parties or under other LOSSAN Agency contracts.
- Prepare and coordinate utility agreement modifications and coordinate third-party utility work in advance of LOSSAN Agency led construction projects.
- Assist with the coordination of right-of-way acquisitions and temporary construction easements.
- Review and coordinate responses to reports, plans, specifications, and estimates.
- Coordinate review and responses to final design reports.
- Assist in preparation or review of construction and maintenance agreements.
- Coordinate with host railroads on design of other projects along the LOSSAN rail corridor.

6. *Rehabilitation and Maintenance Project Management*

- Assist with producing, reviewing, and providing comments and/or cost estimates on various facility improvements.
- Identification, prioritization, development or management of infrastructure or equipment rehabilitation projects
- Perform review of structural safety and construction engineering inspection reports.
- Assist with performing rolling stock inspections and preparing inspection reports.

b. Technical and Administrative Assistance

Various technical and administrative activities may be performed in conjunction with consultants working under other LOSSAN Agency contracts and agreements. The

Consultant may be requested to provide technical support or administrative assistance for, but not limited to, the typical activities listed below:

1. *Administrative Assistance*

- Coordinate with LOSSAN Agency procurement staff in the various aspects of solicitations and contract award as needed, including responses to proposers' questions, and related addenda.
- Provide final documents, technical specifications, drawings and other relevant documents to LOSSAN Agency Procurement Staff to Issue for Bid.
- Assist with preparing draft board reports.

2. *Technical Support*

- Assist with development and review of rail equipment specifications.
- Perform strategic security management planning and design.
- Provide meeting notices and minutes.
- Prepare special reports and presentations for Board and external agencies.
- Assist with managing the technical contractor for the Pacific Surfliner onboard Wi-Fi communication system.
- Management, updating and programming of various databases to track projects, equipment, funding and other items as directed.
- Keep accurate records of correspondence, reports, drawings, deliverables, and other project related documents and communications between the LOSSAN Agency, host railroads, member agencies, other consultants, and other stakeholders. Maintain project file documents.
- Develop, review and/or maintain project management, construction management (for minor capital projects) and quality management plans as needed and directed.
- Assist with host railroad / third party invoice review and processing.
- Assist in coordination of projects with agencies such as Federal Transit Administration (FTA), Federal Railroad Administration (FRA), Federal Highway Administration (FHWA), California Public Utilities Commission (CPUC), California Department of Transportation, LOSSAN Agency member agencies and their counties, host railroads, and other stakeholders.
- Maintain and foster relationships with host railroads, utility companies, LOSSAN Member Agencies, Caltrans Division of Rail and Mass Transportation, Capitol Corridor Joint Powers Authority, San Joaquins Joint Powers Authority, Amtrak, and other consultants.

V. STAFFING

All Consultant staff shall work in an integrated team relationship with the LOSSAN Agency's Project Manager, as well as with Amtrak, host railroads, cities, member agencies, and other consultants.

The level of effort required by the Consultant under this contract is anticipated to be the full-time equivalent (FTE) of two and one quarter persons (2 ¼) per year. It is anticipated that the Consultant project manager will be required to dedicate approximately one quarter of the time to support the LOSSAN Agency's Project Manager and manage the contract; in addition, a half-time documents controls person and a half-time project controls person are expected to support the LOSSAN Agency's Project Manager. Technical expertise from various engineering disciplines will be required throughout the year on an as-needed basis (equivalent to approximately 1 FTE). The level of effort will be re-evaluated periodically based on funding availability and to ensure that the appropriate level of support is maintained. The LOSSAN Agency will have sole discretion in defining and making changes in positions and tasks assigned to Consultant during the term of this Agreement.

Estimated Level of Effort for this Agreement:

- Project Manager (¼ FTE)
- Project Controls (½ FTE)
- Document Controls / Contract Management (½ FTE)
- Technical Support and Oversight (1 FTE)

a. Key Staff Qualifications

Project Manager: The project manager shall oversee and monitor the development of LOSSAN Agency projects. The project manager will develop and monitor project budgets and schedules, review construction cost estimates, monitor compliance with funding agency requirements, and represent the LOSSAN Agency at meetings with other consultants, other agencies, contractors, and the public. The project manager should have at least ten years of related experience in management of FTA funded projects, knowledge of FTA / FRA / CPUC rules, regulations, and requirements, and knowledge of the southern California rail system.

Project Controls Specialist: The project controls specialist shall have experience in scheduling and monitoring projects, reviewing and tracking project budgets and costs, cost estimating, analyzing contract changes, and preparing project status reports. The project controls specialist shall have at least six years of experience in project controls, with a degree in a related area preferred.

Document Controls / Contract Manager: The document controls / contract manager position shall have experience performing project support tasks including maintaining contract files, interpreting contract payment terms and methods, reviewing and processing other consultant and contractor invoices, and interfacing with accounting personnel and systems. The project administrator shall have at least five years of related experience.

b. Location

While remote working is allowed on a day-to-day basis, the Consultant can be provided temporary office space as needed for up to 2 individuals at a time at the LOSSAN Agency's administration facilities located at 600 S. Main Street, Orange, California 92868 when in-person meetings or tasks are necessary and approved by the LOSSAN Agency Project Manager.

c. On Site Temporary Office Space by LOSSAN AGENCY

The LOSSAN Agency will provide, on a temporary basis, office space, furniture, basic computer hardware and software, telephones, office supplies, and printing services to individuals who are required and have been authorized to work at the LOSSAN Agency's office in Orange, California.

VI. DELIVERABLES

a. Anticipated Deliverables

Consultant shall submit deliverables pertinent to tasks assigned by the LOSSAN Agency's Project Manager or designated task lead. It is anticipated that the deliverables may include, but are not limited to:

- Designs / Other consultant reviews
- Strategic planning reports / documents
- Environmental assessment reports
- Complete grant applications
- Project delivery plans
- Project management plans
- Project schedules
- Cost estimates
- Risk analysis documentation.
- Railroad/ utility agreements
- Technical reports and studies
- Inspection reports
- Project status reports
- Staff reports
- QA/QC monitoring reports
- Procurement and contract management documents
- Cooperative agreements/Memorandums of Understanding
- Document control logs.
- Project closeouts

- Graphics and visuals
- Others to be determined.

LIMITATION ON GOVERNMENTAL DECISIONS

Nothing contained in this scope of work permits CONSULTANT's personnel to authorize or direct any actions, votes, appoint any person, obligate, or commit AUTHORITY to any course of action or enter into any contractual agreement on behalf of AUTHORITY. In addition, CONSULTANT's personnel shall not provide information, an opinion, or a recommendation for the purpose of affecting a decision without significant intervening substantive review by AUTHORITY personnel, counsel, and management.

1 **PROPOSED AGREEMENT NO. L-5-0002**

2 **BETWEEN**

3 **LOSSAN AGENCY**

4 **AND**

5 **CONSULTANT**

6 **THIS AGREEMENT** is made and entered into this ____ day of _____, 2025 ("Effective Date"),
7 by and between the Los Angeles-San Diego-San Luis Obispo Rail Corridor Agency, 550 South Main
8 Street, P.O. Box 14184, Orange, California 92863-1584, a joint powers authority of the State of California
9 (hereinafter referred to as "LOSSAN AGENCY"), and , , , (hereinafter referred to as "CONSULTANT").

10 **WITNESSETH:**

11 **WHEREAS**, AUTHORITY requires assistance from CONSULTANT for program management
12 consultant services for the LOSSAN AGENCY; and

13 **WHEREAS**, said work cannot be performed by the regular employees of LOSSAN AGENCY;
14 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 LOSSAN AGENCY'S Board of Directors authorized this Agreement on _____;

19 **NOW, THEREFORE**, it is mutually understood and agreed by LOSSAN AGENCY and
20 CONSULTANT 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 of
24 the agreement between LOSSAN AGENCY 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. LOSSAN AGENCY'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 LOSSAN AGENCY'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 LOSSAN AGENCY except when specifically confirmed in writing by an authorized representative of the LOSSAN AGENCY by way of a written amendment to this Agreement and issue in accordance with the provisions of this Agreement. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOSSAN AGENCY.

ARTICLE 2. LOSSAN AGENCY DESIGNEE

The Managing Director of LOSSAN AGENCY, or designee, shall have the authority to act for and exercise any of the rights of LOSSAN AGENCY, 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 LOSSAN AGENCY, the services set forth in Exhibit A, entitled "Scope of Work," which is 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 LOSSAN AGENCY.

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.

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

C. No person named in paragraph B of this Article, or his/her successor approved by LOSSAN AGENCY, 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's Contract Administrator.

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

7 **ARTICLE 4. TERM OF AGREEMENT**

8 A. This Agreement shall go into effect on _____, contingent upon approval by LOSSAN
9 AGENCY, and CONSULTANT shall commence after notification to proceed by Orange County
10 Transportation Authority (AUTHORITY's) Contract Administrator. This Agreement shall end on
11 _____, unless extended by amendment to the Agreement, or terminated as provided hereunder.

12 B. LOSSAN Agency, at its sole discretion, may elect to extend the term of this Agreement up to
13 an additional twenty-four (24) months, commencing on _____ and continuing through
14 _____ ("option term"), and thereupon requires CONSULTANT to continue to provide services,
15 and otherwise perform, in accordance with Exhibit A, entitled "Scope of Work".

16 C. CONSULTANT is advised that any recommendation for contract award is not binding on
17 LOSSAN AGENCY until the Agreement is fully executed and approved by LOSSAN AGENCY.

18 **ARTICLE 5. ALLOWABLE COSTS AND PAYMENT**

19 A. For CONSULTANT's full and complete performance of its obligations under this
20 Agreement and subject to the maximum cumulative payment obligation provision set forth in Article 6
21 "Maximum Obligation" LOSSAN AGENCY shall pay CONSULTANT on a specified rates of compensation
22 basis in accordance with the following provisions.

23 B. CONSULTANT shall not commence performance of work or services until this Agreement
24 has been approved by LOSSAN AGENCY and notification to proceed has been issued by AUTHORITY.
25 No payment will be made prior to approval of any work, or for any work performed prior to approval of
26 this Agreement.

1 C. The method of payment for the following items shall be at the rate specified for each item,
2 as described in this Article. The specified rate shall include full compensation to the CONSULTANT for
3 the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further
4 compensation will be allowed therefore.

5 D. The specified rate to be paid for field vehicle expense for CONSULTANT's field personnel
6 shall be \$1,100/month/vehicle, and shall include all vehicle expenses such as fuel, insurance, operation
7 and maintenance, and safety equipment. This rate shall be for a fully equipped vehicle, with radio and
8 flashing yellow light (if needed), as specified in Exhibit B of this Agreement. The specified rates to be paid
9 for other field equipment, if needed, shall be paid at cost, as listed in Exhibit B of this Agreement.

10 E. The method of payment for this Agreement will be on a specified rates basis which
11 includes, in addition to equipment rental costs (not including vehicles as provided above), labor costs,
12 employee benefits, prevailing wages, equipment-rental costs, travel, overhead and other direct costs
13 incurred by the CONSULTANT in performance of the work. These rates are not adjustable for the
14 performance period set forth in this Agreement. The overhead rate established for this Agreement is
15 extended through the term of this specific Agreement. The CONSULTANT will not be reimbursed for
16 actual costs that exceed the contract's maximum obligation which includes estimated wage rates,
17 employee benefits, travel, equipment rental, overhead and other estimated costs set forth in Exhibit B,
18 unless additional reimbursement is provided for, by contract amendment. In no event, will the
19 CONSULTANT be reimbursed for overhead costs that exceed LOSSAN AGENCY approved overhead
20 rate set forth in Exhibit B. In the event the LOSSAN AGENCY determines that changed work from that
21 specified in Exhibit A, Scope of Work, is required; the actual costs reimbursed by LOSSAN AGENCY
22 may be adjusted by Agreement amendment to accommodate the changed work. The maximum total cost
23 of this Agreement shall not be exceeded unless authorized by Agreement amendment.

24 F. For each full hour of labor satisfactorily performed by CONSULTANT's personnel under
25 this Agreement, LOSSAN AGENCY shall pay CONSULTANT at the hourly labor rates specified in Exhibit
26 B, entitled "Schedule of Fees," which is attached to and by this reference, incorporated in and made a

1 part of this Agreement. These rates shall remain fixed for the term of this Agreement. The office and field
2 overhead rates, profit, and escalation rates shall remain fixed for the initial term of the Agreement as well
3 as for the twenty-four (24) month term extension (Optional Term), if and when exercised. Furthermore,
4 LOSSAN AGENCY shall reimburse CONSULTANT, at cost with supporting documentation provided, for
5 the actual costs of the estimated expenses shown in Exhibit B, which are directly incurred by its personnel
6 in the performance of work under this Agreement. The LOSSAN AGENCY will not reimburse
7 CONSULTANT for local meals except for those authorized for traveling personnel in the attached Exhibit
8 B.

9 G. For classifications added to the Exhibit B, "Classification Labor Rates" Schedule through
10 Amendments, raw billing ranges must be based on current year's actual salaries, and the corresponding
11 fully burdened ranges must be provided by CONSULTANT.

12 H. CONSULTANT agrees that billing for personnel under the Exhibit B, "Classification Labor
13 Rates" Schedule is to be used on a temporary basis, limited to a maximum period of six (6) continuous
14 months for each personnel working under the "Classification Labor Rates" Schedule. Personnel working
15 or proposed to work on a continuous basis for a period of more than six (6) continuous months are not
16 considered temporary and must be added as named personnel with a specific hourly billing rate.

17 I. CONSULTANT agrees that all personnel billing under the labor schedules in Exhibit B,
18 are subject to the annual escalation rate allowable under this Agreement. This is the maximum escalation
19 rate that LOSSAN AGENCY will reimburse CONSULTANT for named personnel and classifications.

20 J. CONSULTANT agrees that personnel proposed to work and bill under any of the labor
21 schedules in Exhibit B must be approved in writing by the LOSSAN AGENCY Project Manager prior to
22 start of work.

23 K. For personnel subject to prevailing wage rates as described in the California Labor Code,
24 all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

25 L. Reimbursement for transportation and subsistence costs shall not exceed the rates
26 specified in Exhibit B, without prior approval from LOSSAN AGENCY's Program Manager.

1 M. As partial security against CONSUL TANT's failure to satisfactorily fulfill all its obligations
2 under this Agreement, LOSSAN AGENCY shall retain ten percent (10%) of the amount of each invoice
3 submitted for payment by CONSULTANT, and shall make prompt and regular incremental acceptances
4 of portions/milestones, as determined by LOSSAN AGENCY, of the Agreement work, and pay retainage
5 to CONSULTANT based on these acceptances. The CONSULTANT, or subconsultant, shall return all
6 monies withheld in retention from a subconsultant within thirty (30) calendar days after receiving payment
7 for work satisfactorily completed and accepted including incremental acceptances of portions/milestones
8 of the Agreement work by the LOSSAN AGENCY. CONSULTANT shall invoice LOSSAN AGENCY for
9 the release of the retention in accordance with this Article.

10 N. Final acceptance shall occur only when LOSSAN AGENCY makes the final release of the
11 retention described in Paragraph N.

12 O. All retained funds shall be released by LOSSAN AGENCY and shall be paid to
13 CONSULTANT within sixty (60) calendar days of payment of the final invoice, unless LOSSAN AGENCY
14 elects to audit CONSULTANT's records in accordance with Article 16 entitled "Audit and Inspection of
15 Records" of this Agreement. If LOSSAN AGENCY elects to audit, retained funds shall be paid to
16 CONSULTANT within thirty (30) calendar days of completion of such audit in an amount reflecting any
17 adjustment required by such audit. During the term of the Agreement, at its sole discretion, LOSSAN
18 AGENCY reserves the right to release all or a portion of the retained amount based on CONSULTANT's
19 satisfactory completion of certain portions/milestones. CONSULTANT shall invoice LOSSAN AGENCY
20 for the release of the retention in accordance with this Article.

21 P. The prime consultant, or subconsultant, shall return all monies withheld in retention from
22 a subconsultant within thirty (30) days after receiving payment for work satisfactorily completed and
23 accepted. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of
24 this section. Federal law, CFR Title 49, Part 26.29, requires that any delay or postponement of payment
25 over thirty (30) days may take place only for good cause and with the LOSSAN AGENCY'S prior written
26 approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to

1 the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions
2 Code. These requirements shall not be construed to limit or impair any contractual, administrative, or
3 judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute
4 involving late payment or nonpayment by the prime consultant, deficient subconsultant performance, or
5 noncompliance by a subconsultant. This provision applies to both DBE and non-DBE CONSULTANT
6 and subconsultants.

7 Q. CONSULTANT shall invoice LOSSAN AGENCY on a monthly basis for payments
8 corresponding to the specified labor rates and actual other direct costs expended by CONSULTANT.
9 Work completed shall be documented in a monthly progress report prepared by CONSULTANT, which
10 shall accompany each invoice submitted by CONSULTANT.

11 R. The CONSUL TANT will be paid, less any retention amount withheld, as promptly as fiscal
12 procedures will permit upon receipt by the LOSSAN AGENCY's Accounts Payable office of itemized
13 invoices in duplicate. Invoices shall be submitted no later than 30 days after the performance of the work
14 for which the CONSULTANT is billing. Invoices shall detail the work performed on each task as
15 applicable. Invoices shall comply with the approved Price Proposal and shall reference this Agreement
16 number and project title. Final invoice must contain the final cost and all credits due the LOSSAN
17 AGENCY, including any equipment purchased under the provisions of Article 36, Purchased Equipment
18 of this Agreement. The final invoice should be submitted to the LOSSAN AGENCY within 60 calendar
19 days after completion of the CONSULTANT's work.

20 S. CONSULTANT shall also furnish such other information as may be requested by
21 LOSSAN AGENCY to substantiate the validity of an invoice, including a current payroll register and/or an
22 offer of employment for personnel performing work under the classifications which are subject to pay
23 ranges listed in Exhibit B, "Classifications Labor Rates" Schedule, in order to receive reimbursement for
24 hours worked. Reimbursement for labor hours incurred by personnel designated by a classification, shall
25 be made after LOSSAN AGENCY's review of the actual personnel's pay register, and verification that the
26 actual pay falls within the specified range for that classification. If an actual pay rate exceeds the

1 maximum of the range, CONSULTANT will be reimbursed at the maximum of the range. At its sole
2 discretion, LOSSAN AGENCY may decline to make full payment for any work until such time as CONSUL
3 TANT has documented to LOSSAN AGENCY's satisfaction, that CONSULTANT has fully completed all
4 work required. LOSSAN AGENCY's payment in full for any work completed shall not constitute LOSSAN
5 AGENCY's final acceptance of LOSSAN AGENCY's work under such task.

6 T. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted
7 in duplicate to LOSSAN AGENCY's Accounts Payable office or may be emailed to
8 VendorInvoices@octa.net. Each invoice shall be accompanied by the monthly progress report specified
9 in paragraph C of this Article. Invoices shall be submitted no later than 30-calendar days after the
10 performance of work for which CONSULTANT is billing. LOSSAN AGENCY shall remit payment, less
11 retention amount, within thirty (30) calendar days of the receipt and approval of each invoice. Each invoice
12 shall include the following information:

- 13 1. Agreement No. C-5-4209;
- 14 2. Specific work for which payment is being requested;
- 15 3. The time period covered by the invoice;
- 16 4. Labor performed during the billing period (staff name, hours charged, hourly billing rate,
17 current charges and cumulative charges, and pay registers for staff using
18 classifications);
- 19 5. Itemized expenses including supporting documentation incurred during the billing
20 period;
- 21 6. Total monthly invoice (including project to-date cumulative invoice amount); and
22 retention amount withheld by LOSSAN AGENCY for the time period covered by the
23 invoice;
- 24 7. Monthly Progress Report;
- 25 8. Weekly certified payroll for personnel subject to prevailing wage requirements;
- 26 9. Certificate signed by the CONSULTANT or his/her designated alternate that a) The

1 invoice is a true, complete and correct statement of reimbursable costs and progress;
2 b) The backup information included with the invoice is true, complete and correct in all
3 material respects; c) All payments due and owing to subcontractors and suppliers have
4 been made; d) Timely payments will be made to subcontractors and suppliers from the
5 proceeds of the payments covered by the certification and; e) The invoice does not
6 include any amount which CONSULTANT intends to withhold or retain from a
7 subcontractor or supplier unless so identified on the invoice.

8 10. Any other information as agreed or otherwise requested by LOSSAN AGENCY to
9 substantiate the validity of an invoice.

10 U. Invoices shall follow the format stipulated for the Cost Proposal and shall reference this
11 Agreement number and project title. Invoices shall include all reimbursable costs/expenditures to satisfy
12 Caltrans' Local Assistance Procedures Manual (LAPM), Chapter 5 Accounting/Invoices.

13 **ARTICLE 6. MAXIMUM OBLIGATION**

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

19 **ARTICLE 7. NOTICES**

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

24 /

25 /

26 /

1 TO CONSULTANT:

TO LOSSAN AGENCY:

2 Orange County Transportation Authority

3 550 SOUTH MAIN STREET

4 P.O. BOX 14184

5 ORANGE, CA 92863-1584

6 ATTENTION:

ATTENTION: Gilbert Angon

7 Title:

Title: Senior Contracts Administrator

8 Phone:

Phone: (714) 560 - 5687

9 Email:

Email: GAngon@octa.net

10 Cc:

11 Title: LOSSAN Program Manager

12 E-mail:

13 Tel: (714)

14 **ARTICLE 8. INDEPENDENT CONTRACTOR**

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

22 B. Should CONSULTANT's personnel or a state or federal agency allege claims against
23 LOSSAN AGENCY involving the status of LOSSAN AGENCY as employer, joint or otherwise, of said
24 personnel, or allegations involving any other independent contractor misclassification issues,
25 CONSULTANT shall defend and indemnify LOSSAN AGENCY in relation to any allegations made.

26 /

ARTICLE 9. INSURANCE

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

A. Commercial General Liability, to include Products/Completed Operations, Independent Contractors', Contractual Liability, Advertising (if applicable to Scope of Work) and Personal Injury Liability, and Property Damage with a minimum limit of \$1,000,000 per occurrence, \$2,000,000 general aggregate and \$2,000,000 Products/Completed Operations aggregate;

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

C. Workers' Compensation with limits as required by the State of California including a Waiver of Subrogation in favor of LOSSAN AGENCY, its officers, directors and employees; and

D. Employers' Liability with minimum limits of \$1,000,000 per accident, \$1,000,000 policy limit-disease, and \$1,000,000 policy limit employee-disease.

E. Professional Liability with minimum limits of \$1,000,000 only if the CONSULTANT is required by contract or law to be licensed or specially certified and LOSSAN AGENCY is relying on performance based on that specialty license or certification.

F. Privacy and Security (Cyber) Liability with minimum limits of \$1,000,000.00; and

G. Railroad Protective Liability with minimum limits of \$2,000,000.00 with a \$6,000,000.00 aggregate limit per claim.

a) Railroad Protective Liability Insurance - The policy shall have limits of liability of not less than \$2 million per occurrence, combined single limit, for coverage and for losses arising out of injury to or death of all person and for physical loss or damage to or destruction of Property including the loss of use thereof. A \$6 million annual aggregate shall apply. If coverage is provided on the London claims-made form, the following provisions shall apply:

- i. The limits of liability shall be not less than \$3 million per occurrence, combined single limit. A \$9 million aggregate may apply.
- ii. Declarations item 6, extended claims made date, shall allow an extended claims made period no shorter than the length of the original policy period plus one year.
- iii. If equivalent or better, wording is not contained in the policy form, the following endorsement must be included: It is agreed that "physical damage to Property" means direct and accidental loss of or damage to rolling stock and their contents, mechanical construction equipment or motive power equipment, railroad tracks, roadbed, catenaries, signals, bridges or building.

B. Proof of such coverage, in the form of a certificate of insurance and an insurance policy blanket additional insured endorsement, designating the LOSSAN AGENCY , its officers, directors and employees as additional insureds on general liability and automobile liability, as required by Agreement. Proof of insurance coverage must be received by LOSSAN AGENCY within ten (10) calendar days from the effective date of the Agreement and prior to commencement of any work. Such insurance shall be primary and non-contributive to any insurance or self-insurance maintained by the LOSSAN AGENCY . Furthermore, LOSSAN AGENCY reserves the right to request certified copies or review all related insurance policies, in response to a related loss.

C. CONSULTANT shall also include in each subcontract, the stipulation that subconsultants shall maintain insurance coverage in the amounts required of CONSULTANT as provided in the Agreement. Subconsultants will be required to include LOSSAN AGENCY as additional insureds on the Commercial General Liability, and Auto Liability insurance policies.

D. Insurer must provide LOSSAN AGENCY with at least thirty (30) days' prior notice of cancellation or material modification of coverage, and ten (10) days' prior notice for non-payment of premium.

E. CONSULTANT shall submit required insurance certificates to LOSSAN AGENCY's insurance

1 tracking contractor, InsureTrack. CONSULTANT shall respond directly to InsureTrack's request for
2 updated insurance certificates and other insurance-related matters by email to octa@instracking.com.

3 F. CONSULTANT shall include on the face of the certificate of insurance, the following
4 information:

5 A. The Agreement Number L-5-0002 and, the Contract Administrator's Name,

6 B. For Certificate Holder: The Orange County Transportation Authority, its officers, directors,
7 employers and agents, c/o InsureTrack, P.O. Box 60840 Las Vegas, NV 89160.

8 **ARTICLE 10. ORDER OF PRECEDENCE**

9 To the extent there are any conflicts or inconsistency arising between any provisions or
10 documents incorporated in this Agreement, the order of precedence for conflict resolution in descending
11 order shall be as follows: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of
12 RFP 5-4209 ; (3) CONSULTANT's technical proposal dated _____, CONSULTANT's cost proposal
13 dated _____ and final cost proposal dated _____, and (4) all other documents, if any, cited herein or
14 incorporated by reference.

15 **ARTICLE 11. CHANGES**

16 A. By written notice or order, LOSSAN AGENCY may, from time to time, order work suspension
17 and/or make changes in the general scope of this Agreement, including, but not limited to, the services
18 furnished to LOSSAN AGENCY by CONSULTANT as described in the Scope of Work. If any such work
19 suspension or change causes an increase or decrease in the price of this Agreement or in the time
20 required for its performance, CONSULTANT shall promptly notify LOSSAN AGENCY thereof and assert
21 its claim for adjustment within ten (10) days after the change or work suspension is ordered, and an
22 equitable adjustment shall be negotiated. However, nothing in this clause shall excuse CONSULTANT
23 from proceeding immediately with the Agreement as changed.

24 B. This Agreement may be amended or modified only by mutual written agreement of the
25 parties.

26 C. CONSULTANT shall only commence work covered by an amendment after the

1 amendment is executed and notification to proceed has been provided by AUTHORITY's Contract
2 Administrator.

3 **ARTICLE 12. DISPUTES**

4 A. Except as otherwise provided in this Agreement, when a dispute arises between
5 CONSULTANT and LOSSAN AGENCY, the project managers shall meet to resolve the issue. If project
6 managers do not reach a resolution, the dispute will be decided by AUTHORITY's Director of Contracts
7 Administration and Materials Management (CAMP), who shall reduce the decision to writing and mail or
8 otherwise furnish a copy thereof to CONSULTANT. The decision of the Director, CAMP, shall be the
9 final and conclusive administrative decision.

10 B. Pending final decision of a dispute hereunder, CONSULTANT shall proceed diligently with
11 the performance of this Agreement and in accordance with the decision of AUTHORITY's Director,
12 CAMP. Nothing in this Agreement, however, shall be construed as making final the decision of any
13 AUTHORITY official or representative on a question of law, which questions shall be settled in
14 accordance with the laws of the State of California.

15 **ARTICLE 13. TERMINATION**

16 A. LOSSAN AGENCY reserves the right to terminate this Agreement upon thirty (30) calendar
17 days written notice to CONSULTANT of intent to terminate, with effective date of termination and the
18 reasons for termination stated in the notice, in accordance with the provisions of the FAR referenced
19 above and Article 7 "Notices", herein. Upon receipt of said notification, CONSULTANT agrees to comply
20 with all applicable provisions of the FAR pertaining to termination for convenience.

21 B. Upon termination, LOSSAN AGENCY shall be entitled to all work, including but not limited to,
22 reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed
23 to that date, whether completed or not.

24 C. LOSSAN AGENCY may temporarily suspend this Agreement, at no additional cost to
25 AUTHORITY, provided that CONSULTANT is given written notice of temporary suspension. If LOSSAN
26 AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its

1 activities under this Agreement. A temporary suspension may be issued concurrent with the notice of
2 termination.

3 D. LOSSAN AGENCY may terminate this Agreement with CONSULTANT should
4 CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein
5 provided. In the event of such termination, LOSSAN AGENCY may proceed with the work in any manner
6 deemed proper by LOSSAN AGENCY. If LOSSAN AGENCY terminates this Agreement with
7 CONSULTANT, LOSSAN AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this
8 Agreement prior to termination, unless the cost of completion to LOSSAN AGENCY exceeds the funds
9 remaining in the Agreement, in which case the overage shall be deducted from any sum due
10 CONSULTANT under this Agreement and the balance, if any, shall be paid to CONSULTANT upon
11 demand. Said termination shall be construed in accordance with the provisions of the Code of Federal
12 Regulations (CFR), Title 48, Chapter 1, Part 49, of the Federal Acquisition Regulation (FAR) and specific
13 subparts and other provisions thereof applicable to termination for convenience.

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

23 /

24 **ARTICLE 14. INDEMNIFICATION**

25 A. CONSULTANT shall indemnify, defend and hold harmless LOSSAN AGENCY , its
26 officers, directors, employees and agents (indemnities) from and against any and all claims (including

1 attorneys' fees and reasonable expenses for litigation or settlement) for any loss or
2 damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent
3 acts, omissions or willful misconduct by CONSULTANT, its officers,
4 directors, employees, agents, subconsultants or suppliers in connection with or arising out of the
5 performance of this Agreement.

6 B. "Notwithstanding the foregoing, to the extent that CONSULTANT'S duty to indemnify arises
7 out of a claim to which Civil Code section 2782.8 would apply, CONSULTANT shall indemnify and defend
8 the Indemnitees to the maximum extent permitted by Civil Code section 2782.8."

9 **ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS**

10 A. Nothing contained in this Agreement or otherwise, shall create any contractual relation
11 between LOSSAN AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT
12 of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to
13 LOSSAN AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or
14 indirectly employed by any of them as it is for the acts and omissions of persons directly employed by
15 CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from
16 LOSSAN AGENCY's obligation to make payments to the CONSULTANT.

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

22 C. The CONSULTANT shall perform the work contemplated with resources available within its
23 own organization; and no portion of the work pertinent to this Agreement shall be subcontracted without
24 written authorization by AUTHORITY's Contract Administrator, except that, which is expressly identified
25 in the approved Cost Proposal.

26 D. CONSULTANT shall pay its subconsultants within seven (7) calendar days from receipt of

each payment made to CONSULTANT by LOSSAN AGENCY.

E. All subcontracts entered into as a result of this Agreement, shall contain all of the provisions stipulated in this entire Agreement to be applicable to subconsultants unless otherwise noted.

F. Any substitution or addition of subconsultant(s) must be approved in writing by the AUTHORITY's Contract Administrator, in advance of assigning work to a substitute subconsultant(s).

G. LOSSAN AGENCY hereby consents to CONSULTANT's subcontracting of portions of the Scope of Work to the parties identified below for the functions described below. CONSULTANT shall include in the subcontract agreement the stipulation that CONSULTANT, not LOSSAN AGENCY, 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 LOSSAN AGENCY, its officers, directors, employees or sureties for nonpayment by CONSULTANT.

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

ARTICLE 16. AUDIT AND INSPECTION OF RECORDS

A. CONSULTANT and any subconsultant shall permit LOSSAN AGENCY, the State, to review and inspect the project activities and files at all reasonable times during the performance period of this Agreement.

B. For the purpose of determining compliance with the Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and LOSSAN AGENCY shall maintain and make available for inspection all books, documents, papers, accounting records, Independent certified public accountant (CPA) Audited Cost Rate workpapers, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties, including

1 the CONSULTANT and Independent CPA, shall make such workpapers and materials available at their
2 respective offices at all reasonable times during the Agreement period and for four (4) years from the
3 date of final payment under the Agreement. LOSSAN AGENCY, or other agents of LOSSAN AGENCY,
4 Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having
5 jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part)
6 shall have access to any books, records, payroll documents, facilities and documents of CONSULTANT,
7 subconsultants, and the CONSULTANT's Independent (CPA), that are pertinent to the Agreement for
8 audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished
9 if requested without limitation.

10 C. CONSULTANT shall maintain such books, records, data and documents in accordance with
11 generally accepted accounting principles and the CFR, Title 48, Chapter 1, Part 31 of the Federal
12 Acquisition Regulation System (FAR) and shall clearly identify and make such items readily accessible
13 to such parties during CONSULTANT's performance hereunder.

14 D. LOSSAN AGENCY's right to audit books and records directly related to this Agreement shall
15 also extend to all first-tier subcontractors performing work identified in Article 15 "Assignments and
16 Subcontracts" of this Agreement, and such language must be included in CONSULTANT's agreements
17 with its subcontractors.

18 **ARTICLE 17. AUDIT REVIEW PROCEDURES**

19 A. Any dispute concerning a question of fact arising under an interim or post audit of this
20 Agreement that is not disposed of by agreement, shall be reviewed by LOSSAN AGENCY 's Internal
21 Audit.

22 B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a
23 review by LOSSAN AGENCY's Internal Audit of unresolved audit issues. The request for review will be
24 submitted in writing.

25 C. Neither the pendency of a dispute nor its consideration by LOSSAN AGENCY will excuse
26 CONSULTANT from full and timely performance, in accordance with the terms of this Agreement.

1 D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject
2 to audits or reviews such as, but not limited to, an Agreement audit, an incurred cost audit, an ICR Audit,
3 or a CPA ICR audit work paper review. If selected for audit or review, the Agreement, cost proposal and
4 ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31
5 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is
6 CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full
7 access to the CPA's work papers including making copies as necessary. The Agreement, cost proposal,
8 and ICR shall be adjusted by CONSULTANT and approved by AUTHORITY's Contract Administrator to
9 conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs
10 identified in the audit report shall be incorporated into the Agreement by this reference if directed by
11 LOSSAN AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review
12 recommendations, or to ensure that the federal, state or local governments have access to CPA work
13 papers, will be considered a breach of Agreement terms and cause for termination of the Agreement and
14 disallowance of prior reimbursed costs.

15 E. CONSULTANT Cost Proposal is subject to a CPA ICR Audit Work Paper Review by The
16 California Department of Transportation's Independent office of Audit and Investigation (IOAI). IOAI, at
17 its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal
18 shall be adjusted by the CONSULTANT and approved by the AUTHORITY's Contract Administrator to
19 conform to the Work Paper Review recommendations included in the management letter or audit
20 recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work
21 Paper Review recommendations included in the management letter or audit recommendations included
22 in the audit report will be considered a breach of the Agreement terms and cause for termination of the
23 Agreement and disallowance of prior reimbursed costs.

24 1. During IOAI review of the ICR audit work papers created by the CONSULTANT's
25 independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that
26 arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely

manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, LOSSAN AGENCY will reimburse the CONSULTANT at a provisional ICR until a FAR compliant ICR {e.g. 48 CFR, part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I. Provisional rates will be as follows:

a. If the proposed rate is less than 150% - the provisional rate reimbursed will be 90% of the proposed rate.

b. If the proposed rate is between 150% and 200% - the provisional rate will be 85% of the proposed rate.

c. If the proposed rate is greater than 200% - the provisional rate will be 75% of the proposed rate.

2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.

3. If the CONSULTANT fails to comply with the provisions of this Section E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this Agreement.

4. CONSULTANT may submit to LOSSAN AGENCY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA-audited ICR; (2) all work under this Agreement has been completed to the satisfaction of LOSSAN AGENCY; and, (3) IOAI has issued its final ICR review letter. The Consultant must submit its final invoice to the LOSSAN AGENCY, no later than sixty (60) calendar days after occurrence of the last of these

1 items. The accepted ICR will apply to this Agreement and all other Agreements executed between
2 LOSSAN AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal
3 period ICR.

4 **ARTICLE 18. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

5 A. CONSULTANT agrees that the CFR, Title 48, Chapter 1, Part 31, Contract Cost Principles and
6 Procedures, shall be used to determine the cost allowability of individual terms of costs.

7 B. CONSULTANT also agrees to comply with Federal procedures in accordance with CFR, Title
8 2, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal
9 Awards.

10 C. Any costs for which payment has been made to CONSULTANT that are determined by
11 subsequent audit to be unallowable under CFR Title 48, Part 31 or CFR Title 2, Part 200, are subject to
12 repayment by CONSULTANT to LOSSAN AGENCY .

13 D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of
14 Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements,
15 Cost Principles, and Audit Requirements for Federal Awards shall apply.

16 **ARTICLE 19. FEDERAL, STATE AND LOCAL LAWS**

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

20 **ARTICLE 20. EQUAL EMPLOYMENT OPPORTUNITY**

21 In connection with its performance under this Agreement, CONSULTANT shall not discriminate
22 against any employee or applicant for employment because of race, religion, color, sex, age or national
23 origin. CONSULTANT shall take affirmative action to ensure that applicants are employed, and that
24 employees are treated during their employment, without regard to their race, religion, color, sex, age or
25 national origin. Such actions shall include, but not be limited to, the following: employment, upgrading,
26 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

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

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

ARTICLE 22. OWNERSHIP OF REPORTS AND DOCUMENTS

A. The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the property of LOSSAN AGENCY, and CONSULTANT shall have no property right therein whatsoever. Copies may be made for CONSULTANT's records but shall not be furnished to others without written authorization from LOSSAN AGENCY. Immediately upon termination, LOSSAN AGENCY shall be entitled to, and CONSULTANT shall deliver to LOSSAN AGENCY, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this Agreement which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this Agreement must be approved in writing by LOSSAN AGENCY.

B. Additionally, it is agreed that such deliverables shall be deemed works made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including without limitation, copyright) belongs to and shall be the sole and exclusive property of LOSSAN AGENCY without restriction or limitation upon its use or dissemination by LOSSAN AGENCY.

C. 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 LOSSAN AGENCY, be used for any purposes other than the performance for this project, nor be disclosed to an entity not connected with the performance of the project. CONSULTANT shall comply with LOSSAN AGENCY's policies regarding such material. Nothing furnished to CONSULTANT, which is otherwise known to CONSULTANT or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall not use LOSSAN AGENCY'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 LOSSAN AGENCY.

D. No copies, sketches, computer graphics or graphs, including graphic art work, are to be released by CONSULTANT to any other person or agency except after prior written approval by LOSSAN AGENCY, 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 LOSSAN AGENCY unless otherwise agreed to by CONSULTANT and LOSSAN AGENCY.

E. Applicable patent rights provisions regarding rights to inventions shall be included in the Agreements as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).

F. LOSSAN AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted, the Agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE 23. PATENT AND COPYRIGHT INFRINGEMENT

A. In lieu of any other warranty by CONSULTANT against patent or copyright infringement, statutory or otherwise, it is agreed that CONSULTANT shall defend, at its expense, any claim or suit against LOSSAN AGENCY 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

1 finally awarded in any such suit or claim, provided that CONSULTANT is promptly notified in writing of
2 the suit or claim and given authority, information and assistance at CONSULTANT's expense for the
3 defense of same. However, CONSULTANT will not indemnify LOSSAN AGENCY if the suit or claim
4 results from: (1) LOSSAN AGENCY's alteration of a deliverable, such that said deliverable in its altered
5 form infringes upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable
6 in combination with other material not provided by CONSULTANT when such use in combination
7 infringes upon an existing U.S. letters patent or copyright.

8 B. CONSULTANT shall have sole control of the defense of any such claim or suit and all
9 negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify LOSSAN
10 AGENCY under any settlement made without CONSULTANT's consent or in the event LOSSAN
11 AGENCY fails to cooperate fully in the defense of any suit or claim, provided, however, that said defense
12 shall be at CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or
13 claim, CONSULTANT, at no expense to LOSSAN AGENCY, shall obtain for LOSSAN AGENCY the right
14 to use and sell said item, or shall substitute an equivalent item acceptable to LOSSAN AGENCY and
15 extend this patent and copyright indemnity thereto.

16 **ARTICLE 24. DESIGN WITHIN FUNDING LIMITATIONS**

17 A. In order to ensure the accuracy of the construction budget for the benefit of the public works
18 bidders and LOSSAN AGENCY's budget process, CONSULTANT shall accomplish the design services
19 required under this Agreement so as to permit the award of a contract, for the construction of the facilities
20 designed at a price that does not exceed the estimated construction contract price as set forth by
21 LOSSAN AGENCY. When bids or proposals for the construction contract are received that exceed the
22 estimated price, CONSULTANT shall perform such redesign and other services as are necessary to
23 permit contract award within the funding limitation. These additional services shall be performed at no
24 increase in the price for which the services were specified. However, CONSULTANT shall not be required
25 to perform such additional services at no cost to LOSSAN AGENCY if the unfavorable bids or proposals
26 are the result of conditions beyond its reasonable control.

B. CONSULTANT will promptly advise LOSSAN AGENCY if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, LOSSAN AGENCY will review CONSULTANT's revised estimate of construction cost. LOSSAN AGENCY may, if it determines that the estimated construction contract price is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth by LOSSAN AGENCY, or LOSSAN AGENCY may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, LOSSAN AGENCY shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance within the funding limitation.

ARTICLE 25. REQUIREMENTS FOR REGISTRATION OF DESIGNERS

All design and engineering work furnished by CONSULTANT shall be performed by or under the supervision of persons licensed to practice architecture, engineering or surveying (as applicable) in the State of California, by personnel who are careful, skilled, experienced and competent in their respective trades or professions, who are professionally qualified to perform the work in accordance with the Agreement documents and who shall assume professional responsibility for the accuracy and completeness of the design documents and construction documents prepared or checked by them.

ARTICLE 26. FINISHED AND PRELIMINARY DATA

A. Upon completion of all work under this Agreement, ownership and title to all reports, documents, plans, specifications, and estimates, 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, will automatically be vested in LOSSAN AGENCY and no further agreement will be necessary to transfer ownership to LOSSAN AGENCY.

B. It is understood and agreed that all calculations, drawings and specifications, whether in hard

1 copy or machine-readable form, are intended for one-time use in the construction of the project for which
2 this Agreement has been entered into.

3 C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with
4 the modification, or misuse by LOSSAN AGENCY of the machine-readable information and data provided
5 by CONSULTANT under this Agreement. Further, CONSULTANT is not liable for claims, liabilities, or
6 losses arising out of, or connected with any use by LOSSAN AGENCY of the project documentation on
7 other projects, or for the completion of this project by others, except only as such use as may be
8 authorized in writing by CONSULTANT.

9 D. It is expressly understood that any title to preliminary technical data is not passed to LOSSAN
10 AGENCY, but is retained by CONSULTANT. Preliminary data includes roughs, visualizations, software
11 design documents, layouts and comprehensives prepared by CONSULTANT solely for the purpose of
12 demonstrating an idea or message for LOSSAN AGENCY's acceptance before approval is given for
13 preparation of finished artwork. Preliminary data title and right thereto shall be made available to LOSSAN
14 AGENCY, if CONSULTANT causes LOSSAN AGENCY to exercise Article 13 "Termination", and a price
15 shall be negotiated for all preliminary data.

16 E. All subcontracts entered into as a result of this Agreement shall contain all of the provisions
17 of this Article.

18 **ARTICLE 27. STATE PREVAILING WAGE RATES**

19 A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate
20 requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local
21 laws and ordinances applicable to the work.

22 B. When prevailing wages apply to the services described in the scope of work, transportation
23 and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial
24 Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

25 C. CONSULTANT warrants that all mechanics, laborers, journeypersons, workpersons,
26 craftspersons or apprentices employed by CONSULTANT or subconsultant at any tier for any work

hereunder, shall be paid unconditionally and not less often than once a week and without any subsequent deduction or rebate on any account (except such payroll deductions as are permitted or required by federal, state or local law, regulation or ordinance), the full amounts due at the time of payment, computed at a wage rate and per diem rate not less than the aggregate of the highest of the two basic hourly rates and rates of payments, contributions or costs for any fringe benefits contained in the current general prevailing wage rate(s) and per diem rate(s), established by the Director of the Department of Industrial Relations of the State of California, (as set forth in the Labor Code, commencing at Section 1770 et. seq.), or as established by the Secretary of Labor (as set forth in the Davis-Bacon Act, 40 U.S.C. 267a, et. seq.), regardless of any contractual relationship which may be alleged to exist between CONSULTANT or subconsultant and their respective mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices. Copies of the current General Prevailing Wage Determinations and Per Diem Rates are on file at LOSSAN AGENCY's offices and will be made available to CONSULTANT upon request. CONSULTANT shall post a copy thereof at each job site at which work hereunder is performed.

D. In addition to the foregoing, CONSULTANT agrees to comply with all other provisions of the California Labor Code, which is incorporated herein by reference, pertaining to workers performing work hereunder including, but not limited to, those provisions for work hours, payroll records and apprenticeship employment and regulation program.

E. Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article. CONSULTANT agrees to insert or cause to be inserted the preceding clause in all subcontracts which provide for workers to perform work hereunder regardless of the subcontractor tier.

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ARTICLE 28. NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

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

1 A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under
2 penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt,
3 complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title
4 2, California Code of Regulations, Section 8103.

5 B. During the performance of this Agreement, CONSULTANT and its subconsultants shall not
6 deny the Agreement's benefits to any person on the basis of race, religious creed, color, national origin,
7 ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex,
8 gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor
9 shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for
10 employment because of race, religious creed, color, national origin, ancestry, physical disability, mental
11 disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender
12 expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants
13 shall ensure that the evaluation and treatment of their employees and applicants for employment are free
14 from such discrimination and harassment.

15 C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment
16 and Housing Act (Government Code Section 12990 et seq.), the applicable regulations promulgated there
17 under (Title 2 of the California Code of Regulations (CCR) Section 11000 et seq.), the provisions of
18 Government Code Sections 11135-11139.5, and the regulations or standards adopted by LOSSAN
19 AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing
20 Commission implementing Government Code Section 12990 (a-f), set forth in 2 CCR Section 8100-8504,
21 are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

22 D. CONSULTANT shall permit access by representatives of the Department of Fair Employment
23 and Housing (Department) and the LOSSAN AGENCY upon reasonable notice at any time during the
24 normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books,
25 records, accounts, and all other sources of information and its facilities as said Department or LOSSAN
26 AGENCY shall require to ascertain compliance with this clause.

1 E. CONSULTANT and its subconsultants shall give written notice of their obligations under this
2 clause to labor organizations with which they have a collective bargaining or other Agreement.

3 F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause
4 in all subcontracts to perform work under this Agreement.

5 G. CONSULTANT, with regard to the work performed under this Agreement, shall act in
6 accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.). Title VI provides
7 that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which
8 no person in the United States shall, on the basis of race, color, national origin, religion, sex, age,
9 disability, be excluded from participation in, denied benefits of or subject to discrimination under any
10 program or activity by the recipients of federal assistance or their assignees and successors in interest.

11 H. CONSULTANT shall comply with regulations relative to nondiscrimination in federally-
12 assisted programs of the U.S. Department of Transportation (49 CFR Part 21 – Effectuation of Title VI of
13 the 1964 Civil Rights Act). Specifically, CONSULTANT shall not participate either directly or indirectly in
14 the discrimination prohibited by 49 CFR Section 21.5, including employment practices and the selection
15 and retention of subconsultants.

16 **ARTICLE 29. PRIVACY ACT**

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

24 B. CONSULTANT agrees to include this requirement in all its subcontracts at any tier.

25 **ARTICLE 30. CONFLICT OF INTEREST**

26 A. CONSULTANT agrees to avoid organizational conflicts of interest. An organizational conflict

1 of interest means that due to other activities, relationships or contracts, the CONSULTANT is unable, or
2 potentially unable to render impartial assistance or advice to LOSSAN AGENCY; CONSULTANT's
3 objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or
4 CONSULTANT has an unfair competitive advantage. CONSULTANT is obligated to fully disclose to
5 LOSSAN AGENCY in writing Conflict of Interest issues as soon as they are known to CONSULTANT. All
6 disclosures must be submitted in writing to LOSSAN AGENCY pursuant to the Notice provision herein.
7 This disclosure requirement is for the entire term of this Agreement.

8 B. If the LOSSAN AGENCY determines that CONSULTANT, its employees, or subconsultants
9 are subject to disclosure requirements under the Political Reform Act (Government Code section 81000
10 et seq.), CONSULTANT and its required employees and subconsultants shall complete and file
11 Statements of Economic Interest (Form 700) with the LOSSAN AGENCY's Clerk of the Board disclosing
12 all required financial interests.

13 **ARTICLE 31. CODE OF CONDUCT**

14 A. CONSULTANT agrees to comply with the LOSSAN AGENCY's Code of Conduct as it relates
15 to Third-Party contracts which is hereby referenced and by this reference is incorporated herein.

16 B. CONSULTANT agrees to include these requirements in all of its subcontracts.

17 **ARTICLE 32. CONTINGENT FEE**

18 CONSULTANT warrants, by execution of this Agreement that no person or selling agency has
19 been employed, or retained, to solicit or secure this Agreement upon an agreement or understanding,
20 for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona
21 fide established commercial or selling agencies maintained by CONSULTANT for the purpose of
22 securing business. For breach or violation of this warranty, LOSSAN AGENCY has the right to annul
23 this Agreement without liability; pay only for the value of the work actually performed, or in its discretion
24 to deduct from the contract price or consideration, or otherwise recover the full amount of such
25 commission, percentage, brokerage, or contingent fee.

26 **ARTICLE 33. PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL**

FUNDS FOR LOBBYING

A. CONSULTANT certifies to the best of his or her knowledge and belief that:

A. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any local, State or Federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding or making of this Agreement, or with the extension, continuation, renewal, amendment, or modification of this Agreement.

B. If any funds other than Federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by U.S. Code Title 31 Section 1352,. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand (\$10,000) dollars and not more than one hundred thousand (\$100,000) Dollars for each such failure.

C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed one hundred thousand (\$100,000) dollars, and that all such sub recipients shall certify and disclose accordingly.

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ARTICLE 34. FUNDING REQUIREMENTS

A. It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties,

1 in order to avoid program and fiscal delays that would occur if the Agreement were executed after that
2 determination was made.

3 B. This Agreement is valid and enforceable only if sufficient funds are made available to
4 LOSSAN AGENCY for the purpose of this Agreement. In addition, this Agreement is subject to any
5 additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature,
6 or LOSSAN AGENCY governing board that may affect the provisions, terms, or funding of this Agreement
7 in any manner.

8 C. It is mutually agreed that if sufficient funds are not appropriated, this Agreement may be
9 amended to reflect any reduction in funds.

10 D. LOSSAN AGENCY has the option to terminate the Agreement pursuant to Article 13
11 Termination, or by mutual agreement to amend the Agreement to reflect any reduction of funds.

12 **ARTICLE 35. EQUIPMENT PURCHASE**

13 A. Prior authorization, in writing, by LOSSAN AGENCY's Project Manager shall be required
14 before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five
15 thousand (\$5,000.00) Dollars for supplies, equipment or CONSULTANT services. CONSULTANT shall
16 provide an evaluation of the necessity or desirability of incurring such costs.

17 B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost
18 Proposal and exceeding five thousand (\$5,000.00) Dollars prior authorization by LOSSAN AGENCY's
19 Project Manager; three (3) competitive quotations must be submitted with the request, or the absence of
20 bidding must be adequately justified.

21 C. Any equipment purchased as a result of this Agreement is subject to the following:

22 1. "CONSULTANT shall maintain an inventory of all nonexpendable property.
23 Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost
24 of \$5,000.00 or more. If the purchased equipment needs replacement and is sold or traded in,
25 LOSSAN AGENCY shall receive a proper refund or credit at the conclusion of this Agreement, or if
26 the Agreement is terminated, CONSULTANT may either keep the equipment and credit LOSSAN

1 AGENCY in an amount equal to the its fair market value, or sell such equipment at the best price
2 obtainable at a public or private sale, in accordance with established LOSSAN AGENCY procedures;
3 and credit LOSSAN AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep
4 the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a
5 competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser
6 agreeable to both LOSSAN AGENCY and CONSULTANT. If it is determined to sell the equipment,
7 the terms and conditions of such sale must be approved in advance by LOSSAN AGENCY.

8 2. Regulation CFR, Title 2, Part 200 requires a credit to Federal funds when
9 participating equipment with a fair market value greater than five thousand (\$5,000.00) Dollars is
10 credited to the project.

11 **ARTICLE 36. HEALTH AND SAFETY REQUIREMENTS**

12 A. CONSULTANT shall comply with all the requirements set forth in Exhibit G, Level 1 Safety
13 Specifications. As used therein, "Contractor" shall mean "Consultant" and Subcontractor" shall mean
14 "Sub-consultant."

15 B. CONSULTANT agrees to include this requirement in all of its subcontracts.

16 **ARTICLE 37. CONFIDENTIALITY OF DATA**

17 A. All financial, statistical, personal, technical, or other data and information relative to the
18 LOSSAN AGENCY's operations, which are designated confidential by the LOSSAN AGENCY and made
19 available to the CONSULTANT in order to carry out this Agreement, shall be protected by the
20 CONSULTANT from unauthorized use and disclosure.

21 B. Permission to disclose information on one occasion, or public meeting held by the LOSSAN
22 AGENCY relating to the Agreement, shall not authorize the CONSULTANT to further disclose such
23 information or disseminate the same on any other occasion.

24 C. CONSULTANT shall not comment publicly to the press or any other media regarding the
25 Agreement or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff,
26 CONSULTANT's own personnel involved in the performance of this Agreement, at public hearings, or in

1 response to questions from a Legislative committee.

2 D. CONSULTANT shall not issue any news release or public
3 relations item of any nature, whatsoever, regarding work performed or to be performed under this
4 Agreement without prior review of the contents thereof by the LOSSAN AGENCY, and receipt of the
5 LOSSAN AGENCY's written permission.

6 **ARTICLE 38. EVALUATION OF CONSULTANT**

7 CONSULTANT's performance will be evaluated by LOSSAN AGENCY. A copy of the evaluation
8 will be sent to CONSULTANT for comments. The evaluation together with any comments shall be
9 retained as part of the Agreement record.

10 **ARTICLE 39. TITLE VI ASSURANCES**

11 The U.S. Department of Transportation Order No. 1050.2A requires all federal-aid Department of
12 Transportation contracts between LOSSAN AGENCY and CONSULTANT to contain Appendices A and
13 E of the Title VI Assurances. Appendices B, C, and D are to be included in contracts, if applicable. During
14 the performance of this Agreement, CONSULTANT shall comply with the Title VI Assurances set forth in
15 Appendices A through E, herein. Any references to "consultant" or "contractor" in this Article shall also
16 mean "CONSULTANT" as defined under this Agreement. CONSULTANT shall include these Title VI
17 Assurances in all subcontracts to perform work under this Agreement.

18 **APPENDIX A**

19 A. During the performance of this Agreement, the contractor, for itself, its assignees and
20 successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

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

25 2. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the
26 AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or

disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.

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

4. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.

5. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including but not limited to:

a) withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

b) cancellation, termination or suspension of the Agreement, in whole or in part.

6. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

B. CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX E

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following nondiscrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property of Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);

1 • Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended,
2 (prohibits discrimination based on race, creed, color, national origin, or sex);

3 • The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and
4 applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section
5 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to
6 include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors,
7 whether such programs or activities are Federally funded or not);

8 • Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis
9 of disability in the operation of public entities, public and private transportation systems, places of public
10 accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by
11 Department of Transportation regulations 49 C.F.R. parts 37 and 38;

12 • The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits
13 discrimination on the basis of race, color, national origin, and sex);

14 • Executive Order 12898, Federal Actions to Address Environmental Justice in Minority
15 Populations and Low-Income Populations, which ensures discrimination against minority populations by
16 discouraging programs, policies, and activities with disproportionately high and adverse human health or
17 environmental effects on minority and low-income populations;

18 • Executive Order 13166, Improving Access to Services for Persons with Limited English
19 Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because
20 of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps
21 to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

22 • Title IX of the Education Amendments of 1972, as amended which prohibits you from
23 discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

24 **ARTICLE 40. LIMITATION ON GOVERNMENTAL DECISIONS**

25 CONSULTANT shall not make, participate in making, or use its position to influence any
26 governmental decisions as defined by the Political Reform Act, Government Code section 8100 et seq.,

1 and the implementing regulations in Title 2 of the California Code of Regulations section 18110 et seq.
2 CONSULTANT's personnel performing services under this Agreement shall not authorize or direct any
3 actions, votes, appoint any person, obligate, or commit LOSSAN AGENCY to any course of action or
4 enter into any contractual agreement on behalf of LOSSAN AGENCY. In addition, CONSULTANT's
5 personnel shall not provide information, an opinion, or a recommendation for the purpose of affecting a
6 decision without significant intervening substantive review by LOSSAN AGENCY personnel, counsel, and
7 management.

8 **ARTICLE 41. PROHIBITION**

9 A. The prime consultant firm and all subconsultants (at any tier) the firm, awarded this contract
10 program management consultant services for the LOSSAN Agency will be precluded from participating
11 (at any tier) on any engineering, technical services and/or construction-related work for projects which
12 they will be overseeing on behalf of LOSSAN Agency.

13 B. Furthermore, CONSULTANT is advised that the evaluation of team composition with regards
14 to potential conflicts of interest will be done on a case-by-case basis, as needed, throughout the term of
15 this Agreement.

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23 **ARTICLE 42. FORCE MAJEURE**

24 Either party shall be excused from performing its obligations under this Agreement during the time
25 and to the extent that it is prevented from performing by an unforeseeable cause beyond its control,
26 including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products,

1 plants or facilities by the federal, state or local government; national fuel shortage; or a material act or
2 omission by the other party; when satisfactory evidence of such cause is presented to the other
3 party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due
4 to the fault or negligence of the party not performing.

5 **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. L-5-0002 to be
6 executed as of the date of the last signature below.

7 **CONSULTANT**

**LOS ANGELES-SAN DIEGO-SAN LUIS OBISPO RAIL
CORRIDOR AGENCY**

8
9
10 By: _____

By: _____
Jason Jewel
Managing Director

11
12
13 **APPROVED AS TO FORM:**

14
15 By: _____
16 James M. Donich
General Counsel
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CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Information Sheet

LOS ANGELES-SAN DIEGO-SAN LUIS OBISPO RAIL CORRIDOR AGENCY

The attached Campaign Contribution 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 LOSSAN 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 \$500 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 \$500 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 \$500 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 \$500 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 Campaign Contribution 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 \$500 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 California Code of Regulations, Title 2 Sections 18438-18438.8.

LOS ANGELES-SAN DIEGO-SAN LUIS OBISPO RAIL CORRIDOR AGENCY
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

RFP Number: _____ RFP Title: _____

Was a campaign contribution made to any LOSSAN Board Member within the preceding 12 months, regardless of dollar amount of the contribution by either the proposing firm, proposed subconsultants and/or agent/lobbyist? Yes _____ No _____

If no, please sign and date below.

If yes, please provide the following information:

Prime Contractor Firm Name: _____

Contributor or Contributor Firm's Name: _____

Contributor or Contributor Firm's Address: _____

Is Contributor:

- | | | |
|---|-----------|----------|
| <input type="radio"/> The Prime Contractor | Yes _____ | No _____ |
| <input type="radio"/> Subconsultant | Yes _____ | No _____ |
| <input type="radio"/> Agent/Lobbyist hired by Prime
to represent the Prime in this RFP | Yes _____ | No _____ |

Note: Under the State of California Government Code section 84308 and California Code of Regulations, Title 2, Section 18438, campaign contributions made by the Prime Contractor and the Prime Contractor's agent/lobbyist who is representing the Prime Contractor in this RFP must be aggregated together to determine the total campaign contribution made by the Prime Contractor.

Identify the Board Member(s) to whom you, your subconsultants, and/or agent/lobbyist made campaign contributions, the name of the contributor, the dates of contribution(s) in the preceding 12 months and dollar amount of the contribution. Each date must include the exact month, day, and year of the contribution.

Name of Board Member: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Name of Board Member: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

Date: _____

Signature of Contributor

Print Firm Name

Print Name of Contributor

**LOS ANGELES-SAN DIEGO-SAN LUIS OBISPO RAIL CORRIDOR AGENCY
AND AFFILIATED AGENCIES**

Board of Directors

Dana Reed, Chairman
Gregg Hart, Vice Chairman
Priya Bhat-Patel, Director
Mary Lou Echternach, Director
Jewel Edson, Director
Caylin Frank, Director
Raymond Gregory, Director
Michael Hennessey, Director
Kellie Hinze, Director
Bryan MacDonald, Director
Joe Mosca, Director
Joseph L. Muller, Director
Al Murray, Director
Jimmy Paulding, Director
Andy Pease, Director
David Perry, Director
Bill Sandke, Director
Tim Shaw, Director
Fred Strong, Director
Jess Talamantes, Director
Jim White, Director
Das Williams, Director

STATUS OF PAST AND PRESENT CONTRACTS FORM

On the form provided below, Offeror/Bidder shall list the status of past and present contracts where the firm has either provided services as a prime vendor or a subcontractor during the past five (5) years in which the contract has been the subject of or may be involved in litigation with the contracting authority. This includes, but is not limited to, claims, settlement agreements, arbitrations, administrative proceedings, and investigations arising out of the contract.

A separate form must be completed for each contract. Offeror/Bidder shall provide an accurate contact name and telephone number for each contract and indicate the term of the contract and the original contract value. Offeror/Bidder shall also provide a brief summary and the current status of the litigation, claims, settlement agreements, arbitrations, administrative proceedings, or investigations. If the contract was terminated, list the reason for termination.

Offeror/Bidder shall have an ongoing obligation to update the Authority with any changes to the identified contracts and any new litigation, claims, settlement agreements, arbitrations, administrative proceedings, or investigations that arise subsequent to the submission of the bid. Each form must be signed by an officer of the Offeror/Bidder 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) Litigation, claims, settlements, arbitrations, or investigations associated with contract:	
(2) Summary and Status of contract:	
(3) Summary and Status of action identified in (1):	
(4) Reason for termination, if applicable:	

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

Name

Signature

Title

Date



Inspector General

California Department of Transportation

Certification of Indirect Costs and Financial Management System

(Note: If a Safe Harbor Indirect Cost Rate is approved, this form is not required)

Consultant's Full Legal Name: _____

Important: Consultant means the individual or consultant providing engineering and design related services as a party of a contract with a recipient or sub-recipient of Federal assistance. Therefore, the Indirect Cost Rate(s) shall not be combined with its parent company or subsidiaries.

Indirect Cost Rate (ICR):

Combined Rate: _____ Or

Home Office Rate: _____ and Field Office Rate (if applicable): _____

Facilities Capital Cost of Money (if applicable): _____

Fiscal Period:* _____

* Fiscal period is annual one year applicable accounting period that the ICR was developed (not the contract period). The ICR is based on the consultant's one-year applicable accounting period for which financial statements are regularly prepared by the consultant.

I have reviewed the proposal to establish an ICR(s) for the fiscal period as specified above and have determined to the best of my knowledge and belief that:

- All costs included in the cost proposal to establish the ICR(s) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) 48, Code of Federal Regulations (CFR), Chapter 1, Part 31 (48 CFR Part 31).
- The cost proposal does not include any costs which are expressly unallowable under the cost principles of 48 CFR Part 31.
- The accounting treatment and billing of prevailing wage delta costs are consistent with our prevailing wage policy as either direct labor, indirect costs, or other direct costs on all federally-funded A&E Consultant Contracts.
- All known material transactions or events that have occurred subsequent to year-end affecting the consultant's ownership, organization, and indirect cost rates have been disclosed as of the date of this certification.

I am providing the required and applicable documents as instructed on the Financial Document Review Request form.

Financial Management System:

Our labor charging, job costing, and accounting systems meet the standards for financial reporting, accounting records, and internal control adequate to demonstrate that costs claimed have been incurred, appropriately accounted for, are allocable to the contract, and comply with the federal requirements as set forth in [Title 23 United States Code \(U.S.C.\) Section 112\(b\)\(2\); 48 CFR Part 31.201-2\(d\); 23 CFR, Chapter 1, Part 172.11\(a\)\(2\)](#); and all applicable state and federal rules and regulations.

Our financial management system has the following attributes:

- Account numbers identifying allowable direct, indirect, and unallowable cost accounts;
- Ability to accumulate and segregate allowable direct, indirect, and unallowable costs into separate cost accounts;

- Ability to accumulate and segregate allowable direct costs by project, contract and type of cost;
- Internal controls to maintain integrity of financial management system;
- Ability to account and record costs consistently and to ensure costs billed are in compliance with FAR;
- Ability to ensure and demonstrate costs billed reconcile to general ledgers and job costing system; and
- Ability to ensure costs are in compliance with contract terms and federal and state requirements.

Cost Reimbursements on Contracts:

I also understand that failure to comply with 48 CFR Part 16.301-3 or knowingly charge unallowable costs to Federal-Aid Highway Program (FAHP) contracts may result in possible penalties and sanctions as provided by the following:

- Sanctions and Penalties - [23 CFR Part 172.11\(c\)\(4\)](#)
- False Claims Act - [Title 31 U.S.C. Sections 3729-3733](#)
- Statements or entries generally - [Title 18 U.S.C. Section 1001](#)
- Major Fraud Act - [Title 18 U.S.C. Section 1031](#)

All A&E Contract Information:

- Total participation amount _____ on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is _____
- Years of consultant's experience with 48 CFR Part 31 is _____
- Identify the type of audits listed below that the consultant has had performed (if applicable):

Cognizant ICR Audit

Local Govt ICR Audit

Caltrans ICR Audit

CPA ICR Audit

Federal Govt ICR Audit

I, the undersigned, certify all of the above to the best of my knowledge and belief and that I have reviewed the ICR Schedule to determine that any costs which are expressly unallowable under the Federal cost principles have been removed and comply with [Title 23 U.S.C. Section 112\(b\)\(2\)](#), [48 CFR Part 31](#), [23 CFR Part 172](#), and all applicable state and federal rules and regulations. I also certify that I understand that all documentation of compliance must be retained by the consultant. I hereby acknowledge that costs that are noncompliant with the federal and state requirements are not eligible for reimbursement and must be returned to Caltrans.

Name:** _____

Title:**: _____

Signature: _____

Date: _____

Phone:**: _____

Email:**: _____

**An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President, a Chief Financial Officer, or equivalent, who has authority to represent the financial information used to establish the indirect cost rate.

Note: Both prime and subconsultants as parties of a contract must complete their own forms. Caltrans will not process local agency's invoices until a complete form is accepted and approved by the Independent Office of Audits and Investigations.

PROPOSAL EXCEPTIONS AND/OR DEVIATIONS

The following form shall be completed for each technical and/or contractual exception or deviation that is submitted by Offeror for review and consideration by Authority. The exception and/or deviation must be clearly stated along with the rationale for requesting the exception and/or deviation. If no technical or contractual exceptions or deviations are submitted as part of the original proposal, Offerors are deemed to have accepted Authority’s technical requirements and contractual terms and conditions set forth in the Scope of Work (Exhibit A) and Proposed Agreement (Exhibit C). Offerors will not be allowed to submit this form or any contractual exceptions and/or deviation after the proposal submittal date identified in the RFP. Exceptions and/or deviations submitted after the proposal submittal date will not be reviewed by Authority.

Offeror:_____

RFP No.:_____ RFP Title: _____

Deviation or Exception No. : _____

Check one:

- Scope of Work (Technical) _____
- Proposed Agreement (Contractual) _____

Reference Section/Exhibit: _____ Page/Article No. _____

Complete Description of Deviation or Exception:

Rationale for Requesting Deviation or Exception:

Area Below Reserved for Authority Use Only:
