

**PROPOSED AGREEMENT NO. C250352****BETWEEN****ORANGE COUNTY TRANSPORTATION AUTHORITY****AND**

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**THIS AGREEMENT** is effective as of this \_\_\_\_ day of \_\_\_\_\_, 2026 ("Effective Date"), by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, CA 92863-1584, a public corporation of the State of California (hereinafter referred to as "AUTHORITY") and \_\_\_\_, \_\_\_\_\_ (hereinafter referred to as "CONSULTANT").

**WITNESSETH:**

**WHEREAS**, AUTHORITY requires assistance from CONSULTANT to provide sales tax audit and recovery services; and

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

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

**WHEREAS**, CONSULTANT wishes to perform these services;

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

**ARTICLE 1. COMPLETE AGREEMENT**

- A. This Agreement, including all exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of this Agreement between AUTHORITY and CONSULTANT and it supersedes all prior representations, understandings and communications. The invalidity in whole or in part

1 of any term or condition of this Agreement shall not affect the validity of other terms or  
2 conditions.

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

## 11 **ARTICLE 2. AUTHORITY DESIGNEE**

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

## 14 **ARTICLE 3. SCOPE OF WORK**

- 15 A. CONSULTANT shall perform the work necessary to complete in a manner satisfactory to  
16 AUTHORITY the services set forth in Exhibit A, entitled "Scope of Work," attached to and, by  
17 this reference, incorporated in and made a part of this Agreement. All services shall be  
18 provided at the times and places designated by AUTHORITY.
- 19 B. CONSULTANT shall provide the personnel listed below to perform the above-specified  
20 services, which persons are hereby designated as key personnel under this Agreement.

### 21 **Names / Functions**

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- 24 C. No person named in paragraph B of this Article, or his/her successor approved by  
25 AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon  
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1 function or level of commitment hereunder be changed, without the prior written consent  
2 of AUTHORITY.

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

#### 10 **ARTICLE 4. TERM OF AGREEMENT**

11 This Agreement shall commence upon the effective date of this Agreement, and shall continue in full  
12 force and effect through September 30, 2031, unless earlier terminated or extended as provided in  
13 this Agreement.

#### 14 **ARTICLE 5. PAYMENT**

- 15 A. For CONSULTANT's full and complete performance of its obligations under this Agreement,  
16 AUTHORITY shall pay CONSULTANT based on the percentages of any unrealized sales tax  
17 revenue remitted by the California Department of Tax and Fee Administration (CDTFA) to  
18 AUTHORITY. This fee applies to revenue received by AUTHORITY from CONSULTANT  
19 identified and corrected accounts for up to eight (8) go-forward quarters starting with the  
20 quarter that correction is made and all eligible prior quarters.
- 21 B. Compensation shall be based upon the following schedule:

##### 22 **Recoveries/ Rates (%)**

23 \$0 - \$3,000,000 / \_\_\_\_%

24 \$3,000,001 - \$10,000,000 / \_\_\_\_%

25 Over \$10,000,000 / \_\_\_\_%

1 Percentage shall remain fixed for the entire term of this Agreement and is acknowledged to  
2 include CONSULTANT's direct labor costs, other direct costs, indirect costs and profit.

3 C. CONSULTANT shall invoice AUTHORITY on a quarterly basis for a percentage of funds  
4 remitted to Paragraphs A and B. Work performed shall be documented in a quarterly report  
5 prepared by CONSULTANT, which shall accompany each invoice submitted by  
6 CONSULTANT. CONSULTANT shall also furnish such other information as may be requested  
7 by AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY  
8 may decline to make full payment until such time as CONSULTANT has documented to  
9 AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required.  
10 AUTHORITY's payment in full shall constitute AUTHORITY's final acceptance of  
11 CONSULTANT's work.

12 D. Invoices shall be submitted by CONSULTANT on a quarterly basis and shall be submitted in  
13 duplicate to AUTHORITY's Accounts Payable office. CONSULTANT may also submit invoices  
14 electronically to AUTHORITY's Accounts Payable Department at [vendorinvoices@octa.net](mailto:vendorinvoices@octa.net).  
15 Each invoice shall be accompanied by the quarterly progress report specified in paragraph C  
16 of this Article. AUTHORITY shall remit payment within thirty (30) calendar days of the receipt  
17 and approval of each invoice. Each invoice shall include the following information:

- 18 1. Agreement No. C250352;
- 19 2. The funds remitted from the CDTFA during the quarter;
- 20 3. The percentage of remitted funds sought by CONSULTANT;;
- 21 4. The time period (quarter) covered by the invoice;
- 22 5. Total quarterly invoice (including to-date cumulative invoice amount);
- 23 6. Quarterly Report;
- 24 7. Certification signed by the CONSULTANT or his/her designated alternate that a) The  
25 invoice is a true, complete and correct statement of reimbursable costs and progress; b)  
26 The backup information included with the invoice is true, complete and correct in all

1 material respects; c) All payments due and owing to subconsultants and suppliers have  
2 been made; d) Timely payments will be made to subconsultants and suppliers from the  
3 proceeds of the payments covered by the certification and; e) The invoice does not include  
4 any amount which CONSULTANT intends to withhold or retain from a subconsultant or  
5 supplier unless so identified on the invoice;

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

### 8 **ARTICLE 6. NOTICES**

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

13 To CONSULTANT:

14 \_\_\_\_\_  
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19 ATTENTION:

20 Name

21 Title:

22 Phone:

23 Email:

To AUTHORITY:

Orange County Transportation Authority

550 South Main Street

P.O. Box 14184

Orange, CA 92863-1584

ATTENTION:

Name: Michael Cardozo

Title: Senior Contract Administrator

Phone: (714) 560 - 5627

Email: [mcardozo@octa.net](mailto:mcardozo@octa.net)

**ARTICLE 7. INDEPENDENT CONTRACTOR**

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- A. CONSULTANT's relationship to AUTHORITY in the performance of this Agreement is that of an independent contractor. CONSULTANT's personnel performing services under this Agreement shall at all times be under CONSULTANT's exclusive direction and control and shall be employees of CONSULTANT and not employees of AUTHORITY. CONSULTANT shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.
- B. Should CONSULTANT's personnel or a state or federal agency allege claims against AUTHORITY involving the status of AUTHORITY as employer, joint or otherwise, of said personnel, or allegations involving any other independent contractor misclassification issues, CONSULTANT shall defend and indemnify AUTHORITY in relation to any allegations made.

**ARTICLE 8. INSURANCE**

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- 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:
1. 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;
  2. Automobile Liability Insurance to include owned, hired and non-owned autos with a combined single limit of \$1,000,000 for each accident;
  3. Workers' Compensation with limits as required by the State of California including a Waiver of Subrogation in favor of AUTHORITY, its officers, directors and employees; and

- 1 4. Employers' Liability with minimum limits of \$1,000,000 per accident, \$1,000,000 policy  
2 limit-disease, and \$1,000,000 policy limit employee-disease.
- 3 5. Professional Liability with minimum limits of \$1,000,000 only if the CONSULTANT is  
4 required by contract or law to be licensed or specially certified and AUTHORITY is relying  
5 on performance based on that specialty license or certification.
- 6 B. Proof of such coverage, in the form of a certificate of insurance and an insurance policy blanket  
7 additional insured endorsement, designating the AUTHORITY, its officers, directors and  
8 employees as additional insureds on general liability and automobile liability, as required by  
9 Agreement. Proof of insurance coverage must be received by AUTHORITY within ten (10)  
10 calendar days from the effective date of the Agreement and prior to commencement of any  
11 work. Such insurance shall be primary and non-contributive to any insurance or self-insurance  
12 maintained by the AUTHORITY. Furthermore, AUTHORITY reserves the right to request  
13 certified copies or review all related insurance policies, in response to a related loss.
- 14 C. CONSULTANT shall also include in each subcontract, the stipulation that subconsultants shall  
15 maintain insurance coverage in the amounts required of CONSULTANT as provided in the  
16 Agreement. Subconsultants will be required to include AUTHORITY as additional insureds on  
17 the Commercial General Liability, and Auto Liability insurance policies.
- 18 D. Insurer must provide AUTHORITY with at least thirty (30) days' prior notice of cancellation or  
19 material modification of coverage, and ten (10) days' prior notice for non-payment of premium.
- 20 E. CONSULTANT shall submit required insurance certificates to AUTHORITY's insurance  
21 tracking contractor, InsureTrack. CONSULTANT shall respond directly to InsureTrack's  
22 request for updated insurance certificates and other insurance-related matters by email  
23 to [octa@instracking.com](mailto:octa@instracking.com).
- 24 F. CONSULTANT shall include on the face of the certificate of insurance, the following  
25 information:  
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- 1           1. The Agreement Number C250352 and, the Senior Contract Administrator's Name, Michael  
2           Cardozo
- 3           2. For Certificate Holder: The Orange County Transportation Authority, its officers, directors,  
4           employers and agents, c/o InsureTrack, P.O. Box 60840 Las Vegas, NV 89160.

#### 5           **ARTICLE 9. ORDER OF PRECEDENCE**

6           Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1)  
7           the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 250352 ; (3)  
8           CONSULTANT's proposal dated \_\_\_\_\_; (4) all other documents, if any, cited herein or incorporated  
9           by reference.

#### 10          **ARTICLE 10. CHANGES**

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

#### 22          **ARTICLE 11. DISPUTES**

- 23          A. Except as otherwise provided in this Agreement, when a dispute arises between  
24          CONSULTANT and AUTHORITY, the project managers shall meet to resolve the issue. If  
25          project managers do not reach a resolution, the dispute will be decided by AUTHORITY's  
26          Director of Contracts Administration and Materials Management (CMM), who shall reduce



1 the decision to writing and mail or otherwise furnish a copy thereof to CONSULTANT. The  
2 decision of the Director, CAMM, shall be the final and conclusive administrative decision.

- 3 B. Pending final decision of a dispute hereunder, CONSULTANT shall proceed diligently with the  
4 performance of this Agreement and in accordance with the decision of AUTHORITY's Director,  
5 CAMM. Nothing in this Agreement, however, shall be construed as making final the decision  
6 of any AUTHORITY official or representative on a question of law, which questions shall be  
7 settled in accordance with the laws of the State of California.

## 8 **ARTICLE 12. TERMINATION**

- 9 A. AUTHORITY may terminate this Agreement for its convenience at any time, in whole or part,  
10 by giving CONSULTANT written notice thereof. Upon said notice, AUTHORITY shall pay  
11 CONSULTANT its allowable costs incurred to date of termination and those allowable costs  
12 determined by AUTHORITY to be reasonably necessary to effect such  
13 termination. Thereafter, CONSULTANT shall have no further claims against AUTHORITY  
14 under this Agreement.
- 15 B. In the event either Party defaults in the performance of any of their obligations under this  
16 Agreement or breaches any of the provisions of this Agreement, the non-defaulting Party shall  
17 have the option to terminate this Agreement upon thirty (30) days' prior written notice to the  
18 other Party. Upon receipt of such notice, CONSULTANT shall immediately cease work, unless  
19 the notice from AUTHORITY provides otherwise. Upon receipt of the notice from  
20 AUTHORITY, CONSULTANT shall submit an invoice for work and/or services performed prior  
21 to the date of termination. AUTHORITY shall pay CONSULTANT for work and/or services  
22 satisfactorily provided to the date of termination in compliance with this  
23 Agreement. Thereafter, CONSULTANT shall have no further claims against AUTHORITY  
24 under this Agreement. AUTHORITY shall not be liable for any claim of lost profits or damages  
25 for such termination.  
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**ARTICLE 13. INDEMNIFICATION**

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

**ARTICLE 14. ASSIGNMENTS AND SUBCONTRACTS**

- A. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by CONSULTANT either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONSULTANT, without the prior written consent of AUTHORITY. Consent by AUTHORITY shall not be deemed to relieve CONSULTANT of its obligations to comply fully with all terms and conditions of this Agreement.
- B. If CONSULTANT wishes to subcontract any of the work described in Exhibit B, AUTHORITY must be given prior notification and must consent to CONSULTANT's subcontracting portions of the Scope of Work to the requested subconsultant(s). If AUTHORITY approves of the subconsultant, CONSULTANT shall include in the subcontract agreement the stipulation that CONSULTANT, not AUTHORITY, is solely responsible for payment to the subconsultant for the amounts owing and that the subconsultant shall have no claim, and shall take no action, against AUTHORITY, its officers, directors, employees or sureties for nonpayment by CONSULTANT.

**Subcontractor Name****Addresses****Function**

**ARTICLE 15. AUDIT AND INSPECTION OF RECORDS**

CONSULTANT shall provide AUTHORITY, or other agents of AUTHORITY, such access to CONSULTANT's accounting books, records, payroll documents and facilities, as AUTHORITY deems necessary. CONSULTANT shall maintain such books, records, data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during CONSULTANT's performance hereunder and for a period of four (4) years from the date of final payment by AUTHORITY. AUTHORITY's right to audit books and records directly related to this Agreement shall also extend to all first-tier subcontractors identified in Article 14 of this Agreement. CONSULTANT shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary.

**ARTICLE 16. CONFLICT OF INTEREST**

- A. CONSULTANT agrees to avoid organizational conflicts of interest. An organizational conflict of interest means that due to other activities, relationships or contracts, the CONSULTANT is unable, or potentially unable to render impartial assistance or advice to the AUTHORITY; CONSULTANT's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or the CONSULTANT has an unfair competitive advantage. CONSULTANT is obligated to fully disclose to the AUTHORITY in writing Conflict of Interest issues as soon as they are known to the CONSULTANT. All disclosures must be submitted in writing to AUTHORITY pursuant to the Notice provision herein. This disclosure requirement is for the entire term of this Agreement.
- B. If the AUTHORITY determines that CONSULTANT, its employees, or subconsultants are subject to disclosure requirements under the Political Reform Act (Government Code section 81000 et seq.), CONSULTANT and its required employees and subconsultants shall complete and file Statements of Economic Interest (Form 700) with the AUTHORITY's Clerk of the Board disclosing all required financial interests.

**ARTICLE 17. CODE OF CONDUCT**

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

**ARTICLE 18. PROHIBITION ON PROVIDING ADVOCACY SERVICES**

CONSULTANT and all subconsultants performing work under this Agreement, shall be prohibited from concurrently representing or lobbying for any other party competing for a contract with AUTHORITY, either as a prime consultant or subconsultant. Failure to refrain from such representation may result in termination of this Agreement.

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

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

**ARTICLE 20. EQUAL EMPLOYMENT OPPORTUNITY**

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

**ARTICLE 21. PROHIBITED INTERESTS**

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

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

3 **ARTICLE 22. OWNERSHIP OF REPORTS AND DOCUMENTS**

- 4 A. The originals of all letters, documents, reports and other products and data produced under  
5 this Agreement shall be delivered to, and become the property of AUTHORITY. Copies may  
6 be made for CONSULTANT's records but shall not be furnished to others without written  
7 authorization from AUTHORITY. Such deliverables shall be deemed works made for hire and  
8 all rights in copyright therein shall be retained by AUTHORITY.
- 9 B. All ideas, memoranda, specifications, plans, manufacturing, procedures, drawings,  
10 descriptions, and all other written information submitted to CONSULTANT in connection with  
11 the performance of this Agreement shall not, without prior written approval of AUTHORITY, be  
12 used for any purposes other than the performance under this Agreement, nor be disclosed to  
13 an entity not connected with the performance of the project. CONSULTANT shall comply with  
14 AUTHORITY's policies regarding such material. Nothing furnished to CONSULTANT, which  
15 is otherwise known to CONSULTANT or is or becomes generally known to the related industry  
16 shall be deemed confidential. CONSULTANT shall not use AUTHORITY's name, photographs  
17 of the project, or any other publicity pertaining to the project in any professional publication,  
18 magazine, trade paper, newspaper, seminar or other medium without the express written  
19 consent of AUTHORITY.
- 20 C. No copies, sketches, computer graphics or graphs, including graphic artwork, are to be  
21 released by CONSULTANT to any other person or agency except after prior written approval  
22 by AUTHORITY, except as necessary for the performance of services under this  
23 Agreement. All press releases, including graphic display information to be published in  
24 newspapers, magazines, etc., are to be handled only by AUTHORITY unless otherwise agreed  
25 to by CONSULTANT and AUTHORITY.
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**ARTICLE 23. PATENT AND COPYRIGHT INFRINGEMENT**

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- A. In lieu of any other warranty by AUTHORITY or CONSULTANT against patent or copyright infringement, statutory or otherwise, it is agreed that CONSULTANT shall defend at its expense any claim or suit against AUTHORITY on account of any allegation that any item furnished under this Agreement or the normal use or sale thereof arising out of the performance of this Agreement, infringes upon any presently existing U.S. letters patent or copyright and CONSULTANT shall pay all costs and damages finally awarded in any such suit or claim, provided that CONSULTANT is promptly notified in writing of the suit or claim and given authority, information and assistance at CONSULTANT's expense for the defense of same. However, CONSULTANT will not indemnify AUTHORITY if the suit or claim results from: (1) AUTHORITY's alteration of a deliverable, such that said deliverable in its altered form infringes upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with other material not provided by CONSULTANT when such use in combination infringes upon an existing U.S. letters patent or copyright.
- B. CONSULTANT shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify AUTHORITY under any settlement made without CONSULTANT's consent or in the event AUTHORITY fails to cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or claim, CONSULTANT, at no expense to AUTHORITY, shall obtain for AUTHORITY the right to use and sell said item, or shall substitute an equivalent item acceptable to AUTHORITY and extend this patent and copyright indemnity thereto.

**ARTICLE 24. FINISHED AND PRELIMINARY DATA**

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- A. All of CONSULTANT's finished technical data, including but not limited to illustrations, photographs, tapes, software, software design documents, including without limitation source

1 code, binary code, all media, technical documentation and user documentation, photo prints  
2 and other graphic information required to be furnished under this Agreement, shall  
3 be AUTHORITY's property upon payment and shall be furnished with unlimited rights and, as  
4 such, shall be free from proprietary restriction except as elsewhere authorized in this  
5 Agreement. CONSULTANT further agrees that it shall have no interest or claim to such  
6 finished, AUTHORITY-owned, technical data; furthermore, said data is subject to the  
7 provisions of the Freedom of Information Act, 5 USC 552.

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

#### 15 **ARTICLE 25. HEALTH AND SAFETY REQUIREMENTS**

16 CONSULTANT shall comply with all the requirements set forth in Exhibit \_\_, titled "Level 1 SAFETY  
17 SPECIFICATIONS." As used therein, "Contractor" shall mean "Consultant," and "Subcontractor" shall  
18 mean "Sub-consultant."

#### 19 **ARTICLE 26. LIMITATION ON GOVERNMENTAL DECISIONS**

20 CONSULTANT shall not make, participate in making, or use its position to influence any governmental  
21 decisions as defined by the Political Reform Act, Government Code section 8100 et seq., and the  
22 implementing regulations in Title 2 of the California Code of Regulations section 18110 et seq.  
23 CONSULTANT's personnel performing services under this Agreement shall not authorize or direct  
24 any actions, votes, appoint any person, obligate, or commit AUTHORITY to any course of action or  
25 enter into any contractual agreement on behalf of AUTHORITY. In addition, CONSULTANT's  
26 personnel shall not provide information, an opinion, or a recommendation for the purpose of affecting

1 a decision without significant intervening substantive review by AUTHORITY personnel, counsel, and  
2 management.

3 **ARTICLE 27. FORCE MAJEURE**

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

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**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C250352 to be executed as of the date of the last signature below.

CONSULTANT

ORANGE COUNTY TRANSPORTATION  
AUTHORITY

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
GEORGIA MARTINEZ DEPARTMENT MANAGER,  
CONTRACTS AND PROCUREMENT

APPROVED AS TO FORM:

\_\_\_\_\_  
JAMES M. DONICH, GENERAL COUNSEL