

PROPOSED AGREEMENT NO. 250223
BETWEEN
ORANGE COUNTY TRANSPORTATION AUTHORITY
AND

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 "CONTRACTOR").

WITNESSETH:

WHEREAS, AUTHORITY requires assistance from CONTRACTOR to provide Lot Sweeping Services; and

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

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

WHEREAS, CONTRACTOR wishes to perform these services; and

NOW, THEREFORE, it is mutually understood and agreed by AUTHORITY and CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR'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 CONTRACTOR'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. CONTRACTOR 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. CONTRACTOR 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**

- 22
- 23
- 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 CONTRACTOR, 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 CONTRACTOR, 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 CONTRACTOR is not provided with prior notice
7 by the departing employee. AUTHORITY shall respond to CONTRACTOR 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, 2029, unless earlier terminated or extended as provided in
13 this Agreement.

- 14 A. AUTHORITY, at its sole discretion, may elect to extend the term of this Agreement for an
15 additional twelve (12) months commencing _____, 20__, and continuing through
16 _____, 20__ ("Option Term"), and thereupon require CONTRACTOR to continue to provide
17 services, and otherwise perform, in accordance with Exhibit A and at the amounts or rates set
18 forth in Article 5, "Payment."
19 B. AUTHORITY's election to extend this Agreement beyond the Initial Term shall not diminish its
20 right to terminate the Agreement for AUTHORITY's convenience or CONTRACTOR's default
21 as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the
22 period extending from commencement through _____, 20__, which period encompasses
23 the Initial Term and Option Term.

24 **ARTICLE 5. PAYMENT**

- 25 A. For CONTRACTOR's full and complete performance of its obligations under this Agreement,
26 and subject to the maximum cumulative payment obligation provisions set forth in Article 6,

1 AUTHORITY shall pay CONTRACTOR on a firm fixed price basis in accordance with the
2 following provisions.

- 3 B. The following schedule shall establish the firm fixed payment to CONTRACTOR by
4 AUTHORITY for each work task set forth in the Scope of Work. The schedule shall not include
5 any CONTRACTOR expenses not approved by AUTHORITY including but not limited to
6 reimbursement for local meals.
- 7 C. CONTRACTOR shall invoice AUTHORITY on a monthly basis for payments corresponding to
8 the work actually completed by CONTRACTOR. Percentage of work completed shall be
9 documented in a monthly progress report prepared by CONTRACTOR, which shall
10 accompany each invoice submitted by CONTRACTOR. CONTRACTOR shall also furnish
11 such other information as may be requested by AUTHORITY to substantiate the validity of an
12 invoice. At its sole discretion, AUTHORITY may decline to make full payment for any task
13 listed in paragraph B of this Article until such time as CONTRACTOR has documented to
14 AUTHORITY's satisfaction, that CONTRACTOR has fully completed all work required under
15 the task. AUTHORITY's payment in full for any task completed shall not constitute
16 AUTHORITY's final acceptance of CONTRACTOR's work under such task; final acceptance
17 shall occur only when AUTHORITY's release of the retention described in paragraph D.
- 18 D. As partial security against CONTRACTOR's failure to satisfactorily fulfill all of its obligations
19 under this Agreement, AUTHORITY shall retain ten percent (10%) of the amount of each
20 invoice submitted for payment by CONTRACTOR. All retained funds shall be released by
21 AUTHORITY and shall be paid to CONTRACTOR within sixty (60) days of payment of final
22 invoice, unless AUTHORITY elects to audit CONTRACTOR's records in accordance with
23 Article 17 of this Agreement. If AUTHORITY elects to audit, retained funds shall be paid to
24 CONTRACTOR within thirty (30) calendar days of completion of such audit in an amount
25 reflecting any adjustment required by such audit. CONTRACTOR agrees to release
26 subconsultant retention within thirty (30) calendar days after the subconsultants work is

1 satisfactory completed. These prompt payment provisions are required to be incorporated in
2 all subcontract agreements issued by CONTRACTOR. During the term of the Agreement, at
3 its sole discretion, AUTHORITY reserves the right to release all or a portion of the retained
4 amount based on CONTRACTOR's satisfactory completion of certain milestones.
5 CONTRACTOR shall invoice AUTHORITY for the release of the retention in accordance with
6 Article 5.

7 E. Invoices shall be submitted by CONTRACTOR on a monthly basis and shall be submitted in
8 duplicate to AUTHORITY's Accounts Payable office. CONTRACTOR may also submit invoices
9 electronically to AUTHORITY's Accounts Payable Department at vendorinvoices@octa.net.
10 Each invoice shall be accompanied by the monthly progress report specified in paragraph C
11 of this Article. AUTHORITY shall remit payment within thirty (30) calendar days of the receipt
12 and approval of each invoice. Each invoice shall include the following information:

- 13 1. Agreement No. 250223;
- 14 2. Specify the task number for which payment is being requested;
- 15 3. The time period covered by the invoice;
- 16 4. Total monthly invoice (including project-to-date cumulative invoice amount) and retention;
- 17 5. Monthly Progress Report;
- 18 6. Weekly certified payroll for personnel subject to prevailing wage requirements, if
19 applicable;
- 20 7. Certification signed by the CONTRACTOR or his/her designated alternate that a) The
21 invoice is a true, complete and correct statement of reimbursable costs and progress; b)
22 The backup information included with the invoice is true, complete and correct in all
23 material respects; c) All payments due and owing to subconsultants and suppliers have
24 been made; d) Timely payments will be made to subconsultants and suppliers from the
25 proceeds of the payments covered by the certification and; e) The invoice does not include
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1 any amount which CONTRACTOR intends to withhold or retain from a subconsultant or
2 supplier unless so identified on the invoice;

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

5 **ARTICLE 6. MAXIMUM OBLIGATION**

6 Notwithstanding any provisions of this Agreement to the contrary, AUTHORITY and CONTRACTOR
7 mutually agree that AUTHORITY's maximum cumulative payment obligation (including obligation for
8 CONTRACTOR's profit) shall be _____ Dollars (\$_____.00) which
9 shall include all amounts payable to CONTRACTOR for its subcontracts, leases, materials and costs
10 arising from, or due to termination of, this Agreement.

11 **ARTICLE 7. NOTICES**

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

16 To CONTRACTOR:

To AUTHORITY:

17 Orange County Transportation Authority

18 550 South Main Street

19 P.O. Box 14184

20 Orange, CA 92863-1584

21 ATTENTION:

22 Name:

23 Title:

24 Phone:

25 Email:

ARTICLE 8. INDEPENDENT CONTRACTOR

- A. CONTRACTOR's relationship to AUTHORITY in the performance of this Agreement is that of an independent contractor. CONTRACTOR's personnel performing services under this Agreement shall at all times be under CONTRACTOR's exclusive direction and control and shall be employees of CONTRACTOR and not employees of AUTHORITY. CONTRACTOR 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 CONTRACTOR'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, CONTRACTOR shall defend and indemnify AUTHORITY in relation to any allegations made.

ARTICLE 9. INSURANCE

- A. CONTRACTOR 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. CONTRACTOR 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;

- 1 3. Workers' Compensation with limits as required by the State of California including a Waiver
- 2 of Subrogation in favor of AUTHORITY, its officers, directors and employees; and
- 3 4. Employers' Liability with minimum limits of \$1,000,000 per accident, \$1,000,000 policy
- 4 limit-disease, and \$1,000,000 policy limit employee-disease.
- 5 5. Contractors Pollution Liability with limits of not less than \$1,000,000 per claim and
- 6 aggregate arising from the contractor's operations;
- 7 B. Proof of such coverage, in the form of a certificate of insurance and an insurance policy blanket
- 8 additional insured endorsement, designating the AUTHORITY, its officers, directors and
- 9 employees as additional insureds on general liability and automobile liability, as required by
- 10 Agreement. Proof of insurance coverage must be received by AUTHORITY within ten (10)
- 11 calendar days from the effective date of the Agreement and prior to commencement of any
- 12 work. Such insurance shall be primary and non-contributive to any insurance or self-insurance
- 13 maintained by the AUTHORITY. Furthermore, AUTHORITY reserves the right to request
- 14 certified copies or review all related insurance policies, in response to a related loss.
- 15 C. CONTRACTOR shall also include in each subcontract, the stipulation that subconsultants shall
- 16 maintain insurance coverage in the amounts required of CONTRACTOR as provided in the
- 17 Agreement. Subconsultants will be required to include AUTHORITY as additional insureds on
- 18 the Commercial General Liability, and Auto Liability insurance policies.
- 19 D. Insurer must provide AUTHORITY with at least thirty (30) days' prior notice of cancellation or
- 20 material modification of coverage, and ten (10) days' prior notice for non-payment of premium.
- 21 E. CONTRACTOR shall submit required insurance certificates to AUTHORITY's insurance
- 22 tracking contractor, InsureTrack. CONTRACTOR shall respond directly to InsureTrack's
- 23 request for updated insurance certificates and other insurance-related matters by email
- 24 to octa@instracking.com.
- 25 F. CONTRACTOR shall include on the face of the certificate of insurance, the following
- 26 information:

1. The Agreement Number 250223 and, the Section Manager's Name, Javier Lopez Jr
2. For Certificate Holder: The Orange County Transportation Authority, its officers, directors, employers and agents, c/o InsureTrack, P.O. Box 60840 Las Vegas, NV 89160.

ARTICLE 10. ORDER OF PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of IFB 250223 ; (3) CONTRACTOR's bid dated _____; (4) all other documents, if any, cited herein or incorporated by reference.

ARTICLE 11. CHANGES

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

ARTICLE 12. DISPUTES

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

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

- 3 B. Pending final decision of a dispute hereunder, CONTRACTOR 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 13. TERMINATION**

- 9 A. AUTHORITY may terminate this Agreement for its convenience at any time, in whole or part,
10 by giving CONTRACTOR written notice thereof. Upon said notice, AUTHORITY shall pay
11 CONTRACTOR 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, CONTRACTOR 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, CONTRACTOR shall immediately cease work,
19 unless the notice from AUTHORITY provides otherwise. Upon receipt of the notice from
20 AUTHORITY, CONTRACTOR shall submit an invoice for work and/or services performed prior
21 to the date of termination. AUTHORITY shall pay CONTRACTOR for work and/or services
22 satisfactorily provided to the date of termination in compliance with this
23 Agreement. Thereafter, CONTRACTOR 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 14. INDEMNIFICATION

CONTRACTOR 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 CONTRACTOR, its officers, directors, employees, agents, subconsultants or suppliers in connection with or arising out of the performance of this Agreement.

ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS

- A. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by CONTRACTOR either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONTRACTOR, without the prior written consent of AUTHORITY. Consent by AUTHORITY shall not be deemed to relieve CONTRACTOR of its obligations to comply fully with all terms and conditions of this Agreement.
- B. If CONTRACTOR wishes to subcontract any of the work described in Exhibit B, AUTHORITY must be given prior notification and must consent to CONTRACTOR's subcontracting portions of the Scope of Work to the requested subconsultant(s). If AUTHORITY approves of the subconsultant, CONTRACTOR shall include in the subcontract agreement the stipulation that CONTRACTOR, 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 CONTRACTOR.

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

ARTICLE 16. AUDIT AND INSPECTION OF RECORDS

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

ARTICLE 17. CONFLICT OF INTEREST

- A. CONTRACTOR agrees to avoid organizational conflicts of interest. An organizational conflict of interest means that due to other activities, relationships or contracts, the CONTRACTOR is unable, or potentially unable to render impartial assistance or advice to the AUTHORITY; CONTRACTOR's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or the CONTRACTOR has an unfair competitive advantage. CONTRACTOR is obligated to fully disclose to the AUTHORITY in writing Conflict of Interest issues as soon as they are known to the CONTRACTOR. 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 CONTRACTOR, its employees, or subconsultants are subject to disclosure requirements under the Political Reform Act (Government Code section 81000 et seq.), CONTRACTOR 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 18. CODE OF CONDUCT

CONTRACTOR 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. CONTRACTOR agrees to include these requirements in all of its subcontracts.

ARTICLE 19. PROHIBITION ON PROVIDING ADVOCACY SERVICES

CONTRACTOR 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 20. FEDERAL, STATE AND LOCAL LAWS

CONTRACTOR 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 21. EQUAL EMPLOYMENT OPPORTUNITY

In connection with its performance under this Agreement, CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. CONTRACTOR 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 22. PROHIBITED INTERESTS

- A. CONTRACTOR 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 23. 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 CONTRACTOR'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 CONTRACTOR 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. CONTRACTOR shall comply with
14 AUTHORITY's policies regarding such material. Nothing furnished to CONTRACTOR, which
15 is otherwise known to CONTRACTOR or is or becomes generally known to the related industry
16 shall be deemed confidential. CONTRACTOR shall not use AUTHORITY's name,
17 photographs of the project, or any other publicity pertaining to the project in any professional
18 publication, magazine, trade paper, newspaper, seminar or other medium without the express
19 written consent of AUTHORITY.
- 20 C. No copies, sketches, computer graphics or graphs, including graphic artwork, are to be
21 released by CONTRACTOR 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 CONTRACTOR and AUTHORITY.
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ARTICLE 24. PATENT AND COPYRIGHT INFRINGEMENT

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- A. In lieu of any other warranty by AUTHORITY or CONTRACTOR against patent or copyright infringement, statutory or otherwise, it is agreed that CONTRACTOR 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 CONTRACTOR shall pay all costs and damages finally awarded in any such suit or claim, provided that CONTRACTOR is promptly notified in writing of the suit or claim and given authority, information and assistance at CONTRACTOR's expense for the defense of same. However, CONTRACTOR 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 CONTRACTOR when such use in combination infringes upon an existing U.S. letters patent or copyright.
- B. CONTRACTOR shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof. CONTRACTOR shall not be obligated to indemnify AUTHORITY under any settlement made without CONTRACTOR'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 CONTRACTOR's expense. If the use or sale of said item is enjoined as a result of such suit or claim, CONTRACTOR, 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 25. FINISHED AND PRELIMINARY DATA

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- A. All of CONTRACTOR'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. CONTRACTOR 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 CONTRACTOR. Preliminary data includes roughs,
10 visualizations, software design documents, layouts and comprehensives prepared by
11 CONTRACTOR 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 CONTRACTOR causes
14 AUTHORITY to exercise Article 11, and a price shall be negotiated for all preliminary data.

15 **ARTICLE 26. HEALTH AND SAFETY REQUIREMENTS**

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

19 **ARTICLE 27. LIMITATION ON GOVERNMENTAL DECISIONS**

20 CONTRACTOR 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 CONTRACTOR'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, CONTRACTOR'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 28. GENERAL WAGE RATES**

4 All laborers and mechanics employed by CONTRACTOR or subcontractor at any tier working on the
5 construction site, will be paid unconditionally and not less often than once a week and without any
6 subsequent deduction or rebate on any account (except such payroll deductions as are permitted or
7 required by federal, state or local law, regulation or ordinance), the full amounts due at the time of
8 payment computed at wage rates and per diem rate not less than the aggregate of the highest of the
9 two basic hourly rates and rates of payments, contributions or costs for any fringe benefits contained
10 in the current general prevailing wage rate(s) and per diem rate(s), established by the Director of the
11 Department of Industrial Relations of the State of California, (as set forth in the Labor Code of the
12 State of California, commencing at Section 1770 et. seq.), regardless of any contractual relationship
13 which may be alleged to exist between CONTRACTOR or subcontractor and their respective
14 mechanics, laborers, journeypersons, workpersons, craftspersons or apprentices. Copies of the
15 current General Prevailing Wage Determinations and Per Diem Rates are on file at AUTHORITY's
16 offices and will be made available to CONTRACTOR upon request. CONTRACTOR shall post a copy
17 thereof at each job site at which work hereunder is performed.

18 In addition to the foregoing, CONTRACTOR agrees to comply with all other provisions of the Labor
19 Code of the State of California, which are incorporated herein by reference, pertaining to workers
20 performing work hereunder including, but not limited to, those provisions for work hours, payroll
21 records and apprenticeship employment and regulation program. CONTRACTOR agrees to insert or
22 cause to be inserted the preceding clause in all subcontracts, which provide for workers to perform
23 work hereunder regardless of the subcontractor tier.

24 **ARTICLE 29. FORCE MAJEURE**

25 Either party shall be excused from performing its obligations under this Agreement during the time
26 and to the extent that it is prevented from performing by an unforeseeable cause beyond its control,

including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; or a material act or omission by the other party; when satisfactory evidence of such cause is presented to the other party; and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. 250223 to be executed as of the date of the last signature below.

CONTRACTOR

ORANGE COUNTY TRANSPORTATION
AUTHORITY

SIGNATURE

DARRELL E. JOHNSON, CHIEF EXECUTIVE
OFFICER

DATE SIGNED

APPROVED AS TO FORM:

JAMES M. DONICH, GENERAL COUNSEL

APPROVED:

JOHNNY DUNNING JR., CHIEF OPERATIONS
OFFICER