

REQUEST FOR PROPOSALS (RFP) 2-1394

**Consulting Services for Metrolink Marketing
Programs**



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

Key RFP Dates

Issue Date:	March 8, 2012
Pre-Proposal Conference Date:	March 13, 2012
Question Submittal Date:	March 19, 2012
Proposal Submittal Date:	April 10, 2012
Interview Date:	May 3, 2012

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March 8, 2012

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**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS (RFP)
RFP 2-1394: "Consulting Services for Metrolink Marketing Programs"**

Gentlemen/Ladies:

The Orange County Transportation Authority (Authority) invites proposals from qualified consultants to provide consulting services for Metrolink marketing programs on an as-needed basis. The budget for this effort is \$250,000.00 for a one-year term.

Proposals must be received in the Authority's office at or before 2:00 p.m. on April 10, 2012.

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, 4th Floor
Orange, California 92868
Attention: Iris Mendoza, Associate Contract Administrator**

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

**Orange County Transportation Authority
Contracts Administration and Materials Management
P.O. Box 14184
Orange, California 92863-1584
Attention: Iris Mendoza, Associate Contract Administrator**

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

A copy of this RFP 2-1394 "Consulting Services for Metrolink Marketing Programs" may be downloaded at www.octa.net/cammnet.

CHIEF EXECUTIVE OFFICE

Will Kempton
Chief Executive Officer

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

To receive all further information regarding this RFP 2-1394, firms must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

Commodities for this solicitation are:

Category(s):

Marketing, Advertising & Media Services

Printing & Reproduction Services
Professional Consulting

Commodity(s):

Advertising; Advertising-Public Relations; Broadcasting Services, Radio; Broadcasting Services, Television; Communications Marketing Services; Copywriting Services; Direct Mail Services; Graphic Production Services; Photography Services; Public Relations/Outreach Services; Video Production
Printing & Related Services
Advertising Consulting

A pre-proposal conference will be held on March 13, 2012, at 9:30 a.m., at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103/104. All prospective Offerors are encouraged to attend the pre-proposal conference.

The Authority has established May 3, 2012 as the date to conduct interviews. All prospective Offerors will be asked to keep this date available.

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.

Sincerely,

A handwritten signature in black ink, appearing to read "Iris Mendoza". The signature is fluid and cursive, with the first name "Iris" and last name "Mendoza" clearly distinguishable.

Iris Mendoza
Associate Contract Administrator
Contract Administration and Materials Management

SECTION I
INSTRUCTIONS TO OFFERORS

SECTION I. INSTRUCTIONS TO OFFERORS

A. PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held on March 13, 2012, at 9:30 a.m., at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103/104. All prospective Offerors are encouraged to attend the pre-proposal conference.

B. EXAMINATION OF PROPOSAL DOCUMENTS

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

C. ADDENDA

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

D. AUTHORITY CONTACT

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

Iris Mendoza, Associate Contract Administrator
Contracts Administration and Materials Management Department
550 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560.5786, Fax: 714.560.5792

E. CLARIFICATIONS

1. Examination of Documents

Should an Offeror require clarifications of this RFP, the Offeror shall notify the Authority in writing in accordance with Section E.2. below. Should it be found that the point in question is not clearly and fully set forth, the Authority will issue a written addendum clarifying the matter which will be sent to all firms registered on 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 must be received by the Authority no later than 5:00 p.m. on March 19, 2012.
- b. Requests for clarifications, questions, and comments must be clearly labeled, "Written Questions." The Authority is not responsible for failure to respond to a request that has not been labeled as such.
- c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:
 - (1) U.S. Mail: Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584.
 - (2) Personal Courier: Contracts Administration and Materials Management Department, 600 South Main Street, 4th Floor, Orange, California 92868.
 - (3) Facsimile: The Authority's fax number is (714) 560-5792.
 - (4) E-Mail: Iris Mendoza, Associate Contract Administrator, e-mail address is *imendoza@octa.net*.

3. Authority Responses

Responses from the Authority will be posted on CAMM NET, the Authority's interactive website, no later than March 28, 2012. Offerors may download responses from CAMM NET at www.octa.net/cammnet or request responses be sent via U.S. Mail by e-mailing or faxing the request to Iris Mendoza, Associate Contract Administrator.

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

Commodities for this solicitation are:

Category(s):

Marketing, Advertising & Media Services

Commodity(s):

Advertising; Advertising-Public Relations; Broadcasting Services, Radio; Broadcasting Services, Television;

	Communications Marketing Services; Copywriting Services; Direct Mail Services; Graphic Production Services; Photography Services; Public Relations/Outreach Services; Video Production
Printing & Reproduction Services	Printing & Related Services
Professional Consulting	Advertising Consulting

Inquiries received after March 19, 2012 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 April 10, 2012.

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

2. Address

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

**Orange County Transportation Authority
Contracts Administration and Materials Management (CAMM)
600 South Main Street, 4th Floor
Orange, California 92868
Attention: Iris Mendoza, Associate Contract Administrator**

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

**Orange County Transportation Authority
Contracts Administration and Materials Management (CAMM)
P.O. Box 14184
Orange, California 92863-1584
Attention: Iris Mendoza, Associate Contract Administrator**

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

3. Identification of Proposals

Offeror shall submit an **original and 4 copies** of its proposal in a sealed

package, addressed as shown above, bearing the Offeror's name and address and clearly marked as follows:

"RFP 2-1394: Consulting Services for Metrolink Marketing Programs"

4. Acceptance of Proposals

- a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- b. The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice and the Authority makes no representations that any contract will be awarded to any Offeror responding to this RFP.
- c. The Authority reserves the right to postpone proposal openings for its own convenience.
- d. Proposals received by Authority are public information and must be made available to any person upon request.
- e. Submitted proposals are not to be copyrighted.

G. PRE-CONTRACTUAL EXPENSES

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

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

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

H. JOINT OFFERS

Where two or more 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 Authority intends to contract with a single firm and not with multiple firms doing business as a joint venture.

I. TAXES

Offerors' proposals are subject to State and Local sales taxes. However, the

Authority is exempt from the payment of Federal Excise and Transportation Taxes.

J. PROTEST PROCEDURES

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

K. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a time and expense price contract for one year effective July 1, 2012 through June 30, 2013.

L. CONFLICT OF INTEREST

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

M. CODE OF CONDUCT

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

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. Offers should not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged and presentations should be brief and concise. Proposals should not exceed fifty (50) pages in length, excluding any appendices.

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Iris Mendoza, Associate Contract Administrator, and must, at a minimum, contain the following:

- a. Identification of Offeror that will have contractual responsibility with the Authority. Identification shall include legal name of company, corporate address, telephone, and fax number. Include name, title, address, telephone number, and email address of the contact person identified during period of proposal evaluation.
- b. Identification of all proposed subcontractors including legal name of company, contact person's name and address, phone number and fax number, and email address; relationship between Offeror and subcontractors, if applicable.
- c. Acknowledgement of receipt of all RFP addenda, if any.
- d. A statement to the effect that the proposal shall remain valid for a period of not less than 120 days from the date of submittal.
- e. Signature of a person authorized to bind Offeror to the terms of the proposal.
- f. Signed statement attesting that all information submitted with the proposal is true and correct.

3. Technical Proposal

a. Qualifications, Related Experience, and References of Offeror

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

in performing work of a similar nature; demonstrated competence in the services to be provided; strength and stability of the firm; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references.

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. Describe experience in working with the various government agencies identified in this RFP.
- (4) Identify subcontractors by company name, address, contact person, telephone number, email address, and project function. Describe Offeror's experience working with each subcontractor.
- (5) Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, address, 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) Provide education, experience, and applicable professional credentials of project staff.
- (2) Furnish brief resumes (not more than two [2] pages each) for

the proposed Project Manager and other key personnel.

- (3) Identify key personnel proposed to perform the work 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.
- (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 the Authority's needs and requirements.

Offeror to:

- (1) Describe the approach to completing the work specified in the Scope of Work. The work plan shall be of such detail to demonstrate the Offeror's ability to accomplish the project objectives.
- (2) Outline sequentially the activities that would be undertaken in completing the work and specify who would perform them.
- (3) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.
- (4) Identify any special issues or problems that are likely to be encountered in this project and how the Offeror would propose to address them.
- (5) Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

d. Exceptions/Deviations

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

4. Cost and Price Proposal

As part of the cost and price proposal, the Offeror shall submit proposed pricing to provide the services described in Exhibit A, Scope of Work.

The Offeror shall complete the "Price Summary Sheet" form included with this RFP (Exhibit B) and furnish any narrative required to explain the prices quoted in the schedules. As noted earlier in these instructions, the contract will be time and expense.

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. STATUS OF PAST AND PRESENT CONTRACTS FORM

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

SECTION III
EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

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

1. **Qualifications of the Firm** **25%**
 Technical experience in performing work of a closely similar nature; experience working with public agencies; strength and stability of the firm; strength, stability, experience, and technical competence of subcontractors; assessment by client references.

2. **Staffing and Project Organization** **20%**
 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** **30%**
 Depth of Offeror's understanding of Authority's requirements and overall quality of work plan; logic, clarity and specificity of work plan; ability to meet the project objectives; utility of suggested technical or procedural innovations.

4. **Cost and Price** **25%**
 Reasonableness of the total price and competitiveness of this amount with other offers received; adequacy of data in support of figures quoted; reasonableness of individual hourly rates.

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 member's score for each proposal.

During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established May 3, 2012 as the date to conduct interviews. All prospective Offerors will be asked to keep this date available. No other interview dates will be provided, therefore, if an Offeror is

unable to attend the interview on this date, its proposal may be eliminated from further discussion. The interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the firm's proposal and qualifications.

At the conclusion of the proposal evaluations, Offerors remaining within the competitive range may be asked to submit a Best and Final Offer (BAFO). In the BAFO request, the firms may be asked to provide additional information, confirm or clarify issues, and submit a final cost/price offer. A deadline for submission will be stipulated.

C. AWARD

The Authority will evaluate the proposals received and will select the proposal considered to be the most competitive to the Authority. 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 Authority.

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

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) 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) days of notification of the contract award.

EXHIBIT A
SCOPE OF WORK

SCOPE OF WORK CONSULTING SERVICES FOR METROLINK MARKETING PROGRAMS

INTRODUCTION

The Orange County Transportation Authority (OCTA) seeks assistance from a consultant to help achieve Metrolink's marketing goals. The Consultant is encouraged to collaborate with sub-contractors so that turnkey marketing projects can be delivered. The Consultant and/or sub-contractor must have capabilities in areas such as:

- Development of strategic marketing plans
- Market research – primary and secondary, qualitative and quantitative
- Digital Marketing – design and program, email development, social media implementation, online development, video production
- Media planning and buying
- Print, broadcast (TV and radio), direct mail, public information/customer communication marketing materials development
- Cooperative marketing/advertising programs
- Printing – including full range of printers from simple, 1-color to full 4-color high quality capabilities
- Special events

The Consultant shall deliver a wide variety of marketing communications programs. This requires proficiency in areas such as concept/planning, design, layout, copywriting, production, printing, photography, videography, translation, fulfillment, mailing, distribution, etc.

BACKGROUND

Current Metrolink Programs in Orange County

The Southern California Regional Rail Authority (SCRRA), a regional joint powers authority (JPA), operates seven lines throughout Southern California's five-county, 400-mile commuter rail system known as Metrolink. Metrolink's five-agency membership includes the Los Angeles County Metropolitan Transportation Authority (Metro), OCTA, the Riverside County Transportation Commission (RCTC), the San Bernardino Associated Governments (SANBAG), and the Ventura County Transportation Commission. Metrolink operates 158 daily trains on seven lines, serving 55 stations, and carries over 41,000 riders per day.

Orange County Metrolink Service

There are three lines that provide service to Orange County. The Orange County (OC) Line service began in 1994, followed by the Inland Empire – Orange County (IEOC) Line in 1995, and the 91 Line in 2002. The three lines serving Orange County provide

a total of 42 trains each weekday, serving 11 Orange County stations, carrying an average of 15,000 passengers.

In 2006, the OC and IEOC lines began offering service on weekends, year-round. The OC Line weekend service is fully funded by OCTA. The IEOC Line weekend service is funded by OCTA, RCTC, and SANBAG. On February 15, 2010, due to budget constraints, the number of OC Line weekend trains was reduced from eight trains on Saturday and Sunday to four trains. Simultaneously, the IEOC Line weekend service was reduced from six trains on Saturday and four trains on Sunday to two trains each day. However, OCTA and Metrolink were able to implement seasonal service on the weekends with 10 trains between July and October of 2010 and 2011, when demand and ridership typically increase. Staff expects to be able to operate increased weekend service year-round next fiscal year (FY) 2012-13.

The Rail 2 Rail Program, which began in 2003, allows Metrolink monthly pass holders the option of riding Amtrak Pacific Surfliner trains at no additional charge, provided the pass holder travels within the designated stations identified on the monthly pass. In Orange County, a valid Metrolink ticket or pass also permits free transfers to local OCTA bus routes that directly serve a Metrolink station, including StationLink, which provides routes that offer Metrolink ticket holders free connections between stations and major employment/activity centers with schedules designed to meet Metrolink weekday train arrivals and departures.

Total FY 2011-12 first quarter ridership (weekday and weekend) for the three Metrolink lines serving Orange County, including Rail 2 Rail passengers, has increased by 4.2 percent (total ridership weekday and weekend) compared to the same quarter last year. First quarter passenger fare revenues of \$7 million are 7 percent higher than the same quarter last year for the lines serving Orange County. System-wide Metrolink ridership is higher than the first quarter of FY 2010-11 by 9 percent, and revenue has increased by 7 percent. Total Orange County ridership has increased by 5.2 percent, and revenue is up 2.3 percent, compared to the fourth quarter of FY 2010-11 (April, May, June).

Metrolink Service Expansion Program

On November 14, 2005, OCTA's Board of Directors authorized staff to begin implementation of the Metrolink Service Expansion Program (MSEP) for high frequency Orange County Metrolink services. On July 5, 2011, OCTA implemented the MSEP, adding more Orange County Metrolink services between Laguna Niguel/Mission Viejo and Fullerton. The original plan was to add service every 30 minutes; however, due to budget constraints, the new service only provides an additional six trains throughout the day.

OCTA also rolled out the new OCLINK Pass, which is valid all day long on the date issued for travel on Metrolink trains and OCTA buses within Orange County. The pass is available for purchase on OCTA buses, at all Orange County Metrolink station ticket

vending machines, online, by phone, and at retail stores. Sales of the OCLINK Pass are low, especially on the buses.

Metrolink's service was initially targeted to long-distance commuters traveling to and from work during peak periods. However, with the added service mainly in the evening, OCTA has launched several campaigns to showcase different destinations in Orange County. In April, OCTA launched the Angels Express campaign, which provided Metrolink services directly to the Angels games in Anaheim. The campaign was a success mainly because there was a specific location and services were held until the game ended. Another promotional campaign is the Woo Woo Friday, which is an event planned for the last Friday of each month and free OCLINK passes along with other deals are distributed. This promotion has had minimal success due to low interest in this campaign. Currently, OCTA is promoting the Ducks Express to Honda Center but has not reached the same success as the Angels Express campaign due to low ridership. Overall, the MSEP schedules have had low ridership.

Future Metrolink Related Programs

LOSSAN Rail Corridor

The Los Angeles – San Diego – San Luis Obispo (LOSSAN) rail corridor is the second busiest passenger rail corridor in the nation. Currently, three passenger rail services including Amtrak, Coaster, and Metrolink, and two freight carriers, Burlington Northern Santa Fe (BNSF) Railway and Union Pacific Railway (UPRR), operate along the LOSSAN rail corridor, between Los Angeles and San Diego. Combined ridership between Los Angeles and San Diego has grown to over 7.5 million a year. In order to meet the growing ridership demand, expanded and improved services are needed to serve the rail passengers of Southern California.

In addition to the Orange County MSEP, OCTA, in partnership with the California Department of Transportation's Division of Rail, embarked upon a small study to look at short-term improvements, otherwise known as "quick improvements" along the entire LOSSAN corridor. The quick improvements are those that can be implemented within one year, at minimal expense, with the goal of enhancing and improving the customer experience. The final report identified 20 near-term potential LOSSAN corridor improvements. Recommended study concepts can be summarized into four main categories: customer information, operations, connecting transit/ticketing, and other. The LOSSAN corridor rail agencies will be working together to implement recommended improvements that may include joint marketing efforts.

Transit Extensions to Metrolink

Orange County's Metrolink service is increasing in frequency and it is essential that passengers have a way to get to their final destination after getting off a train. Measure M2 Project S, known as Transit Extensions to Metrolink, is providing funding to connect people between a Metrolink station and recreational, shopping, and

employment centers throughout the county. Two types of projects are being funded through Project S – fixed-guideways and bus and station vans.

MARKETING APPROACH

OCTA's Marketing Department is responsible for promoting Orange County Metrolink services, providing public information, enhancing public awareness and increasing ridership. The Consultant shall assist staff in developing a strategic program to accomplish our goals for developing marketing programs. Several studies and focus groups have been conducted to help identify issues and goals.

A climate study conducted in 2006 identified the following general awareness information.

General Awareness (County overall; non-users)

- 60.8% know OCTA operates Metrolink service in Orange County
- 65.8% say OCTA should add more Metrolink commuter rail service
- 17.1% have used Metrolink in the past year

A more recent focus group was conducted in July 2008 and identified the following attitudes, perceptions, and awareness levels of existing rail service among non-riders:

- Low awareness of trains and stations by non-riders
- There is a lack of confidence and some anxiety in trying the train
- Other systems are perceived as better, more user friendly
- Train is perceived as being for long-distance travels
- Pricing matters – the train is perceived by some as too expensive to ride

A customer satisfaction survey and market study will be conducted in April 2012. The report will be available for review upon request by the Consultant.

PROGRAM MANAGEMENT

OCTA's Marketing Program Administrator will be the key contact for the Consultant and will direct the Consultant's work effort. The Marketing Program Administrator will form, and be a part of, an internal project team to assist in providing project direction. All jobs performed by the Consultant shall require a cost estimate and the Marketing Program Administrator's approval before commencing work.

The Consultant shall designate a project manager within the firm to be the primary liaison with OCTA for day-to-day marketing activities. The project manager will manage written communications through OCTA's online project management system. The project manager shall have the authority to make commitments and decisions that are binding to the Consultant. Any changes to a Consultant's personnel under this project shall be subject to OCTA's written approval.

SCOPE OF SERVICES

The Consultant shall provide turnkey marketing programs that include, but are not limited to, the following scope of services.

1. Customer Communications

This effort includes development of materials that are used to create awareness of the Metrolink operational characteristics, and/or other service features. It involves creating concepts, designing, producing, printing, and delivering traditional public information and/or customer communications, such as quarterly newsletters and other collaterals.

Deliverables shall include, but are not limited to:

- A) Job-by-job estimate of time and materials needed to complete the assignment, approved by the designated OCTA Marketing Program Administrator
- B) Job delivery – includes, but not limited to, quarterly newsletters and other public information materials and customer communications/collaterals in quantities to be determined on a job-by-job basis.

2. Metrolink Marketing Programs

The Consultant shall develop and implement targeted marketing programs designed to help achieve the following goals:

- Position train service as a viable transportation option for commutes to and from work, recreational, and other trips
- Support OCTA's strategic plan, as well as CEO and Chairman's goals of creating awareness and trial usage on transit
- Create awareness and trial use for expanded off-peak train service and the all day pass in Orange County
- Build ridership during peak and off-peak hours

Some of these marketing programs may include:

- Metrolink Service Expansion Program (MSEP)
- All-day rail/bus pass
- Metrolink Weekends
- Special services, such as Thanksgiving and Holiday Toy Express
- Special events, such as Lunar New Year and Festival of Whales
- Cooperative marketing/partnerships (i.e. Ducks and Angels)

Target Audience

- Residence living in close proximity to the stations
- Employers and employees working in close proximity to the stations
- College students in close proximity to the stations
- Destinations
- Entertainment venues
- Tourists
- Marketing partners
- Media
- Stakeholders/cities with Metrolink stations
- Current bus and rail riders
- Connecting counties (Riverside, Los Angeles)
- General public

Deliverables shall include, but are not limited to:

- A) Marketing plan including strategies, tactics, media recommendations, evaluation criteria, timeline, and budget proposal, including a draft and final plan
- B) Estimate for each program element, approved by Marketing Program Manager
- C) Execution of online and offline plan elements – concept, planning, design, layout, web design and programming, and other functions needed to carry out the requirements of the plan
- D) Evaluation of program effectiveness – concise review of effectiveness of marketing program

3. Other Marketing Projects to Support Metrolink

These tasks shall be completed on a case-by-case basis as needs arise. This may involve efforts such as video production of public service announcements, special events, outreach to businesses, direct mailers to stakeholders, etc. This task is designed to be flexible to address needs as they occur.

Deliverables shall include, but are not limited to:

- A) Job-by-job estimate of time and materials needed to complete the assignment, approved by the Marketing Program Administrator
- B) Job delivery

FILE FORMAT

Final design products must be in the following software with PDF and color proofs provided:

- Adobe Acrobat 9.0 [.PDF] or later
- Adobe Illustrator CS3 [.ai, .eps] or later
- Adobe InDesign CS3 or later
- Adobe Photoshop CS3 or later
- Microsoft Office 2007 (Word, Excel, PowerPoint) or later
- Ability for FTP transfer (OCTA has its own FTP site)

EXHIBIT B

COST AND PRICE FORMS

PRICE SUMMARY SHEET

REQUEST FOR PROPOSALS (RFP) 2-1394

Enter below the proposed price for the services described in the Scope of Work, Exhibit A. Prices shall include direct costs, indirect costs, and profits. The Authority's intention is to award a time and expense price contract.

Key Personnel

Job Function	Name	Fully Burdened Hourly Rate
Account Executive	_____	\$ _____
Account Manager	_____	\$ _____
Account Coordinator	_____	\$ _____

Other Labor Charges

Job Function	Name	Fully Burdened Hourly Rate
Senior Art Director	_____	\$ _____
Art Director	_____	\$ _____
Creative Director	_____	\$ _____
Graphic Designer	_____	\$ _____
Illustrator	_____	\$ _____
Social Media Specialist	_____	\$ _____
E-Marketing Specialist	_____	\$ _____
Web Designer	_____	\$ _____
Web Programmer	_____	\$ _____
Market Research Manager	_____	\$ _____
Market Research	_____	\$ _____

**RFP 2-1394
EXHIBIT B**

Manager/Analyst	_____	\$ _____
Photographer	_____	\$ _____
Videographer	_____	\$ _____
Production Manager	_____	\$ _____
Production Artist	_____	\$ _____
Media Planner	_____	\$ _____
Media Buyer	_____	\$ _____
Accounting Director	_____	\$ _____
Billing Clerk	_____	\$ _____
Copywriter	_____	\$ _____
Proof Reader	_____	\$ _____

Other Charges

Description	Rate
_____	\$ _____
_____	\$ _____
_____	\$ _____

1. I acknowledge receipt of RFP 2-1394 and Addenda No.(s) _____

2. This offer shall remain firm for _____ days from the date of proposal
(Minimum 120)

COMPANY NAME _____

ADDRESS _____

TELEPHONE _____

SIGNATURE OF PERSON
AUTHORIZED TO BIND OFFEROR _____

SIGNATURE'S NAME AND TITLE _____

DATE SIGNED _____

EXHIBIT C
PROPOSED AGREEMENT

PROPOSED AGREEMENT NO. C-2-1394

BETWEEN

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND

THIS AGREEMENT is effective this ____ day of _____, 2012, by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 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 consulting services for Metrolink marketing programs; 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 of any term or condition of this Agreement shall not affect the validity of other terms or conditions.

B. AUTHORITY's failure to insist in any one or more instances upon CONSULTANT's performance of any terms or conditions of this Agreement shall not be construed as a waiver or

1 relinquishment of AUTHORITY's right to such performance or to future performance of such terms or
2 conditions and CONSULTANT's obligation in respect thereto shall continue in full force and effect.
3 Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when
4 specifically confirmed in writing by an authorized representative of AUTHORITY by way of a written
5 amendment to this Agreement and issued in accordance with the provisions of this Agreement.

6 **ARTICLE 2. AUTHORITY DESIGNEE**

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

9 **ARTICLE 3. SCOPE OF WORK**

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

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

16 **Names** **Functions**

17
18
19
20
21 C. No person named in paragraph B of this Article, or his/her successor approved by
22 AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon function
23 or level of commitment hereunder be changed, without the prior written consent of AUTHORITY.
24 Should the services of any key person become no longer available to CONSULTANT, the resume and
25 qualifications of the proposed replacement shall be submitted to AUTHORITY for approval as soon as
26 possible, but in no event later than seven (7) calendar days prior to the departure of the incumbent key

1 person, unless CONSULTANT is not provided with such notice by the departing employee.
2 AUTHORITY shall respond to CONSULTANT within seven (7) calendar days following receipt of these
3 qualifications concerning acceptance of the candidate for replacement.

4 **ARTICLE 4. TERM OF AGREEMENT**

5 This Agreement shall commence on July 1, 2012, and shall continue in full force and effect
6 through June 30, 2013, unless earlier terminated or extended as provided in this Agreement.

7 **ARTICLE 5. PAYMENT**

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

12 B. AUTHORITY shall pay CONSULTANT at the rate(s) set forth in Exhibit B, entitled "Price
13 Summary Sheet," attached to and, by this reference, incorporated in and made a part of this
14 Agreement. These rate(s) shall remain fixed for the term of this Agreement and are acknowledged to
15 include CONSULTANT's direct costs, indirect costs, tax, and profit.

16 C. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding
17 to the work actually completed by CONSULTANT. Work completed shall be documented in a report
18 prepared by CONSULTANT, which shall accompany each invoice submitted by CONSULTANT.
19 CONSULTANT shall also furnish such other information as may be requested by AUTHORITY to
20 substantiate the validity of an invoice. At its sole discretion, AUTHORITY may decline to make full
21 payment until such time as CONSULTANT has documented to AUTHORITY's satisfaction, that
22 CONSULTANT has fully completed all work required. AUTHORITY's payment in full shall constitute
23 AUTHORITY's final acceptance of CONSULTANT's work

24 D. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in
25 duplicate to AUTHORITY's Accounts Payable office. Each invoice shall be accompanied by the report
26 specified in paragraph C of this Article. AUTHORITY shall remit payment within thirty (30) calendar

1 days of the receipt and approval of each invoice. Each invoice shall include the following information:

- 2 1. Agreement No. C-2-1394;
- 3 2. Labor (staff name, actual hours expended, hourly billing rate, current charges and
- 4 cumulative charges) performed during the billing period;
- 5 3. The time period covered by the invoice;
- 6 4. Total monthly invoice (including project-to-date cumulative invoice amount);
- 7 5. Report;
- 8 6. Certification signed by the CONSULTANT or his/her designated alternate that a)

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

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

17 **ARTICLE 6. MAXIMUM OBLIGATION**

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

23 **ARTICLE 7. NOTICES**

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

1 and addressed as follows:

2 To CONSULTANT:

To AUTHORITY:

3 Orange County Transportation Authority

4 550 South Main Street

5 P.O. Box 14184

6 Orange, CA 92863-1584

7 ATTENTION:

ATTENTION: Iris Mendoza

8 (714) 560 – 5786

9 imendoza@octa.net

10 **ARTICLE 8. INDEPENDENT CONTRACTOR**

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

18 **ARTICLE 9. INSURANCE**

19 A. CONSULTANT shall procure and maintain insurance coverage during the entire term of this
20 Agreement. Coverage shall be full coverage and not subject to self-insurance provisions.
21 CONSULTANT shall provide the following insurance coverage:

22 1. Commercial General Liability, to include Products/Completed Operations,
23 Independent Contractors', Contractual Liability, and Personal Injury Liability, and Property Damage with
24 a minimum limit of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

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

EXHIBIT C

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

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

4 B. Proof of such coverage, in the form of an insurance company issued policy endorsement
5 and a broker-issued insurance certificate, must be received by AUTHORITY prior to commencement of
6 any work. Proof of insurance coverage must be received by AUTHORITY within ten (10) calendar days
7 from the effective date of this Agreement with the AUTHORITY, its officers, directors, employees and
8 agents designated as additional insured on the general and automobile liability. Such insurance shall
9 be primary and non-contributive to any insurance or self-insurance maintained by the AUTHORITY.

10 C. CONSULTANT shall include on the face of the Certificate of Insurance the Agreement No.
11 C-2-1394; and, the Contract Administrator's Name, Iris Mendoza.

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

15 E. CONSULTANT shall be required to immediately notify AUTHORITY of any modifications or
16 cancellations of any required insurance policies.

17 **ARTICLE 10. ORDER OF PRECEDENCE**

18 Conflicting provisions hereof, if any, shall prevail in the following descending order of
19 precedence: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP
20 2-1394; (3) CONSULTANT's proposal dated _____; (4) all other documents, if any, cited herein or
21 incorporated by reference.

22 **ARTICLE 11. CHANGES**

23 By written notice or order, AUTHORITY may, from time to time, order work suspension and/or
24 make changes in the general scope of this Agreement, including, but not limited to, the services
25 furnished to AUTHORITY by CONSULTANT as described in the Scope of Work. If any such work
26 suspension or change causes an increase or decrease in the price of this Agreement, or in the time

1 required for its performance, CONSULTANT shall promptly notify AUTHORITY thereof and assert its
2 claim for adjustment within ten (10) calendar days after the change or work suspension is ordered, and
3 an equitable adjustment shall be negotiated. However, nothing in this clause shall excuse
4 CONSULTANT from proceeding immediately with the Agreement as changed.

5 **ARTICLE 12. DISPUTES**

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

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

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

24 **ARTICLE 13. TERMINATION**

25 A. AUTHORITY may terminate this Agreement for its convenience at any time, in whole or
26 part, by giving CONSULTANT written notice thereof. Upon said notice, AUTHORITY shall pay

1 CONSULTANT its allowable costs incurred to date of termination and those allowable costs determined
2 by AUTHORITY to be reasonably necessary to effect such termination. Thereafter, CONSULTANT
3 shall have no further claims against AUTHORITY under this Agreement.

4 B. AUTHORITY may terminate this Agreement for CONSULTANT's default if a federal or state
5 proceeding for the relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT
6 makes an assignment for the benefit of creditors, or if CONSULTANT breaches any term(s) or violates
7 any provision(s) of this Agreement and does not cure such breach or violation within ten (10) calendar
8 days after written notice thereof by AUTHORITY. CONSULTANT shall be liable for all reasonable costs
9 incurred by AUTHORITY as a result of such default including, but not limited to, reprourement costs of
10 the same or similar services defaulted by CONSULTANT under this Agreement.

11 **ARTICLE 14. INDEMNIFICATION**

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

18 **ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS**

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

24 B. AUTHORITY hereby consents to CONSULTANT's subcontracting portions of the Scope of
25 Work to the parties identified below for the functions described in CONSULTANT's proposal.
26 CONSULTANT shall include in the subcontract agreement the stipulation that CONSULTANT, not

1 AUTHORITY, is solely responsible for payment to the subcontractor for the amounts owing and that the
2 subcontractor shall have no claim, and shall take no action, against AUTHORITY, its officers, directors,
3 employees or sureties for nonpayment by CONSULTANT.

4 Subcontractor Name/Addresses Function

5
6
7 **ARTICLE 16. AUDIT AND INSPECTION OF RECORDS**

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

17 **ARTICLE 17. CONFLICT OF INTEREST**

18 CONSULTANT agrees to avoid organizational conflicts of interest. An organizational conflict
19 of interest means that due to other activities, relationships or contracts, the CONSULTANT is
20 unable, or potentially unable to render impartial assistance or advice to AUTHORITY;
21 CONSULTANT's objectivity in performing the work identified in the Scope of Work is or might be
22 otherwise impaired; or the CONSULTANT has an unfair competitive advantage. CONSULTANT is
23 obligated to fully disclose to the AUTHORITY in writing Conflict of Interest issues as soon as they
24 are known to the CONSULTANT. All disclosures must be submitted in writing to AUTHORITY
25 pursuant to the Notice provision herein. This disclosure requirement is for the entire term of this
26 Agreement.

1 **ARTICLE 18. CODE OF CONDUCT**

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

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

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

9 **ARTICLE 20. EQUAL EMPLOYMENT OPPORTUNITY**

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

17 **ARTICLE 21. PROHIBITED INTERESTS**

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

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

22 A. The originals of all letters, documents, reports and other products and data produced under
23 this Agreement shall be delivered to, and become the property of AUTHORITY. Copies may be made
24 for CONSULTANT's records but shall not be furnished to others without written authorization from
25 AUTHORITY. Such deliverables shall be deemed works made for hire and all rights in copyright therein
26 shall be retained by AUTHORITY.

EXHIBIT C

1 B. All ideas, memoranda, specifications, plans, manufacturing, procedures, drawings,
2 descriptions, and all other written information submitted to CONSULTANT in connection with the
3 performance of this Agreement shall not, without prior written approval of AUTHORITY, be used for any
4 purposes other than the performance under this Agreement, nor be disclosed to an entity not connected
5 with the performance of the project. CONSULTANT shall comply with AUTHORITY's policies regarding
6 such material. Nothing furnished to CONSULTANT, which is otherwise known to CONSULTANT or is
7 or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall
8 not use AUTHORITY's name, photographs of the project, or any other publicity pertaining to the project
9 in any professional publication, magazine, trade paper, newspaper, seminar or other medium without
10 the express written consent of AUTHORITY.

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

16 **ARTICLE 23. PATENT AND COPYRIGHT INFRINGEMENT**

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

1 combination with other material not provided by CONSULTANT when such use in combination infringes
2 upon an existing U.S. letters patent or copyright.

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

11 **ARTICLE 24. FINISHED AND PRELIMINARY DATA**

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

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

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ARTICLE 25. FORCE MAJEURE

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

ARTICLE 26. HEALTH AND SAFETY REQUIREMENTS

CONSULTANT shall comply with all the requirements set forth in Exhibit E, Level 2 Safety Specifications.

Upon execution by both parties, this Agreement shall be made effective July 1, 2012.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-2-1394 to be executed on the date first above written.

CONSULTANT

ORANGE COUNTY TRANSPORTATION AUTHORITY

By _____

By _____

Carolina Coppolo
Manager, Contracts and Procurement

APPROVED AS TO FORM:

By _____

Kennard R. Smart, Jr.
General Counsel

EXHIBIT D
STATUS OF PAST AND PRESENT CONTRACTS

Status of Past and Present Contracts Form

On the form provided below, Offeror shall list the status of past and present contracts where the firm has either provided services as a prime contractor or a subcontractor during the past five (5) years in which the contract has ended or will end in a termination, settlement, or in legal action. A separate form must be completed for each contract. Offeror shall provide an accurate contact name and telephone number for each contract and indicate the term of the contract and the original contract value.

If the contract was terminated, list the reason for termination. Offeror must also identify and state the status of any litigation, claims, or settlement agreements related to any of the identified contracts. Each form must be signed by an officer of the Offeror confirming that the information provided is true and accurate.

Project city/agency/other:	
Contact name:	Phone:
Project award date:	Original Contract Value:
Term of Contract:	
1) Status of contract:	
2) Identify claims/litigation or settlements associated with the contract:	

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

Name _____
 Title _____

_____ Date

EXHIBIT E
LEVEL 2 SAFETY SPECIFICATIONS

LEVEL 2 SAFETY SPECIFICATIONS

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

- A. The Contractor, its subcontractors, suppliers, and employees have the obligation to comply with all Authority health, safety and environmental compliance department (HSEC) policies, as well as all federal, state, and local regulations pertaining to scope of work, contracts or agreements with the Authority. Additionally, manufacturer requirements are considered incorporated by reference as applicable to this scope of work.
- B. Observance of repeated unsafe acts or conditions, serious violation of safety standards, non-conformance of Authority health, safety and environmental compliance department (HSEC) requirements, or disregard for the intent of these safety specifications to protect people and property, by Contractor may be cause for termination of this agreement with the Authority, at the sole discretion of the Authority.

C. INJURY AND ILLNESS PREVENTION PLAN

The Contractor shall submit to the Authority, certification of compliance of an Injury and Illness Prevention Plan (IIPP) in accordance with California Code of Regulations (CCR) Title 8, Section 3203. The intent and elements of the IIPP shall be implemented and enforced by the Contractor and its sub-tier contractors, suppliers, and vendors.

D. HAZARD COMMUNICATION PROGRAM

- 1. Contractor shall comply with CCR Title 8, Section 5194, Hazard Communication Standard. Prior to use on Authority property and/or project work areas Contractor shall provide the Authority Project Manager copies of MSDS for all applicable products.
 - 2. All chemicals including paint, solvents, detergents and similar substances shall comply with South Coast Air Quality Management District (SCAQMD) rules 103, 1113, and 1171.
- E. The Contractor shall provide the Authority's Project Manager the qualifications, or job experience of Contractor's competent person as the safety representative assigned to the project. The Contractor's safety representative for Authority projects are subject to Acceptance by the Authority Project Manager.
 - 1. Competent Person, means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

- F. The Contractor shall conduct and document a project site safety orientation for all Contractor personnel, sub-tier contractors, suppliers, vendors, and new employees assigned to the project prior to performing any work on Authority projects. The safety orientation at a minimum shall include, as applicable, Personal Protection Equipment (PPE) requirements, eye protection, ANSI class 2 reflective vests, designated smoking, eating, and parking areas, traffic speed limit and routing, cell phone policy, and barricade requirements. When required by scope, additional orientation shall include fall protection, energy isolation/lock-out/tag-out (LOTO), confined space, hot work permit, security requirements, and similar project safety requirements.
- G. The Contractor shall ensure that all Contractor vehicles, including those of its sub-tier contractors, suppliers, vendors and employees are parked in designated parking areas, are identified by company name and/or logo, and comply with traffic routes, and posted traffic signs in areas other than the employee parking lots.
- H. The Contractor shall provide all necessary tools, equipment, and related safety protective devices to execute the scope of work in compliance with Authority's HSEC requirements, CCR Title 8 Standards, and recognized safe work practices.
- I. The Contractor shall immediately notify the Authority's Project Manager whenever local, state or federal regulatory agency personnel are identified as being onsite.
- J. The Authority HSEC requirements, and references contained within this scope of work shall not be considered all-inclusive as to the hazards that might be encountered. Safe work practices shall be pre-planned and performed, and safe conditions shall be maintained during the course of this work scope.
- K. The Contractor shall specifically acknowledge that it has primary responsibility to prevent and correct all health, safety and environmental hazards for which it and its employees, or its sub-tier contractors (and their employees) are responsible. The Contractor shall further acknowledge their expertise in recognition and prevention of hazards in the operations for which they are responsible, that the Authority may not have such expertise, and is relying upon the Contractor for such expertise. The Authority retains the right to notify the Contractor of potential hazards and request the Contractor to evaluate and, as necessary, to eliminate those hazards.
- L. The Contractor shall instruct all its employees, and all associated sub-contractors under contract with the Contractor who are required to work on Authority property in the recognition, identification, and avoidance of unsafe acts and/or conditions applicable to its work.
- M. California Code of Regulations (CCR) Title 8 Standards are minimum requirements, and each Contractor is encouraged to exceed minimum requirements. When the Contractor safety requirements exceed statutory standards, the more stringent requirements shall be achieved for the safeguard of the public and workers.

1.2 INCIDENT NOTIFICATION AND INVESTIGATION

A. The Authority shall be promptly notified of any of the following types of incidents:

1. Damage to Authority property (or incidents involving third party property damage);
2. Reportable and/or Recordable injuries (as defined by the U. S. Occupational Safety and Health Administration);
3. Incidents impacting the environment, (i.e. spills or releases on or from Authority property).

Notifications shall be made to Authority representatives, employees and/or agents. This includes incidents occurring to contractors, vendors, visitors, or members of the general public that arise from the performance of Authority contract work. A comprehensive investigation and written report shall be submitted to Authority's Project Manager within 24 hours of the incident.

B. A serious injury or incident may require a formal incident review at the discretion of the Authority's Project Manager. The incident review shall be conducted within 7 calendar days of the incident. The serious incident presentation shall include action taken for the welfare of the injured, a status report of the injured, causation factors leading to the incident, a root cause analysis, and a detailed recovery plan that identifies corrective actions to prevent a similar incident, and actions to enhance safety awareness.

1.3 PERSONAL PROTECTIVE EQUIPMENT

Contractors, and all associated sub-tier contractors, vendors and suppliers are required to provide their own personal protective equipment (PPE), including eye, head, foot, and hand protection, respirators, reflective safety vests, and all other PPE required to perform their work safely on Authority projects.

1.4 LANGUAGE REQUIREMENTS

The Contractor for safety reasons shall ensure employees that do not read, or understand English, shall have a bilingual supervisor or foreman when on the Authority property or projects.

1.5 WARNING SIGNS AND DEVICES

The Contractor shall provide signs, signals, and/or warning devices to be visible at all times when and where a hazard exists. Signs, signals, and/or warning devices shall be removed when the hazard no longer exists.

END OF SECTION