

# REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:  
DECEMBER 6, 2016

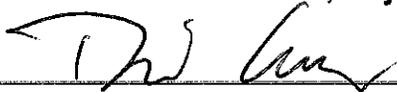
CLERK OF COUNCIL USE ONLY:

TITLE:

APPROVE APPROPRIATION ADJUSTMENT,  
CONSULTANT AGREEMENT WITH KIMLEY-  
HORN AND ASSOCIATES FOR OC  
STREETCAR DESIGN REVIEW SUPPORT,  
AND AMEND 2016/17 CAPITAL  
IMPROVEMENT PROGRAM  
{STRATEGIC PLAN NO. 6, 1C}

APPROVED

- As Recommended
- As Amended
- Ordinance on 1<sup>st</sup> Reading
- Ordinance on 2<sup>nd</sup> Reading
- Implementing Resolution
- Set Public Hearing For \_\_\_\_\_

  
CITY MANAGER

CONTINUED TO \_\_\_\_\_  
FILE NUMBER \_\_\_\_\_

## RECOMMENDED ACTION

1. Approve an Appropriation Adjustment to recognize Orange County Transportation Authority funds as outlined in the Design Agreement between Orange County Transportation Authority and the City of Santa Ana, in the amount of \$493,469, to be received into the Select Street Construction Fund and Measure M2 Competitive Fund revenue account and appropriated into the same expenditure accounts for expenditure in Fiscal Year 2016/17.
2. Authorize the City Manager and the Clerk of the Council to execute an agreement with Kimley-Horn and Associates, Inc., to provide engineering, technical, and administrative support services, for the three-year period beginning December 6, 2016 and expiring December 5, 2019, with provisions for one two-year renewal option exercisable by the City Manager and City Attorney, in an amount not to exceed \$250,000 for the term of the contract, including any renewal, subject to nonsubstantive changes approved by the City Manager and City Attorney.
3. Amend the Fiscal Year 2016/17 Capital Improvement Program to add Orange County Transportation Authority funding in the amount of \$493,469 to the OC Streetcar Project.

## DISCUSSION

In 2008, the cities of Santa Ana and Garden Grove entered into a partnership with the Orange County Transportation Authority (OCTA) to develop a last-mile connection from the Santa Ana Regional Transportation Center to Garden Grove. Since completion of the planning and environmental document in 2015, OCTA has taken the lead agency role for the design, implementation, operations, and maintenance of the project (OC Streetcar). The OC Streetcar will increase transportation options for the residents of both cities. It will also provide greater access along its 4.15-mile route (in each direction) along Santa Ana Boulevard, Fourth Street, and the Pacific Electric right-of-way to Harbor Boulevard in Garden Grove.

On March 15, 2016, City Council authorized the City Manager and Clerk of the Council to execute a cooperative agreement with the OCTA in the amount not to exceed \$1,493,469 for the term beginning upon OCTA Board approval of the project, and ending one year after the beginning of revenue service. The purpose of the agreement was to describe the roles and responsibilities of Santa Ana to review and support the project's design development, and the manner and limit of compensation by OCTA to the City of Santa Ana.

\$1 million was appropriated for the OC Streetcar Project in the FY 2016/17 Capital Improvement Program (CIP). Therefore, an amendment to the CIP is required to recognize the additional \$493,469 in the current fiscal year.

OCTA funding for the design costs will be comprised of the following funding sources: Federal New Starts, Congestion Mitigation and Air Quality (CMAQ), Federal Transit Administration (FTA) 5307, State Cap-and-Trade, and Measure M2 Project S, as described in the August 22, 2016, OCTA staff report, "OC Streetcar Project Revised Capital Funding Plan" (Exhibit 1). Based on OCTA's revised capital funding plan, the expected distribution of design funding is as follows:

Funding Source	Percentage	Amount
Federal New Starts	50%	\$746,735
Federal CMAQ	18%	\$264,344
FTA 5307	5%	\$67,206
State Cap-and-Trade	9%	\$128,438
M2-Project S	19%	\$286,746
	<b>100%</b>	<b>\$1,493,469</b>

The project is currently in the design phase and is scheduled to begin construction in 2018. To date, 30 percent of the design review has been completed. Due to the magnitude and specialty of this project, it is recommended that a technical consultant with expertise in streetcar design be hired to augment City staff, to ensure that the aggressive project schedule is met and the City's interests are protected.

On October 4, 2016, the Public Works Agency released a Request for Proposals on the City's website to provide technical design review support related to the OC Streetcar project on an as-needed basis. A detailed Scope of Work will be outlined when/if a specific Task Order is assigned to the Consultant.

The Consultant will provide staff augmentation during the comprehensive review of various submittals for the streetcar including the 60%, 90%, and 100% plan check on an as-needed basis. Consultant will also provide written comments in the form of hard-copy prints, e-file comments, or tabular comments with clear reference to where the comment applies in the review set. Consultant reviews shall be provided in a format acceptable to the City and OCTA.

Three proposals were received and evaluated by a review committee from the Public Works Agency. Each firm was evaluated using the following criteria:

- Firm / Team Experience
- Understanding of Need
- Relevant Project Experience
- Schedule
- References

The list of the firms and each respective score is as follows:

FIRM	SCORE
Kimley-Horn & Associates, Inc.	95
Dewberry Engineers, Inc.	84
KPFF	78

Staff recommends that Kimley-Horn and Associates, Inc. be retained to provide design review services for the OC Streetcar Project. A consultant services agreement has been prepared and is ready for execution (Exhibit 2).

**STRATEGIC PLAN ALIGNMENT**

Approval of this item supports the City's efforts to meet Goal #6 - Community Facilities & Infrastructure, Objective #1 (establish and maintain a Community Investment Plan for all City assets), Strategy C (invest resources and technology to extend the service life of existing infrastructure to protect the City's investment and support a high quality of life standard).

**ENVIRONMENTAL IMPACT**

There is no environmental impact associated with this action.

**FISCAL IMPACT**

The appropriation adjustment will recognize the funding for OC Streetcar in the amount of \$1,493,469 into the Measure M Street Construction Fund in the following revenue and expenditure accounts:

FUNDING SOURCE	REVENUE ACCOUNT NO.	EXPENDITURE ACCOUNT NO.	AMOUNT
OCTA Federal & State Grants	03217002-57004	03217664-66220	\$1,209,710
M2-Project S	03217002-52332	03217663-66220	\$283,759
	<b>TOTAL:</b>	<b>TOTAL:</b>	<b>\$1,493,469</b>

The estimated project spending plan is as follows:

FISCAL YEAR	AMOUNT
FY 2016/17	\$1,063,592
FY 2017/18	\$429,877
<b>TOTAL:</b>	<b>\$1,493,469</b>

APPROVED AS TO FUNDS AND ACCOUNTS:

  
\_\_\_\_\_  
Fred Mousavipour  
Executive Director  
Public Works Agency

  
\_\_\_\_\_  
Francisco Gutierrez  
Executive Director  
Finance & Management Services Agency

FM/WEG/JG/ST

- Exhibits:
1. OCTA Staff Report for OC Streetcar Project - Revised Capital Funding Plan
  2. Agreement with Kimley-Horn and Associates, Inc.



ORANGE COUNTY TRANSPORTATION AUTHORITY

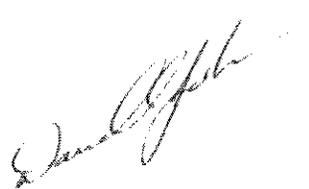
## **OC Streetcar Project Revised Capital Funding Plan**

### **Staff Report**



**August 22, 2016**

**To:** Members of the Board of Directors  
**From:** Darrell Johnson, Chief Executive Officer  
**Subject:** OC Streetcar Project Revised Capital Funding Plan



**Overview**

On August 16, 2016, the California State Transportation Agency announced an award of a \$25.52 million Transit and Intercity Rail Capital Program grant to the OC Streetcar Project. An updated funding plan, as well as an authorizing resolution to accept the grant, is presented for approval to incorporate the recommended state funding.

**Recommendations**

- A. Adopt the Orange County Transportation Authority Resolution 2016-070 authorizing the Chief Executive Officer, or designee, to accept the \$25.52 million grant award and execute grant-related agreements with the California State Transportation Agency, and the California Department of Transportation as the administrative agency of the Transit and Intercity Rail Capital Program.
- B. Approve the redirection of \$9.17 million in Federal Transit Administration Section 5307 funds from the Anaheim Regional Connector Project to the OC Streetcar Project, increasing Federal Transit Administration Section 5307 funds from \$4.09 million to \$13.26 million.
- C. Approve the use of up to \$5.32 million in Measure M2 Project S funds, increasing Measure M2 funds from \$51.83 million to \$57.15 million.
- D. Approve the revised Capital Funding Plan and authorize staff to make all necessary amendments to the Federal Transportation Improvement Program, and execute any required agreements or amendments to facilitate the recommendation above.

---

***Background***

The State Transit and Intercity Rail Capital Program (TIRCP) was created by Senate Bill 862 (Chapter 36, Statutes of 2014) to provide grants from the Greenhouse Gas (GHG) Reduction Fund to support capital and operational investments that will modernize, improve, and integrate bus and rail transit systems. The purpose of the TIRCP is to reduce GHG emissions by reducing vehicle miles traveled throughout the state.

On February 5, 2016, the California State Transportation Agency (CalSTA), in collaboration with the California Department of Transportation as the designated administrative agency, issued a competitive call for projects that made available a minimum of \$440 million through state fiscal year 2017-18 based on ten percent of cap-and-trade auction proceeds. The final amount of funding available is dependent on the level of cap-and-trade auction proceeds. In response to this opportunity, the Orange County Transportation Authority (OCTA) submitted a proposal to CalSTA requesting funding to support the OC Streetcar Project.

On July 25, 2016, OCTA's Board of Directors (Board) approved the capital funding plan for the OC Streetcar, providing a total of \$297.92 million for the project. The funding sources included the Federal Capital Investment Grant Program (New Starts), Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds, Federal Transit Administration (FTA) Section 5307, Measure M2 (M2) Project S, and TIRCP funding. On August 16, 2016, CalSTA announced the award of TIRCP funds to the OC Streetcar Project in the amount of \$25.52 million. As a result, a funding plan revision is required to incorporate the actual grant amount awarded by CalSTA.

***Discussion***

Projects pursuing a New Starts full funding grant agreement are required to show a committed and reasonably-anticipated funding plan for the project, including the local match. Consistent with the Board-adopted Capital Programming Policies and the M2 Ordinance, which requires that every effort be made to maximize state and federal funding for M2 projects, staff submitted an application to CalSTA in April 2016 to pursue TIRCP funds. The funding plan assumed that the project might receive up to \$40 million from this cap-and-trade program. The possibility that the OC Streetcar Project might not receive a full award, based on the lower than anticipated revenues for the grant program, was further discussed in the July 25, 2016, Board report.

Based on the announcement, CalSTA is awarding the OC Streetcar Project a \$25.52 million grant toward the New Starts project cost, contingent upon the receipt of a federal New Starts full funding grant agreement. The award leaves a \$14.48 million gap in the funding plan that the revised plan will address.

On June 27, 2016, the Board approved the City of Anaheim concluding all planning work on the Anaheim Regional Connector Project with OCTA taking over any future work on this concept. There is approximately \$9.17 million in FTA funds that remain available from that project, which is in the same FTA grant as the OC Streetcar. OCTA is limited in how it may redirect the remaining FTA funds and only projects within the existing grant are eligible to use the funds. For this reason, it is recommended that these funds be used for the OC Streetcar to avoid risk of their loss. This change will make up part of the funding gap in the plan. It is recommended that the remaining difference of \$5.32 million be funded using M2 Project S. The use of additional M2 Project S funds for this project fits well within the most recent Project S revenue projections.

The table below compares the July funding strategy to the proposed, revised funding plan.

Funding Sources (millions)	Prior Plan	Updated Plan	Difference	% of Project Funding
Federal New Starts*	\$ 148.96	\$ 148.96	\$ -	
Federal CMAQ	53.03	53.03	-	
Federal FTA 5307*	4.09	13.26	9.17	
<b>Sub-Total Federal</b>	<b>\$ 206.08</b>	<b>\$ 215.25</b>	<b>\$ 9.17</b>	<b>72.2%</b>
State Cap-and-Trade*	\$ 40.00	\$ 25.52	\$ (14.48)	8.6%
<b>Sub-Total State and Federal</b>	<b>\$ 246.08</b>	<b>\$ 240.76</b>	<b>\$ (5.32)</b>	<b>80.8%</b>
M2 - Project S	\$ 51.83	\$ 57.15	\$ 5.32	19.2%
<b>TOTAL*</b>	<b>\$ 297.91</b>	<b>\$ 297.91</b>	<b>\$</b>	<b>100.0%</b>

\*Final amounts contingent upon state and federal approvals.

Another TIRCP grant of approximately \$2.48 million for mobile ticketing equipment will provide supplemental funding for a mobile ticketing project, which is beyond the existing scope for the OC Streetcar New Starts Capital Funding Plan. Staff intends to return to the Board at a later date on the specific scope and schedule for use of this grant award.

The Capital Funding Plan, which provides funding information for OCTA-funded commuter rail capital projects and also highlights the recommended changes included in this item is provided as Attachment A. A resolution that would authorize OCTA to accept the TIRCP grant is provided as Attachment B.

**Next Steps**

The project team will continue to prepare the annual New Starts application update and submit the application to FTA by September 2, 2016. Additionally, the project team will continue to develop the application to enter engineering, and, upon resolution of FTA comments, will submit a letter formally requesting entry into engineering. This request is anticipated to be made in fall 2016 following FTA's acceptance of the New Starts application annual update submittal.

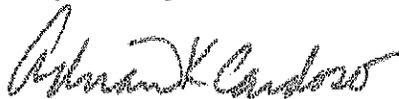
**Summary**

A revised funding plan for the OC Streetcar Project that reflects the award of \$25.52 million in TIRCP funding is presented. Staff is seeking Board approval OC Streetcar Project will use a total of \$240.76 million in state and federal funding to support approximately 80.8 percent of the overall project cost matched with 19.2 percent in Measure M2 funds.

**Attachments**

- A. Capital Funding Program Report
- B. Resolution No. 2016-070 - Orange County Transportation Authority - 2016 Transit and Intercity Rail Capital Grant Program Authorization

**Prepared by:**



Adriann Cardoso  
Capital Programming Manager  
(714) 560-5915

**Approved by:**



Kia Mortazavi  
Executive Director, Planning  
(714) 560-5741



**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**OC Streetcar Project Revised Capital Funding Plan**

**Attachment A**



# Capital Funding Program Report

Pending Board of Directors (Board) Approval - August 22, 2016 Rail Project

Project Title	M Code	Total Funding	State Funds			Federal Funds			Local Funds		
			STIP/Other	State Bonds	RSTP/CMAQ	Other Fed.	M1	M2	Local	Other	
Fullerton Transportation Center Parking Expansion Project	M1/R	\$33,567	\$11,250	\$11,035			\$9,718		\$1,664		
Laguna Niguel-Mission Viejo Station Parking Improvements and Expansion	M1/R	\$15,134			\$6,500		\$8,634		\$9,772		
Orange Transportation Center Parking Structure	M1/R	\$33,175	\$13,762		\$4,073		\$1,850	\$420	\$9,772		
Sand Canyon Avenue Grade Separation Project	M1/R	\$61,962		\$28,104	\$10,536		\$3,116	\$5,352	\$14,854		
M2 Project S Fixed-Guideway Anaheim Rapid Connection <sup>1</sup>	M1/S	\$10,286					\$6,000	\$1,335	\$1,435		
OC Streetcar - Proposed New Starts <sup>2</sup>	M1/S	\$297,911	\$25,518		\$53,034		\$4,977	\$57,146			
OC Streetcar Preliminary Studies and Environmental	M1/S	\$7,014			\$341		\$43,900	\$54	\$1,142		
Anaheim Regional Intermodal Transportation Center (ARTIC) Construction	M1/T	\$184,164	\$29,219		\$35,000		\$40,754	\$35,291			
Fullerton Transportation Station Expansion Planning, Environmental PSR	M1/T	\$875			\$775						
17th Street Grade Separation Environmental	R	\$3,500					\$100				
Anaheim Canyon Station Improvements	R	\$20,051			\$18,050			\$3,500			
Control Point at 4th Street	R	\$4,000					\$4,000				
Future Video Surveillance Systems	R	\$1,531					\$1,288		\$243		
Laguna Niguel to San Juan Capistrano Passing Sliding	R	\$25,274	\$3,000	\$2,483	\$19,791						
MetroLink Rehabilitation/Renovation - fiscal years 2011-12 to 2019-20	R	\$82,217					\$82,217				
MetroLink Station and Track Improvements, and Rehabilitation	R	\$2,230					\$1,784		\$446		
Centia Commuter Rail Station	R	\$34,825	\$2,500	\$400	\$50			\$8,000	\$23,875		
Centia Train Control (MetroLink)	R	\$39,916		\$34,190	\$5,726						
Rail Station Platform Safety Improvements (Fullerton, Irvine, and Tustin)	R	\$788		\$788							
San Clemente Beach Trail Crossings Safety Enhancements	R	\$5,103		\$2,170				\$2,311	\$622		
San Juan Creek Bridge Replacement	R	\$34,200		\$3,612			\$29,375	\$1,213			
Slope Stabilization Laguna Niguel-Lake Forest	R	\$2,000		\$46,000			\$2,000				
State College Grade Separation (LOSSAN)	R	\$79,284						\$33,284			
Ticket Vending Machines	R	\$6,857					\$6,857				
Video Surveillance Systems at Commuter Rail Stations	R	\$4,300		\$4,300				\$3,440	\$860		
M2 Project S Transit Extensions to MetroLink (Rubber Tire)	S	\$733									
Mobile Ticketing Equipment for OC Streetcar <sup>3</sup>	S	\$2,482	\$2,482								
<b>Rail Project Totals</b>		<b>\$993,479</b>	<b>\$87,731</b>	<b>\$128,782</b>	<b>\$147,809</b>	<b>\$78,295</b>	<b>\$346,810</b>	<b>\$149,139</b>	<b>\$54,913</b>		

State Funding Total	\$216,513
Federal Funding Total	\$494,619
Local Funding Total	\$282,347
<b>Total Funding (000's)</b>	<b>\$993,479</b>

## Rail Project Completed

Project Title	M Code	Total Funding	State Funds			Federal Funds			Local Funds		
			STIP/Other	State Bonds	RSTP/CMAQ	Other Fed.	M1	M2	Local	Other	
MetroLink Grade Crossing Safety Improvements (OC)	M1/R	\$85,009		\$18,595			\$6,305	\$36,299	\$23,810		
MetroLink Rolling Stock	M1/R	\$158,009		\$36,300	\$42,230		\$35,390	\$44,089			



# Capital Funding Program Report

## Rail Project Completed

Project Title	M Code	Total Funding	State Funds		Local Funds						
			STIP/Other	State Bonds	RSTP/CMAQ	Other Fed.	M1	M2	Local - Other		
MetroLink Service Track Expansion	M1/R	\$119,957		\$51,399				\$68,558			
Santa Ana Grade Separation Planning and Environmental PSR	M1/T	\$1,333			\$1,180			\$153			
Santa Ana Transportation Station Planning and Environmental PSR	M1/T	\$1,003			\$688			\$115			
Control Point Stadium Crossover	R	\$6,490		\$3,245							
LOSSAN Corridor Grade Separations PSR in Anaheim, Orange, and Santa Ana	R	\$2,699								\$2,699	
MetroLink Grade Crossing Safety Improvements ROW	R	\$3,025								\$3,025	
North Beach Crossings Safety Enhancements	R	\$348								\$182	
Rail Crossing Signal Lights and Pedestrian Gates	R	\$252									
Safety Repairs for San Clemente Pier Station	R	\$122									
Transit Rail Security (Monitors, Fencing, Video Surveillance)	R	\$310									
Go Local	S	\$7,730								\$7,730	
ARTIC Environmental, ROW, Program Management Support, Site Plan	M1	\$42,888								\$42,888	
Over Optics Installation (Metrolink)	M1	\$24,600						\$10,903		\$13,697	
Guana Miguel-Mission Viejo Station Parking Expansion (South Lot)	M1	\$4,135								\$3,440	
Guana Station Rail Station Parking Expansion	M1	\$15,389								\$7,108	
<b>Rail Project Totals</b>		<b>\$473,299</b>		<b>\$130,565</b>			<b>\$44,298</b>	<b>\$49,538</b>	<b>\$181,783</b>	<b>\$42,205</b>	<b>\$23,810</b>
<b>State Funding Total</b>		<b>\$131,665</b>									
<b>Federal Funding Total</b>		<b>\$93,836</b>									
<b>Local Funding Total</b>		<b>\$247,798</b>									
<b>Total Funding (000's)</b>		<b>\$473,299</b>									

### Board Actions:

1. Requesting Board approval to direct \$9.17 million in Federal Transit Administration (FTA) Section 5307 to the OC Streetcar (proposed New Starts) project. Project cost decreases from \$19.45 million to \$10.29 million.
2. Requesting Board approval to use \$9.17 million in FTA Section 5307 from the Anaheim Rapid Connection Project and increase up to \$5.31 million in M2 Project S funds. Project cost remains the same at \$297.91 million.
3. The California State Transportation Agency approved the use of \$2.48 million in Transit and Intercity Rail Capital Program funds for the project.

### Acronyms:

- OCTA - Orange County Transportation Authority
- M Code - M1 = Measure M1, otherwise Project Codes in Measure M2 Program
- STIP - State Transportation Improvement Program
- RSTP/CMAQ - Regional Surface Transportation Program/Congestion Mitigation and Air Quality Fed. - Federal
- M1/M2 - Measure M1/Measure M2
- PSR - Project Study Report
- LOSSAN - Los Angeles-San Diego-San Luis Obispo Rail Corridor
- OCX - Rail-Highway Grade Crossing/Safety Enhancement Project
- ROW - Right-of-way



**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**OC Streetcar Project Revised Capital Funding Plan**

**Attachment B**

**RESOLUTION NO. 2016-070**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**2016 TRANSIT AND INTERCITY RAIL CAPITAL GRANT PROGRAM  
AUTHORIZATION**

**WHEREAS**, the California State Transportation Agency, in collaboration with the California Department of Transportation, administers the Transit and Intercity Rail Capital Program to fund transformative capital improvements that will modernize the State's intercity, commuter, and urban rail systems, and bus and ferry transit systems, to significantly reduce emissions of greenhouse gases, vehicle miles traveled, and congestion, and;

**WHEREAS**, the Orange County Transportation Authority applied for and was awarded grant funds as an eligible grantee of Transit and Intercity Rail Capital Program funds, and;

**WHEREAS**, the California State Transportation Agency and California Department of Transportation requires the grantee to certify, by resolution, the acceptance of awarded grant funds and authority to execute grant-related agreements for the purpose of implementing the grant project;

**THEREFORE, BE IT RESOLVED** that the Board of Directors of the Orange County Transportation Authority authorizes the Chief Executive Officer, or designee, to file and execute grant applications and agreements, certifications and assurances, and other documents for and on behalf of the Orange County Transportation Authority for the purpose of obtaining financial assistance awarded through the Transit and Intercity Rail Capital Program.

ADOPTED, SIGNED, AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2016.

AYES:

NOES:

ABSENT:

ATTEST:

---

Laurena Weinert  
Clerk of the Board

---

Lori Donchak, Chair  
Orange County Transportation Authority

OCTA Resolution No. 2016-070

**CONSULTANT AGREEMENT  
CITY OF SANTA ANA**

THIS AGREEMENT is made and entered into this 6<sup>TH</sup> day of December, 2016 by and between KIMLEY-HORN AND ASSOCIATES, INC. ("Consultant"), and the CITY OF SANTA ANA, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("City").

**RECITALS**

- A. On October 4, 2016, the City issued Request for Proposal No. 16-125, by which it sought a consultant to provide technical support for the design review of the OC Streetcar Project for the City of Santa Ana Public Works Agency.
- B. Consultant submitted a responsive proposal that was selected by the City. Consultant represents that it is able and willing to provide the services described in the scope of work that was included in RFP No. 16-125, and related addendum.
- C. In undertaking the performance of this Agreement, Consultant represents that it is knowledgeable in its field and that any services performed by Consultant under this Agreement will be performed in compliance with such standards as may reasonably be expected from a professional consulting firm in the field.

**NOW THEREFORE**, in consideration of the mutual and respective promises, and subject to the terms and conditions hereinafter set forth, the parties agree as follows:

**1. SCOPE OF SERVICES**

Consultant shall furnish the services as set forth in **Exhibit A**, to this Agreement. Consultant's proposal is incorporated by reference as though fully set forth herein.

**2. COMPENSATION**

- a. City agrees to pay, and Consultant agrees to accept as total payment for its services, the rates and charges identified in **Exhibit B** and incorporated by reference to this Agreement. The total sum to be expended under this Agreement shall not exceed \$250,000 for the term of the Agreement, including any renewal.
- b. Payment by City shall be made within forty-five (45) days following receipt of proper invoice evidencing work performed, subject to City accounting procedures. Payment need not be made for work which fails to meet the standards of performance set forth in the Recitals and Scope of Work, which may reasonably be expected by City.

Exhibit 2

Page 1 of 8

**20B-15**

### **3. TERM**

This Agreement shall commence on the date first written above and terminate on December 5, 2019, unless terminated earlier in accordance with Section 16, below. The term of this Agreement may be extended for one additional (2) year period, upon a writing executed by the City Manager and the City Attorney.

### **4. INDEPENDENT CONTRACTOR**

Consultant shall, during the entire term of this Agreement, be construed to be an independent Consultant and not an employee of the City. This Agreement is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Consultant performs the services which are the subject matter of this Agreement; however, the services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such services. Consultant shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.

### **5. OWNERSHIP OF MATERIALS**

This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractors prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

### **6. INSURANCE**

Prior to undertaking performance of work under this Agreement, Consultant shall maintain and shall require its subcontractors, if any, to obtain and maintain insurance as described below:

- a. Commercial General Liability Insurance. Consultant shall maintain commercial general liability insurance naming the City, its officers, employees, agents, volunteers and representatives as additional insured(s) and shall include, but not be limited to protection against claims arising from bodily and personal injury, including death resulting therefrom and damage to property, resulting from any act or occurrence arising out of Consultant's operations in the performance of this

Agreement, including, without limitation, acts involving vehicles. The amounts of insurance shall be not less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage, in the total amount of \$1,000,000 per occurrence, with \$2,000,000 in the aggregate. Such insurance shall (a) name the CITY, its officers, employees, agents, volunteers and representatives as additional insured(s); (b) be primary with respect to insurance or self-insurance programs maintained by the CITY; and (c) contain standard separation of insureds provisions.

- b. Business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.
- c. Worker's Compensation Insurance. In accordance with the California Labor Code, Consultant, if Consultant has any employees, is required to be insured against liability for worker's compensation or to undertake self-insurance. Prior to commencing the performance of the work under this Agreement, Consultant agrees to obtain and maintain any employer's liability insurance with limits not less than \$1,000,000 per accident.
- d. If Consultant is or employs a licensed professional such as an architect or engineer: Professional liability (errors and omissions) insurance, with a combined single limit of not less than \$1,000,000 per claim with \$2,000,000 in the aggregate.
- e. The following requirements apply to the insurance to be provided by Consultant pursuant to this section:
  - (i) Consultant shall maintain all insurance required above in full force and effect for the entire period covered by this Agreement.
  - (ii) Certificates of insurance shall be furnished to the City upon execution of this Agreement and shall be approved by the City.
  - (iii) Certificates and policies shall state that the policies shall not be cancelled or reduced in coverage or changed in any other material aspect, by consultant, without thirty (30) days prior written notice to the City.
  - (iv) Consultant shall supply City with a fully executed additional insured endorsement.
- f. If Consultant fails or refuses to produce or maintain the insurance required by this section or fails or refuses to furnish the City with required proof that insurance has been procured and is in force and paid for, the City shall have the right, at the City's election, to forthwith terminate this Agreement. Such termination shall not affect Consultant's right to be paid for its time and materials expended prior to notification of termination. Consultant waives the right to receive compensation and agrees to

indemnify the City for any work performed prior to approval of insurance by the City.

## **7. INDEMNIFICATION**

Consultant agrees to defend, and shall indemnify and hold harmless the City, its officers, agents, employees, consultants, special counsel, and representatives from liability: (1) for personal injury, damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including death, and claims for property damage, which may arise from the negligent operations of the Consultant or its Consultants, subcontractors, agents, employees, or other persons acting on their behalf which relates to the services described in section 1 of this Agreement; and (2) from any claim that personal injury, damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effects arising from this Agreement. This indemnity and hold harmless agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered, or alleged to have been suffered, by reason of the events referred to in this Section or by reason of the terms of, or effects, arising from this Agreement. The Consultant further agrees to indemnify, hold harmless, and pay all costs for the defense of the City, including fees and costs for special counsel to be selected by the City, regarding any action by a third party challenging the validity of this Agreement, or asserting that personal injury, damages, just compensation, restitution, judicial or equitable relief due to personal or property rights arises by reason of the terms of, or effects arising from this Agreement. City may make all reasonable decisions with respect to its representation in any legal proceeding. Notwithstanding the foregoing, to the extent Consultant's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

## **8. INTELLECTUAL PROPERTY INDEMNIFICATION**

Consultant shall defend, indemnify and hold harmless the City, its officers, agents, representatives, and employees against any and all liability, including costs, and attorney's fees, for infringement of any United States' letters patent, trademark, or copyright contained in the work product or documents provided by Consultant to the City pursuant to this Agreement.

## **9. RECORDS**

Consultant shall keep records and invoices in connection with the work to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any services, expenditures, and disbursements charged to the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of the City to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement during regular business hours. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

## 10. CONFIDENTIALITY

If Consultant receives from the City information which due to the nature of such information is reasonably understood to be confidential and/or proprietary, Consultant agrees that it shall not use or disclose such information except in the performance of this Agreement, and further agrees to exercise the same degree of care it uses to protect its own information of like importance, but in no event less than reasonable care. "Confidential Information" shall include all nonpublic information. Confidential information includes not only written information, but also information transferred orally, visually, electronically, or by other means. Confidential information disclosed to either party by any subsidiary and/or agent of the other party is covered by this Agreement. The foregoing obligations of non-use and nondisclosure shall not apply to any information that (a) has been disclosed in publicly available sources; (b) is, through no fault of the Consultant disclosed in a publicly available source; (c) is in rightful possession of the Consultant without an obligation of confidentiality; (d) is required to be disclosed by operation of law; or (e) is independently developed by the Consultant without reference to information disclosed by the City.

## 11. CONFLICT OF INTEREST CLAUSE

Consultant covenants that it presently has no interest and shall not have interests, direct or indirect, which would conflict in any manner with performance of services as specified in Certifications **Exhibit C**, attached hereto and is incorporated by reference as though fully set forth herein.

## 12. NOTICE

Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, or sent by fax or other telegraphic communication in the manner provided in this Section, to the following persons:

To City: Clerk of the City Council  
City of Santa Ana  
20 Civic Center Plaza (M-30)  
P.O. Box 1988  
Santa Ana, CA 92702-1988  
Fax 714- 647-6956

Fred Mousavipour  
Executive Director  
Public Works Agency  
City of Santa Ana  
20 Civic Center Plaza (M-36)  
P.O. Box 1988  
Santa Ana, CA 92702  
Fax 714-647-5622

To Consultant:

Kimley-Horn and Associates, Inc.  
765 The City Drive, Suite 200  
Orange, CA 92868

A party may change its address by giving notice in writing to the other party. Thereafter, any communication shall be addressed and transmitted to the new address. If sent by mail, communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by fax, communication shall be effective or deemed to have been given twenty-four (24) hours after the time set forth on the transmission report issued by the transmitting facsimile machine, addressed as set forth above. For purposes of calculating these time frames, weekends, federal, state, County or City holidays shall be excluded.

### **13. EXCLUSIVITY AND AMENDMENT**

This Agreement represents the complete and exclusive statement between the City and Consultant regarding the subject matter herein, and supersedes any and all other agreements, oral or written, between the parties. In the event of a conflict between the terms of this Agreement and any attachments hereto, the terms of this Agreement shall prevail. This Agreement may not be modified except by written instrument signed by the City and by an authorized representative of Consultant. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, the terms and conditions hereof, shall not bind or obligate Consultant or the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein.

### **14. ASSIGNMENT**

Inasmuch as this Agreement is intended to secure the specialized services of Consultant, Consultant may not assign, transfer, delegate, or subcontract any interest herein without the prior written consent of the City and any such assignment, transfer, delegation or subcontract without the City's prior written consent shall be considered null and void. Nothing in this Agreement shall be construed to limit the City's ability to have any of the services which are the subject to this Agreement performed by City personnel or by other consultants retained by City.

### **15. WAIVER**

No waiver of breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure or right, or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

## **16. TERMINATION**

This Agreement may be terminated by the City upon thirty (30) days written notice of termination. In such event, Consultant shall be entitled to receive and the City shall pay Consultant compensation for all services performed by Consultant prior to receipt of such notice of termination, subject to the following conditions:

- a. As a condition of such payment, the Executive Director may require Consultant to deliver to the City all work product completed as of such date, and in such case such work product shall be the property of the City unless prohibited by law, and Consultant consents to the City's use thereof for such purposes as the City deems appropriate.
- b. Payment need not be made for work which fails to meet the standard of performance specified in the Recitals of this Agreement.

## **17. NON-DISCRIMINATION**

Consultant shall not discriminate because of race, color, creed, relation, sex, marital status, sexual orientation, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, training, utilization, promotion, termination or other employment related activities or in connection with any activities under this Agreement. Consultant affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations specified in Certifications **Exhibit C**, attached hereto and is incorporated by reference as though fully set forth herein.

## **18. JURISDICTION-VENUE**

This Agreement has been executed and delivered in the State of California and the validity, Interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

## **19. PROFESSIONAL LICENSES**

Consultant shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws and regulations of the United States, the State of California, the City of Santa Ana and all other governmental agencies. Consultant shall notify the City immediately and in writing of its inability to obtain or maintain such permits, licenses, approvals, waivers, and exemptions. Said inability shall be cause for termination of this Agreement.

**20. MISCELLANEOUS PROVISIONS**

- a. Additional provisions, if any, are identified as Additional Provisions, **Exhibit D**, attached hereto and is incorporated by reference as though fully set forth herein.
- b. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify City fully, including reasonable costs and attorney's fees, for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.
- c. All exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

**ATTEST:**

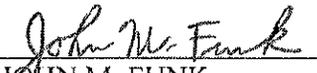
**CITY OF SANTA ANA**

\_\_\_\_\_  
MARIA D. HUIZAR  
Clerk of the Council

\_\_\_\_\_  
DAVID CAVAZOS  
City Manager

**APPROVED AS TO FORM:**

SONIA R. CARVALHO  
City Attorney

By:   
JOHN M. FUNK  
Assistant City Attorney

**RECOMMENDED FOR APPROVAL:**

**KIMLEY HORN AND ASSOCIATES,  
INC.**

\_\_\_\_\_  
FRED MOUSAVIPOUR  
Executive Director  
Public Works Agency

\_\_\_\_\_  
NAME:

TITLE:



## 2. Scope of Services and Schedule

Our approach will be to continue our effort from the point where we completed review of the 30% design. We anticipate providing as-needed support in technical areas identified by the City, and formal reviews of the 60%, 90% and 100% design. Typical areas of our support include:

- Civil
- Drainage
- Traffic
- Electrical
- Structural
- Geotechnical
- Surveying
- Landscape Architect

We will use our knowledge on other streetcar projects to advise the City on key elements of the project that may impact City facilities. Some of the specific technical topics we envision include:

**Drainage** – The streetcar guideway alignment will likely have challenges related to flooded width of the roadway. In addition, the City's storm drain facilities generally lack needed capacity, and in many cases, are near the end of their useful life.

**Water Quality** – This project will need to comply with permit specifications for North Orange County and meet the requirements of the Santa Ana Regional Water Quality Board (Order No. R8-2009-0030/NPDES No. CAS618030). This will require water quality treatment with City-approved devices.

**Utilities** – The streetcar guideway will introduce conflicts with many crossing and parallel utilities. Treatment of these will need to consider age/condition of the utility,

maintenance accessibility and long-term plans.

**Traffic** – The new streetcar will need to be coordinated with parallel traffic flow, and must consider cross traffic along busy arterials. In addition, there will be elements related to safe and efficient operation in specific areas that need to be addressed. This can be particularly challenging in the downtown area with events.

**Overhead Contact System (OCS)** – The OCS will need to be designed to minimize impacts to trees, sidewalks, surface utilities, businesses, and residents. In addition, this system will need to consider ultimate improvements since modification is costly and impacts streetcar operation.

**TPSS Sites** – Size and configuration of the TPSS sites is a critical component as these have the potential to be unsightly and prevent future improvements. Working closely with the designer to consider current and future community needs is critical.

**Geotechnical** – Geotechnical considerations have the potential to reduce cost and impacts; however, it is critical that these recommendations adequately support the long-term needs of the facility and adjacent roadway.

**Right-of-Way** – Providing all of the needed property conveyances and identifying challenges early is critical to the success of the project. This also includes evaluating prior rights to assure that all transactions consider proper agreements.



The following describes the general tasks we anticipate under this contract:

**Task 1 - Support to City for Design Coordination**

Kimley-Horn staff will attend design coordination meetings with the City (internally and externally) on an as-needed basis.

**Task 2 - Review of Supporting Documentation**

Kimley-Horn staff will review supporting design documentation provided by design team for consistency and compliance to City standards.

**Task 3 – Technical Reviews**

Kimley-Horn will provide technical reviews of project components as requested by the City. This may involve the areas of work described above. Reviews will typically include technical information with proposed solutions or direction with a brief summary write-up.

**Task 4 – Review of 60%, 90%, and 100% Design OC Streetcar Plan Sets**

We will provide written comments for each review package. Review comments will be placed in a comment matrix and including the following basic information:

- Comment Number
- Resolution
- Document
- Document Page
- Comment
- Date

Plans received in electronic format (PDF) will have comments inserted electronically with a PDF Writer or as requested by the City.

**Task 5 – Comment Consolidation with City Staff**

Kimley-Horn will attend an internal comment review meeting with the City. At the meeting, we will work with City staff to consolidate design review comments that will be forwarded to the OCTA design team.

**Task 6 – Comment Resolution Meetings**

Kimley-Horn will attend comment resolution meetings with the City (internally and externally) on an as-needed basis to assist in resolving design conflicts.

**Task 7 – Project Management**

We will provide project management to accomplish the above stated scope of services. It will encompass communicating with designated City staff (via phone, email, etc.) to provide coordination between City staff and Kimley-Horn staff.

**Assumptions**

Review of plans and materials submitted will be based on approved City standards as of August 1, 2015 per Cooperative Agreement unless directed otherwise by the City.

Per the Cooperative agreement the total review time will be 30 days from each formal review package submittal. The 30-day period begins when the City receives the submittals. If multiple formal review packages are prepared, the separate packages will not be concurrently reviewed.

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #2)

Specific Rate of Compensation (use for on-call or as-needed contracts)  
(Construction Engineering and Inspection Contracts)

Consultant or Subconsultant Kimley-Horn and Associates, Inc. Contract No. \_\_\_\_\_ Date 10/17/2016

Fringe Benefit % 41.86% + FCCM % 0.57% + General Administration % 152.97% = Combined Indirect Cost Rate (ICR) % 195.40%

FEE % = 10%

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup>		Effective date of hourly rate		Actual or Avg. <sup>3</sup> hourly rate <sup>3</sup>	% or \$ increase	Hourly ranges - for classifications only
	Straight	OT(1.5x) OT(2x)	From	To			
Darren Adrian Project Manager	\$278.03 \$291.94 \$306.53	Not Applicable	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$85.58 \$89.86 \$94.35	5.00% 5.00%	Not Applicable
Sr. Engineer/Planner	\$244.86 \$257.11 \$269.96	Not Applicable	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$75.37 \$79.14 \$83.10	5.00% 5.00%	\$73.08 - \$79.82 \$76.73 - \$83.81 \$80.57 - \$88.00
Engineer/Planner III	\$193.92 \$203.62 \$213.80	Not Applicable	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$59.69 \$62.67 \$65.81	5.00% 5.00%	\$52.90 - \$66.12 \$55.55 - \$69.43 \$58.32 - \$72.90
Engineer/Planner II	\$163.64 \$171.83 \$180.42	Not Applicable	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$50.37 \$52.89 \$55.53	5.00% 5.00%	\$49.28 - \$51.46 \$51.74 - \$54.03 \$54.53 - \$56.73
Engineer/Planner I	\$131.38 \$137.95 \$144.85	Not Applicable	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$40.44 \$42.46 \$44.59	5.00% 5.00%	\$37.02 - \$43.76 \$38.87 - \$45.95 \$40.81 - \$48.25
Analyst	\$119.91 \$125.91 \$132.21	Not Applicable	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$36.91 \$38.76 \$40.69	5.00% 5.00%	\$35.82 - \$37.50 \$37.61 - \$39.38 \$39.49 - \$41.34
Project Support	\$166.37 \$174.69 \$183.43	Not Applicable	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$51.21 \$53.77 \$56.46	5.00% 5.00%	\$49.52 - \$52.90 \$52.00 - \$55.55 \$54.60 - \$58.32
Administrative Support	\$96.72 \$101.55 \$106.63	Not Applicable	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$29.77 \$31.26 \$32.82	5.00% 5.00%	\$25.48 - \$39.44 \$26.75 - \$41.41 \$28.09 - \$43.48

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #2)

Specific Rate of Compensation (use for on-call or as-needed contracts)  
(Construction Engineering and Inspection Contracts)

Consultant or Subconsultant: Guida Surveying, Inc. Contract No. RFP 16-125 Date 10/13/2016

Fringe Benefit % 0% + Overhead % 179.14% + General Administration % 0.00% = Combined Indirect Cost Rate (ICR) % 179.14%

FEE % = 10%

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup>		Effective date of hourly rate		Actual or Avg. hourly rate <sup>3</sup>	% or \$ increase	Hourly range - for classifications only
	Straight	OT(1.5x) OT(2x)	From	To			
Ralph Guida, IV, PS, Principal Surveyor	\$325.75 \$342.04 \$359.14		11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$106.09 \$111.39 \$116.96	5.00% 5.00%	Not Applicable
Tim Fetting, PS, Senior Project Manager	\$228.03 \$239.43 \$251.40		11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$74.26 \$77.98 \$81.87	5.00% 5.00%	Not Applicable
Calvin Yoshihake, PS, Project Manager	\$179.16 \$188.12 \$197.53		11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$58.35 \$61.27 \$64.33	5.00% 5.00%	-
Project Surveyor	\$164.46 \$172.68 \$181.32	\$191.24 \$200.80 \$210.84	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$53.56 \$56.24 \$59.05	5.00% 5.00%	Not Applicable
Survey Analyst	\$120.18 \$126.19 \$132.50	\$139.75 \$146.74 \$154.08	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$39.14 \$41.10 \$43.15	5.00% 5.00%	\$25.00 - \$45.00
CADD Tech	\$120.18 \$126.19 \$132.50	\$139.75 \$146.74 \$154.08	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$39.14 \$41.10 \$43.15	5.00% 5.00%	\$25.00 - \$45.00
Apprentice G-Prevailing Wage*	\$112.97 \$118.62 \$124.55	\$131.37 \$137.93 \$144.83	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$36.79 \$38.63 \$40.56	5.00% 5.00%	\$26.79 - \$42.00
Researcher	\$85.39 \$89.66 \$94.14	\$99.30 \$104.26 \$109.47	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$27.81 \$29.20 \$30.66	5.00% 5.00%	\$20.00 - \$30.00

EXHIBIT 10-H SAMPLE COST PROPOSAL (EXAMPLE #2)

Specific Rate of Compensation (use for on-call or as-needed contracts)  
(Construction Engineering and Inspection Contracts)

Consultant or Subconsultant Guida Surveying, Inc. Contract No. RFP 16-125 Date 10/13/2016

Fringe Benefit % 0% + Overhead % 179.14% + General Administration % 0.00% = Combined Indirect Cost Rate (ICR) % 179.14%

FEE % = 10%

BILLING INFORMATION

BILLING INFORMATION		CALCULATION INFORMATION					
Administrative Assistant		11/1/2016	10/31/2017	10/31/2017	10/31/2018	10/31/2019	
	\$85.39	\$99.30	\$113.20	\$113.20	\$113.20	\$113.20	\$20.00 - \$30.00
	\$89.66	\$104.26	\$118.86	\$118.86	\$118.86	\$118.86	-
	\$94.14	\$109.47	\$124.80	\$124.80	\$124.80	\$124.80	-
C.A. PS Party Chief-Prevailing Wage*	\$156.74	\$182.26	\$207.79	\$207.79	\$207.79	\$207.79	\$51.05 - \$55.00
	\$164.58	\$191.38	\$218.18	\$218.18	\$218.18	\$218.18	-
	\$172.81	\$200.95	\$229.09	\$229.09	\$229.09	\$229.09	-
Instrument Man-Prevailing Wage*	\$140.14	\$162.96	\$185.78	\$185.78	\$185.78	\$185.78	\$45.64 - \$50.00
	\$147.14	\$171.10	\$195.07	\$195.07	\$195.07	\$195.07	-
	\$154.50	\$179.66	\$204.82	\$204.82	\$204.82	\$204.82	-

- Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.
- Billing rate = actual hourly rate \* (1+ICR) \* (1+Fee). Agreed upon billing rates are not adjustable for the term of contract.
- For named employees enter the actual hourly rate. For classifications only, enter the average hourly rate for that classification.

Note:

- Denote all employees subject to prevailing wage with an asterisks (\*)
- For "Other Direct Cost" listing, see page 2 of this Exhibit

EXHIBIT 10-H SAMPLE COST PROPOSAL

Specific Rate of Compensation (use for on-call or as-needed contracts)  
(Construction Engineering and Inspection Contracts)

Consultant or Subconsultant: Parikh Consultants, Inc. Contract No. \_\_\_\_\_ Date: 10/18/2016

Fringe Benefit % 42.27% + Overhead % 107.73% + General Administration % 0.00% = Combined Indirect Cost Rate (ICR) % 150.00%

FEE % = 10%

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification <sup>1</sup>	Hourly Billing Rates <sup>2</sup>		Effective date of hourly rate		Actual or Avg. hourly rate <sup>3</sup>	% or \$ increase	Hourly range - for classifications only
	Straight	OT(1.5x) OT(2x)	From	To			
Gary Parikh, Project Manager	\$254.62 \$267.35 \$280.72	Exempt Exempt Exempt	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$92.59 \$97.22 \$102.08	5.00% 5.00%	Not Applicable
David Wang, Sr. Project Engineer (QA/QC)	\$184.53 \$193.75 \$203.44	Exempt Exempt Exempt	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$67.10 \$70.46 \$73.98	5.00% 5.00%	Not Applicable
Sr. Project Engineer	\$146.99 \$154.34 \$162.05	Exempt Exempt Exempt	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$52.45 \$56.12 \$58.93	5.00% 5.00%	\$55.00 - \$65.00
Project Engineer	\$130.63 \$137.16 \$144.01	Exempt Exempt Exempt	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$47.50 \$49.88 \$52.37	5.00% 5.00%	\$45.00 - \$55.00
Field Engineer *	\$121.52 \$127.60 \$133.98	\$143.62 \$150.80 \$158.34	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$44.19 \$46.40 \$48.72	5.00% 5.00%	\$40.00 - \$60.00
Staff Engineer	\$118.94 \$124.88 \$131.13	Exempt Exempt Exempt	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$43.25 \$45.41 \$47.68	5.00% 5.00%	\$40.00 - \$50.00
St. Lab Technician	\$88.53 \$92.75 \$97.38	\$104.39 \$109.61 \$115.09	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$32.12 \$33.73 \$35.41	5.00% 5.00%	\$30.00 - \$40.00
CADD	\$96.56 \$101.18 \$106.24	\$113.88 \$119.57 \$125.55	11/1/2016 11/1/2017 11/1/2018	10/31/2017 10/31/2018 10/31/2019	\$35.04 \$36.79 \$38.63	5.00% 5.00%	\$35.00 - \$45.00

1. Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.

2. Billing rate = actual hourly rate \* (1+ ICR) \* (1+ Fee). Agreed upon billing rates are not adjustable for the term of contract.

3. For named employees enter the actual hourly rate. For classifications only, enter the average hourly rate for that classification.

Note:

- Denote all employees subject to prevailing wage with an asterisk (\*)
- For "Other Direct Cost" listing, see page 2 of this Exhibit

**Exhibit 10-II Cost Proposal**

LAPM Form

Specific Rate of Compensation  
(Construction Engineering and Inspection Contracts)

Consultant or Subconsultant

Parikh Consultants, Inc.

Contract No.

Date 10/18/2016

SCHEDULE OF OTHER DIRECT COST ITEMS											
DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL	DESCRIPTION OF ITEMS	UNIT	UNIT COST	TOTAL
General Expenses											
A. Outside Printing/Reproduction	each	Actual									
B. Delivery Services	each	Actual									
C. Express Mail/USPS	each	Actual									
Travel											
A. Airfare	each	Actual									
B. Rental Car	per day	Actual									
C. Mileage	mile	Federal Rate									
D. Per Diem	per day	IRS									
E. Lodging	per night	IRS									
Misc Supplies/Equipment	each	Actual									
Drilling	per shift	\$3,500.00									
Traffic Control	per shift	\$2,200.00									
Permits	each	Actual									
Cutting Disposal	per drum	\$350.00									
Coring Company	per shift	\$2,500.00									
Materials Testing (Fee schedule)											
PARIKH Consultants, Inc. ODCs =			\$0.00	SUBCONSULTANT #1 ODCs =			\$0.00	SUBCONSULTANT #2 ODCs =			\$0.00

EXHIBIT C



CERTIFICATIONS

CITY OF SANTA ANA  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

NON-COLLUSION AFFIDAVIT

(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

In conformance with Title 23 United States Code Section 112 and Public Contract Code 7106 the BIDDER declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the BIDDER has not directly or indirectly induced or solicited any other BIDDER to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any BIDDER or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the BIDDER has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the BIDDER or any other BIDDER, or to fix any overhead, profit, or cost element of the bid price, or of that of any other BIDDER, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the BIDDER has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Note: The above Non-collusion Affidavit is part of the Proposal. BIDDERS are cautioned that making a false certification may subject the certifier to criminal prosecution.

Signed Serine Ciandella

State of California  
County of Orange

Subscribed and sworn to (or affirmed) before me on this 20<sup>th</sup> day of October, 2016, by Serine Arnold Ciandella, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me

Emma Sorto  
Notary Public Signature



**CITY OF SANTA ANA**  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

**NON-LOBBYING CERTIFICATION**

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in conformance with its instructions.

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

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Sign:   
Title: Vice President  
Firm: Kimley-Horn and Associates, Inc.  
Date: 10/18/2016

CITY OF SANTA ANA  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

**NON-DISCRIMINATION CERTIFICATION**

The undersigned consultant or corporate officer, during the performance of this contract, certifies as follows:

1. The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action 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. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Consultant shall send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Consultant shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Consultant shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation, to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Consultant's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, the contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

**CITY OF SANTA ANA**  
**RFP NO.: 16-125**  
**OC STREETCAR DESIGN REVIEW SUPPORT**

7. The Consultant shall include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontract or purchase order as the administering agency may direct as means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction by the administering agency, the Consultant may request that the United States enter into such litigation to protect the interests of the United States.
  
8. Pursuant to California Labor Code Section 1735, as added by Chapter 643 Stats. 1939, and as amended, no discrimination shall be made in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical handicaps, mental condition, marital status, or sex of such persons, except as provided in Section 1420, and any consultant of public works violating this Section is subject to all the penalties imposed for a violation of the Chapter.

Signed: \_\_\_\_\_



Title: \_\_\_\_\_

Vice President

Firm: \_\_\_\_\_

Kimley-Horn and Associates, Inc.

Date: \_\_\_\_\_

10/18/2016

## EXHIBIT D

### EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 7.5%

OR

The Agency has not established a goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract.

#### 1. TERMS AS USED IN THIS DOCUMENT

- The term "Disadvantaged Business Enterprise" or "DBE" means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.
- The term "Agreement" also means "Contract."
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term "Small Business" or "SB" is as defined in 49 CFR 26.65.

#### 2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Contracts financed in whole or in part with federal funds (See 49 CFR 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs"). The Consultant must ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

#### 3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

#### 4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department's DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).

- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
  - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
  - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
  - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

## 5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Business and Economic Opportunity Web site at: <http://www.dot.ca.gov/hq/bep/>.
  - 1. Click on the link in the left menu titled *Disadvantaged Business Enterprise*;
  - 2. Click on Search for a DBE Firm link;
  - 3. Click on *Access to the DBE Query Form* located on the first line in the center of the page.

Searches can be performed by one or more criteria. Follow instructions on the screen.

## 6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the

purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.



**EXHIBIT 10-K CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL MANAGEMENT SYSTEM**

*(Note: If requesting to utilize the Safe Harbor Indirect Cost Rate submit Attachment 1 of DLA-OB 13-07 - Safe Harbor Indirect Cost Rate for Consultant Contracts found at [http://www.dot.ca.gov/hq/LocalPrograms/DLA\\_OB/DLA\\_OB.htm](http://www.dot.ca.gov/hq/LocalPrograms/DLA_OB/DLA_OB.htm) in lieu of this form.)*

**Certification of Final Indirect Costs:**Consultant Firm Name: Kimley-Horn and Associates, Inc.Indirect Cost Rate: 195.40% (Includes FCCM of 0.57%) \* for fiscal period 1/1/15 to 12/31/15

\*Fiscal period covered for Indirect Cost Rate developed (not the contract period).

Local Government: City of Santa AnaContract Number: \_\_\_\_\_ Project Number: RFP NO. 16-125

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1. All costs included in this proposal to establish final Indirect Cost Rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of Title 48, Code of Federal Regulations (CFR), Part 31.
2. This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR, Part 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization, and Indirect Cost Rates have been disclosed as of the date of proposal preparation noted above.

**Certification of Financial Management System:**

I, the undersigned, certify to the best of my knowledge and belief that our Financial Management System meets the standards for financial reporting, accounting records, internal and budget control as set forth in the FAR of Title 49, CFR, Part 18.20 to the extent applicable to Consultant.

**Certification of Dollar Amount for all A&E Contracts:**

I, the undersigned, certify that the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to this firm within the last three (3) calendar years for all State DOT and Local Agencies is ~\$38.5M (Transp./ITS/Transit) and the number of states in which the firm does business is 50.

**Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are reasonable, allowable and allocable to the contract in accordance with the cost principles of the FAR of Title 48, CFR, Part 31. Allowable direct costs to a Government contract shall be:



**EXHIBIT 10-K CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL  
MANAGEMENT SYSTEM**

*(Note: If requesting to utilize the Safe Harbor Indirect Cost Rate submit Attachment 1 of  
DLA-OB 13-07 - Safe Harbor Indirect Cost Rate for Consultant Contracts found at  
[http://www.dot.ca.gov/hq/LocalPrograms/DLA\\_OB/DLA\\_OB.htm](http://www.dot.ca.gov/hq/LocalPrograms/DLA_OB/DLA_OB.htm) in lieu of this form.)*

**Certification of Final Indirect Costs:**

Consultant Firm Name: Guida Surveying, Inc.

Indirect Cost Rate: 179.14 \* for fiscal period 2016  
\*Fiscal period covered for Indirect Cost Rate developed (not the contract period).  
City of Santa Ana-Department of Public Works

Local Government:

Contract Number: NA Project Number: RFP 16-125

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1. All costs included in this proposal to establish final Indirect Cost Rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of Title 48, Code of Federal Regulations (CFR), Part 31.
2. This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR, Part 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization, and Indirect Cost Rates have been disclosed as of the date of proposal preparation noted above.

**Certification of Financial Management System:**

I, the undersigned, certify to the best of my knowledge and belief that our Financial Management System meets the standards for financial reporting, accounting records, internal and budget control as set forth in the FAR of Title 49, CFR, Part 18.20 to the extent applicable to Consultant.

**Certification of Dollar Amount for all A&E Contracts:**

I, the undersigned, certify that the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to this firm within the last three (3) calendar years for all State DOT and Local Agencies is \$7M and the number of states in which the firm does business is ONE

**Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are reasonable, allowable and allocable to the contract in accordance with the cost principles of the FAR of Title 48, CFR, Part 31. Allowable direct costs to a Government contract shall be:

1. Compliant with Generally Accepted Accounting Principles (GAAP) and standards promulgated by the Cost Accounting Standards Board (when applicable).

Consultant Certification of Contract Costs and Financial Management System

- 2. Compliant with the terms of the contract and is incurred specifically for the contract.
- 3. Not prohibited by 23 CFR, Chapter 1, Part 172 – Administration of Engineering and Design Related Service Contracts to the extent requirements are applicable to Consultant.

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files.

**Subconsultants (if applicable)**

Proposed Contract Amount (or amount not to exceed if on-call contract): \$ TBD

**Prime Consultants (if applicable)**

Proposed **Total** Contract Amount (or amount not to exceed if on-call contract): \$ TBD

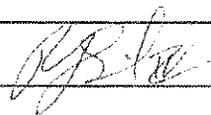
Prime, list all subconsultants and proposed subcontract dollar amounts (attach additional page if necessary):

NA	\$
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

**Consultant Certifying (Print Name and Title):**

Name: Ralph Guida, IV, PS

Title: President

Consultant Certification Signature \*\*: 

Date of Certification (mm/dd/yyyy): 10/13/2016

**Consultant Contact Information:**

Email: rguidaiv@guidasurveying.com

Phone number: (949) 777-2000

**\*\*An individual executive or financial officer of the consultant’s organization at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the Indirect Cost Rate proposal submitted in conjunction with the contract.**

*Note: Per 23 U.S.C. 112(b)(2)(B), Subconsultants must comply with the FAR Cost Principles contained in 48 CFR, Part 31. 23 CFR Part 172.3 Definitions state: Consultant means the individual or firm providing engineering and design related services as a party to the contract. Therefore, subconsultants as parties of a contract must complete a certification and send originals to A&I and keep copies in Local Agency Project Files.*

**Distribution:** 1) Original to Caltrans Audits and Investigations  
2) Retained in Local Agency Project Files

**EXHIBIT 10-K CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL MANAGEMENT SYSTEM**

*(Note: If requesting to utilize the Safe Harbor Indirect Cost Rate submit Attachment 1 of DLA-OB 13-07 - Safe Harbor Indirect Cost Rate for Consultant Contracts found at [http://www.dot.ca.gov/hq/LocalPrograms/DLA\\_OB/DLA\\_OB.htm](http://www.dot.ca.gov/hq/LocalPrograms/DLA_OB/DLA_OB.htm) in lieu of this form.)*

**Certification of Final Indirect Costs:**

Consultant Firm Name: PARIKH Consultants, Inc.

Indirect Cost Rate: 150% \* for fiscal period 02/01/2015 to 01/31/2016

\*Fiscal period covered for Indirect Cost Rate developed (not the contract period).

Local Government: City of Santa Ana

Contract Number: \_\_\_\_\_ Project Number: 16-125

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1. All costs included in this proposal to establish final Indirect Cost Rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of Title 48, Code of Federal Regulations (CFR), Part 31.
2. This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR, Part 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization, and Indirect Cost Rates have been disclosed as of the date of proposal preparation noted above.

**Certification of Financial Management System:**

I, the undersigned, certify to the best of my knowledge and belief that our Financial Management System meets the standards for financial reporting, accounting records, internal and budget control as set forth in the FAR of Title 49, CFR, Part 18.20 to the extent applicable to Consultant.

**Certification of Dollar Amount for all A&E Contracts:**

I, the undersigned, certify that the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to this firm within the last three (3) calendar years for all State DOT and Local Agencies is \$ 11,000,000.00 and the number of states in which the firm does business is ONE.

**Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are reasonable, allowable and allocable to the contract in accordance with the cost principles of the FAR of Title 48, CFR, Part 31. Allowable direct costs to a Government contract shall be:

Consultant Certification of Contract Costs and Financial Management System

1. Compliant with Generally Accepted Accounting Principles (GAAP) and standards promulgated by the Cost Accounting Standards Board (when applicable).
2. Compliant with the terms of the contract and is incurred specifically for the contract.
3. Not prohibited by 23 CFR, Chapter 1, Part 172 – Administration of Engineering and Design Related Service Contracts to the extent requirements are applicable to Consultant.

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files.

**Subconsultants (if applicable)**

Proposed Contract Amount (or amount not to exceed if on-call contract): \$ TBD

**Prime Consultants (if applicable)**

Proposed Total Contract Amount (or amount not to exceed if on-call contract): \$ \_\_\_\_\_

Prime, list all subconsultants and proposed subcontract dollar amounts (attach additional page if necessary):

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**Consultant Certifying (Print Name and Title):**

Name: Gary Parikh

Title: Principal

Consultant Certification Signature \*\*: 

Date of Certification (mm/dd/yyyy): 10/12/2016

**Consultant Contact Information:**

Email: gparikh@parikhnet.com

Phone number: 408-452-9000

**\*\*An individual executive or financial officer of the consultant’s organization at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the Indirect Cost Rate proposal submitted in conjunction with the contract.**

*Note: Per 23 U.S.C. 112(b)(2)(B), Subconsultants must comply with the FAR Cost Principles contained in 48 CFR, Part 31. 23 CFR Part 172.3 Definitions state: Consultant means the individual or firm providing engineering and design related services as a party to the contract. Therefore, subconsultants as parties of a contract must complete a certification and send originals to A&I and keep copies in Local Agency Project Files.*

Distribution: 1) Original to Caltrans Audits and Investigations  
2) Retained in Local Agency Project Files

CITY OF SANTA ANA  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

**Required federal clauses for third party agreements**

The following provisions apply to all purchases regardless of its value:

**Article 1. Federal changes**

Consultant shall at all times comply with all applicable fta regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement between the authority and fta , as they may be amended or promulgated from time to time during this agreement. Consultant's failure to comply shall constitute a material breach of contract.

**Article 2. No federal government obligation to third parties**

Authority and consultant acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying agreement, absent the express written consent by the federal government, the federal government is not a party to this agreement and shall not be subject to any obligations or liabilities to the authority, consultant, or any other party (whether or not a party to this agreement) pertaining to any matter resulting from the underlying agreement. Consultant agrees to include these requirements in all of its subcontracts.

**Article 3. Program fraud and false or fraudulent statements and related acts**

A. Consultant acknowledges that the provisions of the program fraud civil remedies act of 1986, as amended, 31 u.s.c. §§3801 et seq. And u.s. dot regulations, "program fraud civil remedies," 49 c.f.r. part 31, apply to its actions pertaining to this project. Accordingly, by signing this agreement, consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying agreement of the fta assisted project for which this agreement's work is being performed. Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose penalties of the program fraud civil remedies act of 1986 on consultant to the extent the federal government deems appropriate.

B. Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the federal government under an agreement connected with a project that is financed in whole or part with federal assistance awarded by fta under the authority of 49 u.s.c. §5307 et seq., the government reserves the right to impose the penalties of 18 u.s.c. §1001 and 49 u.s.c. §5307(n) (1) et seq. On consultant, to the extent the federal government deems appropriate. Consultant agrees to include this requirement in all of its subcontracts.

**Article 4. Civil rights assurance**

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

A. Compliance with regulations: consultant shall comply with the regulations relative to nondiscrimination in federally assisted programs of the department of transportation (hereinafter, "dot") title 49,

CITY OF SANTA ANA  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

code of federal regulations, part 21, as they may be amended from time to time, (hereinafter referred to as the regulations), which are herein incorporated by reference and made a part of this agreement.

B. Nondiscrimination: consultant, with regard to the work performed by it during the agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the regulations, including employment practices when the agreement covers a program set forth in appendix b of the regulations.

C. Solicitations for subcontracts, including procurement of materials and equipment: in all solicitations either by competitive bidding or negotiation made by consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by consultant of consultant's obligations under this agreement and the regulations relative to nondiscrimination on the grounds of race, color, or national origin.

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

E. Sanctions for noncompliance: in the event of consultant's noncompliance with nondiscrimination provisions of this agreement, the authority shall impose agreement sanctions as it may determine to be appropriate, including, but not limited to:

- |   |
|---|
| <ol style="list-style-type: none"><li>1. Withholding of payments to consultant under the agreement until consultant complies; and/or</li><li>2. Cancellation, termination, or suspension of the agreement, in whole or in part.</li></ol> |
|---|

F. Title vi of the civil rights act. In determining the types of property or services to acquire, no person in the united states shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving federal financial assistance in violation of title vi of the civil rights act of 1964, as amended, 42 u.s.c. sections 2000d *et seq.* And dot regulations, "nondiscrimination in federally assisted programs of the department of transportation—effectuation of title vi of the civil rights act of 1964," 49 cfr part 21. In addition, fta circular 4702.1, "title vi and title vi-dependent guidelines for fta recipients," 05-13-07, provides fta guidance and instructions for implementing dot's title vi regulations.

G. The americans with disabilities act of 1990, as amended (ada), 42 u.s.c. sections 12101 *et seq.*,

CITY OF SANTA ANA  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, as well as imposes specific requirements on public and private providers of transportation.

H. Incorporation of provisions: consultant shall include the provisions of paragraphs (a) through (h) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the regulations, or directives issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as the authority may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, consultant may request the authority to enter into such litigation to protect the interests of the authority, and, in addition, consultant may request the united states to enter into such litigation to protect the interests of the united states.

**Article 5. DBE contract provisions for fta-assisted contracts with disadvantaged business enterprise (DBE) goals**

**I. DBE participation**

It is the consultant's responsibility to be fully informed regarding the requirements of 49 cfr, part 26 and the orange county transportation authority's (authority's) DBE program developed pursuant to these regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 cfr 121 and be certified through the california unified certification program (cucp).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE must perform a commercially useful function pursuant to 49 cfr 26.55 that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- D. Consultant must not claim DBE participation as attained until the amount to be claimed is paid and fully adheres to DBE crediting provisions.

If the consultant has committed to utilize DBE(s) in the performance of this dot-assisted contract, the consultant's submitted "DBE participation commitment form" will be utilized to monitor consultant's DBE commitments, unless otherwise directed and/or approved by the authority prior to the consultant effectuating any changes to its DBE participation commitment(s) (*refer to subsection h: "performance of DBE subconsultants"*).

Consultant must complete and submit all required DBE documentation to effectively capture all DBE utilization on the authority's dot-assisted contracts whether achieved race neutrally or race consciously. Even if a consultant has not committed to utilize DBE(s) in the performance of this contract, the consultant must execute and submit all required DBE forms and other related documentation as specified under this contract or as otherwise requested by the authority. No changes to the consultant's DBE commitment must be made until proper protocols for review and approval of the authority are rendered in writing.

To ensure full compliance with the requirements of 49 cfr, part 26 and the authority's DBE program, the

CITY OF SANTA ANA  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

consultant must:

- A. Take appropriate actions to ensure that it will continue to meet the DBE commitment at the minimal level committed to at award or will satisfy the good faith efforts to meet the DBE commitment, when change orders or other contract modifications alter the dollar amount of the contract or the distribution of work. The consultant must apply and report its DBE goal commitments against the total contract value, including any contract change orders and/or amendments.

**II. DBE policy and applicability**

In accordance with federal financial assistance agreements with the u.s. department of transportation (u.s. dot), the authority has adopted a disadvantaged business enterprise (DBE) policy and program, in conformance with title 49 cfr, part 26, "participation by disadvantaged business enterprises in department of transportation programs".

The project is subject to these stipulated regulations and the authority's DBE program. In order to ensure that the authority achieves its overall DBE program goals and objectives, the authority encourages the participation of DBEs as defined in 49 cfr, part 26 in the performance of contracts financed in whole or in part with u.s. dot funds. Pursuant to the intent of these regulations, it is also the policy of the authority to:

Fulfill the spirit and intent of the federal DBE program regulations published under u.s. dot title 49 cfr, part 26, by ensuring that DBEs have equitable access to participate in all of authority's dot-assisted contracting opportunities.

Ensure that DBEs can fairly compete for and perform on all dot-assisted contracts and subcontracts.

Ensure non-discrimination in the award and administration of authority's dot-assisted contracts.

Create a level playing field on which DBEs can compete fairly for dot-assisted contracts.

Ensure that only firms that fully meet 49 cfr, part 26 eligibility standards are permitted to participate as DBEs.

Help remove barriers to the participation of DBEs in dot-assisted contracts.

Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

Consultant must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subconsultant.

*Any terms used in this section that are defined in 49 cfr, part 26, or elsewhere in the regulations, must have the meaning set forth in the regulations. In the event of any conflicts or inconsistencies between the regulations and the authority's DBE program with respect to dot-assisted contracts, the regulations must prevail.*

**III. Authority's DBE policy implementation directives**

CITY OF SANTA ANA  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

Pursuant to the provisions associated with federal regulation 49 cfr, part 26, the disadvantaged business enterprise (DBE) program exists to ensure participation, equitable competition, and assistance to participants in the usdot DBE program. Accordingly, based on the authority's analysis of its past utilization data, coupled with its examination of similar agencies' disparity study and recent goal methodology findings the authority has implemented the reinstatement of the DBE program utilizing both race-conscious and race-neutral means across the board as all protected groups participation have been affected using strictly race neutral means on its fta-assisted contracts.

The authority reinstates the use of contract goals and good faith efforts. Meeting the contract-specific goal by committing to utilize DBEs or documenting a bona fide good faith effort to do so, is a condition of award. Additionally, contract-specific goals are now specifically targeted at DBEs (*DBEs owned and controlled by black americans, hispanic americans, asian-pacific americans, native americans, asian-pacific americans, sub-continent asian americans, and women*). In the event of a substitution, a DBE must be substituted with another DBE or documented adequate good faith efforts to do so must be made, in order to meet the contract goal and DBE contract requirements.

I. Definitions

The following definitions apply to the terms used in these provisions:

1. **"disadvantaged business enterprise (DBE)"** means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
2. **"small business concern"** means a small business as defined pursuant to section 3 of the small business act and relevant regulations promulgated pursuant thereto, except that a small business concern must not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$19.57 million over the previous three fiscal years.
3. **"socially and economically disadvantaged individuals"** means those individuals who are citizens of the united states (or lawfully admitted permanent residents) and who are black americans, hispanic americans, native americans, asian-pacific americans, or asian-indian americans, women and any other minorities or individuals found to be disadvantaged by the small business administration pursuant to section 8(a) of the small business act, or by the authority pursuant to 49 cfr part 26.65. Members of the following groups are presumed to be socially and economically disadvantaged:
  - A. "black americans," which includes persons having origins in any of the black racial groups of africa;
  - B. "hispanic americans," which includes persons of mexican, puerto rican, cuban, central or south american, or other spanish or portuguese culture or origin, regardless of race;
  - C. "native americans," which includes persons who are american indians, eskimos, aleuts, or native hawaiians;

CITY OF SANTA ANA  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

- D. "asian-pacific americans," which includes persons whose origins are from japan, china, taiwan, korea, vietnam, laos, cambodia, the philippines, samoa, guam, the u.s. trust territories of the pacific, and the northern marianas;
  - E. "asian-indian americans," which includes persons whose origins are from india, pakistan, and bangladesh; and
  - F. Women, regardless of ethnicity or race.
4. **"owned and controlled"** means a business: (a) which is at least 51 percent owned by one or more "socially and economically disadvantaged individuals" or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more "socially and economically disadvantaged individuals"; and (b) whose management and daily business operations are controlled by one or more such individuals.
5. **"manufacturer"** means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the consultant.
6. **"regular dealer"** means a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment.
7. **"fraud"** includes a firm that does not meet the eligibility criteria of being a certified DBE and that attempts to participate in a dot-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty. The authority may take enforcement action under 49 cfr, part 31, program fraud and civil remedies, against any participant in the DBE program whose conduct is subject to such action under 49 cfr, part 31. The authority may refer the case to the department of justice, for prosecution under 18 u.s.c. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any dot-assisted program or otherwise violates applicable federal statutes.
8. **"other socially and economically disadvantaged individuals"** means those individuals who are citizens of the united states (or lawfully admitted permanent residents) and who, on a case-by-case basis, are determined by small business administration or a recognized california unified certification program certifying agency to meet the social and economic disadvantage criteria described below.
- A. "social disadvantage"
    - 1. The individual's social disadvantage must stem from his/her color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of american society, or other similar cause beyond the individual's control.

**CITY OF SANTA ANA**  
**RFP NO.: 16-125**  
**OC STREETCAR DESIGN REVIEW SUPPORT**

2. The individual must demonstrate that he/she has personally suffered social disadvantage.
3. The individual's social disadvantage must be rooted in treatment, which he/she has experienced in American society, not in other countries.
4. The individual's social disadvantage must be chronic, longstanding and substantial, not fleeting or insignificant.
5. The individual's social disadvantage must have negatively affected his/her entry into and/or advancement in the business world.
6. A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.

**B. "economic disadvantage"**

1. The individual's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area that are not socially disadvantaged.
2. The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

- Availability of financing bonding capability
- Availability of outside equity capital
- Available markets

With respect to the individual and the business concern:

- Personal and business assets
- Personal and business net worth
- Personal and business income and profits

**IV. Submission of DBE information and ongoing reporting requirements (post-award)**

If there is a DBE goal on the contract, consultant must complete and submit the following DBE exhibits (forms) consistent with consultant DBE goal commitment within the specified timelines. Even if no DBE participation will be reported, the consultant must execute and return the form:

1. **"monthly DBE subconsultant commitment and attainment report summary and payment verification" (form 103)**

The purpose of this form is to ensure consultant DBE commitments are attained, properly reported and credited in accordance with DBE crediting provisions based on the capacity the DBE performs the scope of work/service. This form further serves to collect DBE utilization data required under 49 cfr, part 26.

The consultant is required to complete and submit a form 103 to the authority by the 10<sup>th</sup> of each month until completion of the contract. The consultant must submit its first form 103 following the first month of contract activity. Upon completion of the contract, the consultant must complete and submit a "final; monthly DBE subconsultant commitment and attainment report

**CITY OF SANTA ANA**  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

summary and payment verification" (form 103) to facilitate reporting and capturing actual DBE attainments at conclusion of the contract.

The form 103 must include the following information:

A. General contract information – including contract number and name, prime consultant and the following:

1. Original contract amount
2. Running total of change order amount
3. Current contract amount
4. Amount paid to consultant during month
5. Amount paid to consultant from inception to date
6. DBE contract goal
7. Total dollar amount of DBE commitment
8. DBE commitment as percentage of current contract amount

B. Listed and/proposed consultant/subconsultant information – for all DBE participation being claimed either race neutrally or race consciously, regardless of tier:

1. DBE firm name, address, phone number, DBE type of operation, certification type and certification number.

2. DBE firm contract value information:

Original contract amount, running total of change order amount, current contract amount, amount paid to consultant during month and amount paid to consultant to date.

2. **Consultant assurance of full compliance with prompt payment provisions** consultant to sign the prompt payment assurance statement of compliance contained within the form 103. Consultant is to further maintain and submit at the request of authority a detailed running tally of related invoices submitted by DBE(s) and non DBE(s), including dates of invoice submission, dates accepted and corresponding dates and amount of payments made. The payment and retention reporting tally must also include:

DBE(s) and non DBE(s) invoice number, invoice amount, invoice date, prime consultant's invoice number that incorporated the corresponding DBE and non DBE invoice(s) for billing purposes, date of invoice submission to authority, date and amount authority paid on prime consultant's invoice. The report must also reflect a breakout of retention withheld (including retention as specified in subcontract agreement(s) and disputed invoice retention) and retention payments made, check number and date paid to DBE and non DBE.

Consultant is advised not to report the participation of DBE(s) toward the consultant's DBE attainment until the amount being claimed has been paid to the DBE. Verification of payments and/or a signed verification of payment by the applicable DBE or non DBE must be submitted with form 103 to authenticate reported payments.

**CITY OF SANTA ANA**  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

**3. DBE subcontract agreements**

The consultant must submit to the authority copies of executed subcontracts and/or purchase orders (po) for all DBE firms participating on the contract within ten (10) working days of award. The consultant must immediately notify the authority in writing of any problems it may have in obtaining the subcontract agreements from listed DBE firms within the specified time.

**4. "monthly DBE trucking verification" form**

Prior to the 10th of each month, the consultant must submit documentation on the "monthly DBE trucking verification" form to the authority showing the amount paid to DBE trucking companies. The consultant must also obtain and submit documentation to the authority showing the amount paid by DBE trucking companies to all firms, including owner-operators, for the leasing of trucks. If the DBE leases trucks from a non-DBE, the contractor may count only the fee or commission the DBE receives as a result of the lease arrangement.

The consultant must also obtain and submit documentation to the authority showing the truck number, owner's name, california highway patrol ca number, and if applicable, the DBE certification number of the owner of the truck for all trucks used during that month.

**5. "final report-utilization of disadvantaged business enterprises (DBE), first tier subconsultants"**

Upon completion of the contract, a summary of these records must be prepared on the: "final report-utilization of disadvantaged business enterprises (DBE), first tier subconsultants" and certified correct by the consultant or the consultant's authorized representative, and must be furnished to the engineer. The form must be furnished to the authority within ninety (90) days from the date of contract acceptance. The amount of \$10,000 will be withheld from payment until a satisfactory form is submitted.

**6. "disadvantaged business enterprises (DBE) certification status change"**

If a DBE sub is decertified during the life of the project, the decertified subconsultant must notify the consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the project, the subconsultant must notify the consultant in writing with the date of certification (attach DBE certification/decertification letter). The consultant must furnish the written documentation to the authority.

Upon completion of the contract, the "disadvantaged business enterprises (DBE) certification status change" must be signed and certified correct by the consultant indicating the DBEs' existing certification status. If there are no changes, please indicate "no changes". The certified form must be furnished to the authority within ninety (90) days from the date of contract acceptance.

**V. DBE eligibility and commercially useful function standards**

**CITY OF SANTA ANA**  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

A DBE must be certified at the time of proposal submission:

1. A certified DBE must be a small business concern as defined pursuant to section 3 of the u.s. small business act and relevant regulations promulgated pursuant thereto.
2. A DBE may participate as a prime consultant, subconsultant, joint venture partner with a prime or subconsultant, vendor of material or supplies, or as a trucking company.
3. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
4. At time of proposal submission, DBEs must be certified by the california unified certification program (cucp). Listings of DBEs certified by the cucp are available from the following sources:
  - A. The cucp web site, which can be accessed at <http://www.californiaucp.com>; or the caltrans "civil rights" web site at <http://www.dot.ca.gov/hq/bep>.
5. A DBE must perform a commercially useful function in accordance with 49 cfr 26.55 (i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work). A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume it is performing a commercially useful function.

**VI. DBE crediting provisions**

1. When a DBE is proposed to participate in the contract, either as a prime consultant or subconsultant, at any tier, only the value of the work proposed to be performed by the DBE with its own forces may be counted towards DBE participation. If the consultant is a DBE joint venture participant, only the DBE proportionate interest in the joint venture must be counted.
2. If a DBE intends to subcontract part of the work of its subcontract to a lower-tier subconsultant, the value of the subcontracted work may be counted toward DBE participation only if the subconsultant is a certified DBE and actually performs the work with their own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime consultant's DBE attainment.
3. Consultant is to calculate and credit participation by eligible DBE vendors of equipment, materials, and suppliers toward DBE attainment, as follows:
  - A. Sixty percent (60%) of expenditure(s) for equipment, materials and supplies required under the contract, obtained from a regular dealer; or
  - B. One hundred percent (100%) of expenditure(s) for equipment, materials and supplies required under the contract, obtained from a DBE manufacturer.
4. The following types of fees or commissions paid to DBE subconsultants, brokers, and packagers may be credited toward the prime consultant's DBE attainment, provided that the fee or

**CITY OF SANTA ANA**  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

commission is reasonable, and not excessive, as compared with fees or commissions customarily allowed for similar work, including:

- A. Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the contract;
  - B. Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies;
  - C. Fees and commissions charged for providing any insurance specifically required in the performance of the contract.
5. Consultant may count the participation of DBE trucking companies toward DBE attainment, as follows:
- A. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract.
  - B. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
  - C. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
  - D. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
  - E. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
  - F. For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
6. If the consultant listed a non-certified 1<sup>st</sup> tier subconsultant to perform work on this contract, and the non-certified subconsultant subcontracts a part of its work or purchases materials and/or supplies from a lower tier DBE certified subconsultant or vendor, the value of work performed by the lower tier DBE firm's own forces can be counted toward DBE participation on the contract. If a DBE consultant performs the installation of purchased materials and supplies they are eligible for full credit of the cost of the materials.

**VII. Performance of DBE subconsultants**

DBEs must perform work or supply materials as listed in the "DBE participation commitment form" specified under "*DBE proposal submission requirements*" of these special provisions. Do not terminate a

**CITY OF SANTA ANA**  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

DBE listed subconsultant for convenience and perform the work with your own forces or obtain materials from other sources without prior written authorization from the authority.

The authority grants authorization to use other forces or sources of materials for requests that show any of the following justifications (written approval from the authority must be obtained prior to effectuating a substitution):

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. You stipulate a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.
3. Work requires a consultants' license and listed DBE does not have a valid license under consultants license law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials.
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE delays or disrupts the progress of the work.
7. Listed DBE becomes bankrupt or insolvent.

If a listed DBE subconsultant is terminated, you must make good faith efforts to find another DBE subconsultant to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet the DBE goal.

The substitute DBE must be certified as a DBE at the time of request for substitution. The authority does not pay for work or material unless it is performed or supplied by the listed DBE, unless the DBE is terminated in accordance with this section.

**VIII. Additional DBE subconsultants**

In the event consultant identifies additional DBE subconsultants or suppliers not previously identified by consultant for DBE participation under the contract, consultant must notify the authority by submitting "request for additional DBE firm" to enable consultant to capture all DBE participation. Consultant must also submit, for each DBE identified after contract execution, a written confirmation from the DBE acknowledging that it is participating in the contract for a specified value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).

**IX. DBE "frauds" and "fronts"**

Only legitimate DBEs are eligible to participate as DBEs in the authority's federally -assisted contracts. Proposers are cautioned against knowingly and willfully using "fronts." The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitute criminal violations. Further, any indication of fraud, waste, abuse or mismanagement of federal funds should be immediately reported to the office of inspector general, u.s. department of transportation at the toll-free hotline: (800) 424-9071; or to the following: 245 murray drive, building 410, washington, dc 20223; telephone: (202) 406-570.

**X. Consultant's assurance clause regarding non-discrimination**

In compliance with state and federal anti-discrimination laws, the consultant must affirm that they will not

**CITY OF SANTA ANA**  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

exclude or discriminate on the basis of race, color, national origin, or sex in consideration of contract award opportunities. Further, the consultant must affirm that they will consider, and utilize subconsultants and vendors, in a manner consistent with non-discrimination objectives.

**XI. Prompt payment clause**

Upon receipt of payment by authority, consultant agrees to promptly pay each subconsultant for the satisfactory work performed under this agreement, no later than seven (7) calendar days. Consultant agrees further to return retainage payments to each subconsultant within thirty (30) calendar days after the subconsultant's work is satisfactorily completed. Authority reserves the right to request the appropriate documentation from consultant showing payment has been made to the subconsultants. Any delay or postponement of payment from the above referenced time frames may occur only for good cause following written approval by authority.

In accordance with 49 cfr part 26.29 "prompt payment provisions" (DBE final rule) the authority will elect to utilize the following method to comply with the prompt payment of retainage requirement:

Hold retainage from the consultant and provide for prompt and regular incremental acceptances of portions of the consultant, pay retainage to prime consultants based on these acceptances, and require a contract clause obligating the consultant to pay all retainage owed to the subconsultants for satisfactory completion of the accepted work within thirty (30) days after payment to the consultant.

Failure to comply with this provision or delay in payment without prior written approval from authority will constitute noncompliance, which may result in appropriate administrative sanctions, including, but not limited to a withhold of two (2%) percent of the invoice amount due per month for every month that payment is not made.

These prompt payment provisions must be incorporated in all subcontract agreements issued by consultant under this agreement. Each subcontract must require the subconsultant to make payments to sub-subconsultants and suppliers in a similar manner.

**XII. administrative remedies and enforcement**

Consultant must fully comply with the DBE contract requirements, including the authority's DBE program and title 49 cfr, part 26 "participation of disadvantaged businesses in department of transportation financial assistance programs" and ensure that all subconsultants regardless of tier are also fully compliant. Consultant's failure to comply constitutes a material breach of contract, wherein the authority will impose all available administrative sanctions including payment withholdings, necessary to effectuate full compliance. In instances of identified non-compliance, a cure notice will be issued to the consultant identifying the DBE non-compliance matter(s) and specifying the required course of action for remedy.

The consultant must be given ten (10) working days from the date of the cure notice to remedy or to (1) file a written appeal accompanied with supporting documentation and/or (2) request a hearing with the authority to reconsider the authority's DBE determination. Failure to respond within the ten (10) working day period must constitute a waiver of the consultant's right to appeal. If the consultant files an appeal, the authority, must issue a written determination and/or set a hearing date within ten (10) working days of receipt of the written appeal, as applicable. A final determination will be issued within ten (10)

**CITY OF SANTA ANA**  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

working days after the hearing, as applicable.

If, after review of the consultant's appeal, the authority decides to uphold the decision to impose DBE administrative remedies on the consultant, the written determination must state the specific remedy(s) to be imposed.

Failure to comply with the cure notice and/or to remedy the identified DBE non-compliance matter(s) is a material breach of contract and is subject to administrative remedies, including, withholding at minimum of two (2%) percent of the invoice amount due per month for every month that the identified non-compliance matter(s) is not remedied. Upon satisfactory compliance the authority will release all withholdings.

In addition to administrative remedies defined in this section, the authority is not precluded from invoking other contractual and/or legal remedies available under federal, state or local laws.

**Article 6. Access to records and reports**

Consultant shall provide authority, the u.s. department of transportation (dot), the comptroller general of the united states, or other agents of authority, such access to consultant's accounting books, records, payroll documents and facilities of consultant which are directly pertinent to this agreement for the purposes of examining, auditing and inspecting all accounting books, records, work data, documents and activities related hereto. Consultant shall maintain such books, records; data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during consultant's performance hereunder and for a period of four (4) years from the date of final payment by authority. Authority's right to audit books and records directly related to this agreement shall also extend to all first-tier subcontractors identified in this agreement. Consultant shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary.

**Article 7. Incorporation of fta terms**

All contractual provisions required by department of transportation (dot), whether or not expressly set forth in this document, as set forth in federal transit administration (fta) circular 4220.1f, as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all fta mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. Consultant shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause authority to be in violation of the fta terms and conditions.

**Article 8. Energy conservation requirements**

Consultant shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the energy policy conservation act.

**Article 9. Fly america requirements**

Consultant agrees to comply with 49 u.s.c. 40118 (the "fly america" act) in accordance with the general services administration's regulations at 41 cfr part 301-10, which provide that recipients and sub-recipient of federal funds and their contractors are required to use u.s. flag air carriers for u.s. government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the fly america act.

**CITY OF SANTA ANA**  
RFP NO.: 16-125  
**OC STREETCAR DESIGN REVIEW SUPPORT**

Consultant shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a u.s. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the fly america requirements. Consultant agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

**Article 10. Transportation of equipment, materials or commodities by ocean vessel**

A. Consultant shall utilize privately owned united states-flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, materials or commodities pursuant to this section, to the extent such vessels are available at fair and reasonable rates for united states-flag commercial vessels.

B. Consultant shall furnish within twenty (20) working days following the date of loading for shipments originating within the united states, or within thirty (30) working days following the date of loading for shipping originating outside the united states, a legible copy of a rated, "on-board" commercial ocean bill-of lading in english for each shipment of cargo described in paragraph 0 of this article to authority (through consultant in the case of subcontractor bills-of-lading) and to the division of national cargo, office of market development, maritime administration, washington, dc 20590, marked with appropriate identification of the project.

**Article 11. Prohibited interests**

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

B. No member of or delegate to, the congress of the united states shall have any interest, direct or indirect, in this agreement or to the benefits thereof.

**Article 12. Alcohol and drug policy**

A. Consultant agrees to establish and implement an alcohol and drug program that complies with 41 u.s.c sections 701-707, (the drug free workplace act of 1988), which is attached to this agreement as exhibit b, and produce any documentation necessary to establish its compliance with sections 701-707.

B. Failure to comply with this article may result in nonpayment or termination of this agreement.

**Article 13. Privacy act**

Consultant shall comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the privacy act of 1974, 5 u.s.c. §552a. Among other things, consultant agrees to obtain the express consent of the federal government before consultant or its employees operate a system of records on behalf of the federal government. Consultant understands that the requirements of the privacy act, including the civil and criminal penalties for violation of that act, apply to those individuals involved, and that failure to comply with the terms of the privacy act may result in termination of the

**CITY OF SANTA ANA**  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

underlying agreement.

**Article 14. Conflict of interest**

Consultant agrees to avoid organizational conflicts of interest. An organizational conflict of interest means that due to other activities, relationships or contracts, consultant is unable, or potentially unable to render impartial assistance or advice to the authority; consultant's objectivity in performing the work identified in the scope of work is or might be otherwise impaired; or consultant has an unfair competitive advantage. Consultant is obligated to fully disclose to the authority in writing conflict of interest issues as soon as they are known to consultant. Consultant is obligated to fully disclose to the authority in writing conflict of interest issues as soon as they are known to consultant. All disclosures must be submitted in writing to authority pursuant to the notice provision herein. This disclosure requirement is for the entire term of this agreement.

**Article 15. Code of conduct**

Consultant agrees to comply with the authority's code of conduct as it relates to third party contracts which is hereby referenced and by this reference is incorporated herein. Consultant agrees to include these requirements in all of its subcontracts.

**Article 16. 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/buyer responsible for this procurement. Any protest filed by consultant in connection with this solicitation must be submitted in accordance with the authority's written procedures.

**The following additional provisions apply to all purchases over \$10,000**

**Article 17. Termination**

A. Authority may terminate this agreement for its convenience at any time, in whole or part, by giving consultant written notice thereof. Upon termination, authority shall pay consultant its allowable costs incurred to date of that portion terminated. Said termination shall be construed in accordance with the provisions of cfr title 48, chapter 1, part 49, of the federal acquisition regulation (far) and specific subparts and other provisions thereof applicable to termination for convenience. If authority sees fit to terminate this agreement for convenience, said notice shall be given to consultant in accordance with the provisions of the far referenced above. Upon receipt of said notification, consultant agrees to comply with all applicable provisions of the far pertaining to termination for convenience.

B. Authority may terminate this agreement for consultant's default if a federal or state proceeding for the relief of debtors is undertaken by or against consultant, or if consultant makes an assignment for the benefit of creditors, or for cause if consultant fails to perform in accordance with the scope of work or breaches any term(s) or violates any provision(s) of this agreement and does not cure such breach or violation within ten (10) calendar days after written notice thereof by authority. Consultant shall be liable for any and all reasonable costs incurred by authority as a result of such default or breach including, but not limited to, reprocurement costs of the same or similar services defaulted by consultant under this agreement. Such termination shall comply with cfr title 48, chapter 1, part 49, of the far.

**CITY OF SANTA ANA**  
**RFP NO.: 16-125**  
**OC STREETCAR DESIGN REVIEW SUPPORT**

**Article 18. Recycled products**

Consultant shall comply with all the requirements of section 6002 of the resource conservation and recovery act (rcra), as amended (42 u.s.c. 6962), including but not limited to the regulatory provisions of 40 cfr part 247, and executive order 12873, as they apply to the procurement of the items designated in subpart b of 40 cfr part 247. Consultant agrees to include this requirement in all of its subcontracts.

**The following additional provisions apply to all purchases over \$25,000**

**Article 19. Debarment & suspension:**

**Certification regarding debarment, suspension and other responsibility matters - primary participant and lower-tier participants**

Unless otherwise permitted by law, any person or firm that is debarred, suspended, or voluntarily excluded, as defined in the federal transit administration (fta) circular 2015.1, dated april 28, 1989, may not take part in any federally funded transaction, either as a participant or a principal, during the period of debarment, suspension, or voluntary exclusion. Accordingly, the authority, acting on behalf of the district, may not enter into any transaction with such debarred, suspended, or voluntarily excluded persons or firms during such period.

A certification process has been established by 49 cfr part 29, as a means to ensure that debarred suspended or voluntarily excluded persons or firms do not participate in federally assisted projects. The inability to provide the required certification will not necessarily result in denial of participation in a covered transaction. A person or firm that is unable to provide a positive certification as required by this solicitation must submit a complete explanation attached to the certification. Fta will consider the certification and any accompanying explanation in determining whether or not to provide assistance for the project. Failure to furnish a certification or an explanation may disqualify that person or firm from participating in the project.

**CITY OF SANTA ANA**  
RFP NO.: 16-125  
OC STREETCAR DESIGN REVIEW SUPPORT

The following additional provisions apply to all purchases over \$100,000:

**Article 20. Disputes**

A. Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of by supplemental agreement shall be decided by authority's director, contracts administration and materials management (camm), who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to consultant. The decision of the director, camm, shall be final and conclusive.

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

C. Pending final decision of a dispute hereunder, consultant shall proceed diligently with the performance of this agreement and in accordance with the decision of authority's director, camm. This "disputes" clause does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this agreement, however, shall be construed as making final the decision of any authority official or representative on a question of law, which questions shall be settled in accordance with the laws of the state of california.

**Article 21. Clean water requirements**

Consultant shall comply with all applicable standards, orders or regulations issued pursuant to the federal water pollution control act, as amended, 33 u.s.c. 1251 et seq. Consultant shall report each violation to authority and understands and agrees that the authority who will in turn, report each violation as required to assure notification to fta and appropriate epa regional office. Consultant agrees to include this requirement in all of its subcontracts.

**Article 22. Clean air**

Consultant shall comply with all applicable standards, orders or regulations issued pursuant to the clean air act, as amended, 42 u.s.c. §§ 7401 et seq. Consultant shall report each violation to authority, who will in turn, report each violation as required to assure notification to fta and the appropriate epa regional office. Consultant agrees to include this requirement in all of its subcontracts.

**CITY OF SANTA ANA**  
**RFP NO.: 16-125**  
**OC STREETCAR DESIGN REVIEW SUPPORT**

**Article 23. Lobbying**

Consultant's who apply or bid for an award of \$100,000 or more shall file the certification required by 49 cfr part 20, "new restrictions on lobbying". Each tier certifies to the above that it will not or has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of congress, officer or employee of congress, or an employee of a member of congress in connection with obtaining any federal contract, grant or any other award covered by 31 u.s.c. 1352. Each tier shall also disclose the name of any registrant under the lobbying disclosure act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant or award covered by 31 u.s.c. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

**Article 24. Buy America**

A. Consultant is directed to the "buy america" requirements of the surface transportation assistance act of 1982 (section 165) and the intermodal surface transportation efficiency act of 1991 (istea) sections 1041(a) and 1048(a) and the regulations adopted pursuant thereto. In conformance with the law and regulations, all manufacturing processes for steel and iron materials furnished for incorporation into the work on this project shall occur in the united states; with the exception that pig iron and processed, pellitized and reduced iron ore manufactured outside of the united states may be used in domestic manufacturing process for such steel and iron materials. The application of coatings, such as epoxy coating, galvanizing, painting, and other coating that protects or enhances the value of steel or iron materials shall be considered a manufacturing process subject to the "buy america" requirements.

B. A certificate of compliance, conforming to the provisions of this article shall be furnished for steel and iron materials. The certificates, in addition to certifying that the materials comply with the specifications, shall specifically certify that all manufacturing processes for the materials occurred in the united states, except for the exceptions listed herein.

C. The requirements imposed by law and regulations do not prevent a minimal use of foreign steel and iron materials of the total combined cost of the materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. Consultant shall furnish the authority acceptable documentation of the quantity and value of the foreign steel and iron prior to incorporating the materials in the work.

