

SOFTWARE LICENSE AGREEMENT

THIS AGREEMENT is effective this 30th day of June, 2020 ("Effective Date"), by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584, a public corporation of the State of California (hereinafter referred to as "Customer" or "Authority") and Bytemark, Inc. located at One Pennsylvania Plaza, Floor 11, Suite 1100, New York, New York 10019 (hereinafter referred to as "Licensor"), each individually known as "Party" and collectively known as the "Parties."

WITNESSETH:

WHEREAS, Customer requires assistance from Licensor to develop and implement a new mobile ticketing application; and
WHEREAS, said work cannot be performed by the regular employees of Customer; and
WHEREAS, Licensor has represented that it has the requisite personnel, experience and software solution and is capable of licensing certain software products and performing such services; and
WHEREAS, Licensor wishes to license certain software products and perform these services;
NOW, THEREFORE, it is mutually understood and agreed by Customer and Licensor as follows:

1.0 Definitions

- 1.1** "Acceptance Test Procedures" means the benchmarks and other performance criteria used to measure the effectiveness of the Software and the means used to test such performance. Acceptance Test procedures shall be developed by Customer and Licensor jointly.
- 1.2** "Customer Data" means all information processed or stored on computers or other electronic media by Customer or on Customer's behalf, or provided to Licensor for such processing or storage, as well as any information derived from such information (provided that Customer Data is otherwise deductible or recoverable from such derived information). Customer Data includes, without limitation: (a) information on paper or other non-electronic media provided to Licensor for computer processing or storage, or information formerly on electronic media; (b) information provided to Licensor by customer's customers or other users or by other third parties; and (c) personally identifiable information from such customers, users, or other third parties.
- 1.3** "Data Breach" means (1) the failure by Licensor to properly handle, manage, store, destroy or otherwise control, or the unauthorized disclosure by Licensor of: (a) Customer Data or (b) third party corporate information in any format specifically identified as confidential and protected under a confidentiality agreement or similar contract; (2) an unintentional violation of Licensor's privacy policy or misappropriation that results in the violation of any applicable data privacy laws or regulations; or (3) any other act, error, or omission by Licensor in its capacity as such which is reasonably likely to result in the unauthorized disclosure of Personal Data.
- 1.4** "Documentation" means the user manuals and any other materials in any form or medium customarily provided by Licensor to the users of the Software which will provide to Customer sufficient information to operate, diagnose, and maintain the Software properly, safely and efficiently.
- 1.5** "Final Acceptance" means successful completion of Phase Three described in the Acceptance Testing Article.
- 1.6** "Installation Date" means the date upon which the procedures described in Deliver and Installation Article are completed.
- 1.7** "Maintenance" means (i) the provision of all generally available improvements, new functions and additions to the functionality of the Software, (ii) maintenance of the Software so that it operates in conformance with all Specifications, (iii) detection and correction of any software errors discovered by Customer or otherwise made known to Licensor, (iv) the implementation of all program changes,

updates, upgrades, and installation of additional programs provided under this Agreement, and (v) prompt response to Customer inquiries regarding the use and functionality of the Software.

- 1.8 "Personal Data" means any information that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history.
- 1.9 "Preliminary Acceptance" means successful completion of Phase Two described in the Acceptance Testing Article.
- 1.10 "Product" means any deliverable including, but not limited to, all Software and Software-related items provided by Licensor to Customer.
- 1.11 "Customer Information" means all of Customer's plans, processes, products, business information, proprietary information, data, technology, computer programs and documentation and the like.
- 1.12 "Recommended Hardware Configuration" means the data processing hardware (including all terminals, auxiliary storage, communication, and other peripheral devices) to the extent utilized by Customer as recommended by Licensor.
- 1.13 "Services" means the services described in Exhibit A.
- 1.14 "Specifications" means the Software operating parameters and performance capabilities as represented to Customer by Licensor in the Documentation, sales proposals or otherwise.
- 1.15 "Software" includes any and all Software and Documentation to which Customer obtains or is granted any rights under this Agreement.
- 1.16 "Warranty Period" means period of twelve (12) months from Final Acceptance.

2.0 License

2.1 Grant of License

On the terms and conditions set forth herein, and for the duration of this Agreement, Licensor hereby grants to Customer a fully paid-up, non-exclusive, worldwide, royalty-free license to use the Software and Documentation, on an enterprise-wide basis, including all modifications and enhancements thereto, plus any Software which shall be added during the term of this Agreement, on or in connection with any Central Processing Unit (CPU) utilized by Customer. The license granted also includes (i) the right to permit third parties to use the Software and Documentation for Customer's operations so long as the use is in accordance with the terms of this Agreement, and (ii) the right to use the Software in connection with the offering of services to third parties, specifically bundled applications hosting, management and/or monitoring.

Except as permitted in this Agreement, Customer shall not: (a) modify, create derivative works from, or sub-license the software; or (b) reverse engineer, decompile, disassemble, or otherwise attempt to derive any of the Software's source code.

2.2 Copies

For the duration of this Agreement, Customer is permitted to make a reasonable number of copies of the Documentation and written materials for distribution to employees using the Software, and to make and retain a copy of the Software for disaster recovery, backup and archival purposes.

3.0 Services

Licensor agrees to provide the Services described in Exhibit A, entitled "Scope of Work," attached to and, by this reference, incorporated in and made a part of this Agreement.

4.0 Maintenance

4.1 Maintenance Duration

Maintenance shall commence upon expiration of the Warranty Period under the Warranties Article and shall be renewable by Customer on an annual basis. Licensor shall invoice Customer for Maintenance no later than sixty (60) days prior to the expiration of the warranty and each subsequent Maintenance period on an annual basis.

4.2 Maintenance Response Times

Licensor shall provide Maintenance on-call 24 hours a day, seven days per week. Qualified support personnel shall provide maintenance with expertise in software. Unless Maintenance response times are already addressed in the Scope of Work under Exhibit A, the first response to a malfunction shall be within two (2) hours of notification by telephone or other means that shall be mutually agreed upon. A temporary program fix or work around shall be provided within twenty-four (24) hours of such notification. A permanent fix or work around shall be provided within three (3) days of such notification. Customer shall furnish reasonable assistance in completing any of the above described fixes or work arounds.

4.3 Maintenance Fees/Cap

The cost for each renewal term Licensor agrees that rate increases in subsequent terms will not exceed three percent (3%) of the then current year rate or the Consumer Price Index for all Urban Consumers ("CPI-U") using the rate for all items as reported by the U.S. Department of Labor on their web site at www.bls.gov/cpi, whichever is less. Any such price increase shall occur at a maximum of once per calendar year and a minimum of twelve (12) months since the last increase and shall in no event be more than Licensor's published price.

4.4 Revision Levels

Customer is not obligated to implement updates, changes, modifications, or enhancements if said revisions interfere with Customer's level of intended usage or operating system environment. However, Licensor and Customer shall work together with mutual best efforts in order to implement and install all revisions so that they function properly at the level of Customer's intended usage and within Customer's operating system environment.

4.5 Periods of Inoperability

In the event that the Software, or a material function of the Software, becomes inoperable for a period of up to five (5) days, the Maintenance period may, at Customer's option, be suspended for the period of the inoperability, and the amount of time that such period is suspended shall be added to the end of the then-current Maintenance period. Such temporary suspension shall not relieve Licensor of any obligations of this Agreement.

4.6 Reinstatement

If Customer elects to discontinue Maintenance at any time, and subsequently elects to reinstate Maintenance, the Maintenance Renewal Fee shall not exceed ten percent (10%) of the then-current License Fee, with no additional cost or penalty, except to reimburse Licensor for its direct distribution costs necessary to supply Customer with one copy of the current version of all Software, plus any intermediate versions required by virtue of Licensor's maintenance strategy that may be required to migrate Customer's programs and data from the versions under which Customer is running to the then current versions.

5.0 Compensation

5.1 Fee Schedule

a. For Licensor's full and complete performance of its obligations under this Agreement and subject to the maximum cumulative payment obligation provisions set forth in Article 6, Customer shall pay Licensor on a firm-fixed price basis in accordance with the following provisions.

- b. The following schedule shall establish the firm-fixed payment to Licensor by Customer for each work task set forth in the Scope of Work. The schedule shall not include any Licensor expenses not approved by Customer, including, but not limited to reimbursement for local meals.

INITIAL TERM: Effective through May 31, 2025

<u>Tasks</u>	<u>Description</u>	<u>Firm-Fixed Price</u>
1	Project Management	\$ 49,392.00
2	Implementation/Deployment	\$213,245.00
3	Post Go-Live Warranty and Support	\$0.00
4	Next Fare Collection System Integration/Transition	\$11,000.00
5	Design Reviews	\$8,047.00
6	Testing	\$19,047.00
7	Pilot	\$28,337.00
8	Installation	\$0.00
9	Training and Documentation	\$0.00
10	Documentation and Manuals	\$0.00
TOTAL FIRM-FIXED PRICE PAYMENT		<u>\$329,068.00</u>

License and Maintenance	Annual Fee
Year One	\$77,600.00
Year Two	\$79,928.00
Year Three	\$82,326.00
Year Four	\$84,796.00
Year Five	\$87,340.00

Commission Fees 1.5% with a not-to-exceed amount of \$360,000

Payment Processing

Variable Transaction Type	Pricing
Domestic Purchases	3% + \$0.15 per transaction
American Express	Pass thru to existing AMEX Account
International Purchases	3.2% + \$0.25 per transaction

Fixed Fees	Per Incident	Pricing
Chargeback	Per Chargeback	\$15.00
ACH Rejections	Per Failed Credit/Debit	\$65.00
Physical Statement (optional)	Per Month	\$25.00
Electronic Statement	Per Month	\$0.00

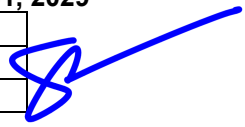
FIRST OPTION TERM: June 1, 2025 through May 31, 2027

License and Maintenance	Annual Fee
Year Six	\$89,961.00
Year Seven	\$92,660.00

Commission Fees 1.5%

SECOND OPTION TERM: June 1, 2027 through May 31, 2029

License and Maintenance	Annual Fee
Year Eight	\$95,440.00
Year Nine	\$98,304.00



Commission Fees 1.5%

- c. As partial security against Licensor’s failure to satisfactorily fulfill all of its obligations under this Agreement, Customer shall retain ten percent (10%) of the amount of each invoice submitted for payment by Licensor. All retained funds shall be released by Customer and shall be paid to Licensor within sixty (60) calendar days of payment of final invoice, unless Customer elects to audit Licensor’s records in accordance with 16.0 Audit and Inspection of Records of this Agreement. If Customer elects to audit, retained funds shall be paid to Licensor within thirty (30) calendar days of completion of such audit in an amount reflecting any adjustment required by such audit. During the term of the Agreement, at its sole discretion, Customer reserves the right to release all or a portion of the retained amount based on Licensor’s satisfactory completion of certain milestones. Licensor shall invoice Customer for the release of the retention in accordance with 5.0 Compensation.

5.2 Invoice and Payment

- a. Licensor shall invoice Customer on a monthly basis for payments corresponding to the work actually completed by Licensor. Percentage of work completed shall be documented in a monthly progress report prepared by Licensor, which shall accompany each invoice submitted by Licensor. Licensor shall also furnish such other information as may be requested by Customer to substantiate the validity of an invoice. At its sole discretion, Customer may decline to make full payment for any task listed in 5.1 Fee Schedule of this Agreement until such time as Licensor has documented, that Licensor has fully completed all work required under the task. Customer’s payment in full for any task completed shall not constitute Customer’s final acceptance of Licensor’s work under such task
- b. Invoices shall be submitted by Licensor on a monthly basis and shall be submitted in duplicate to Customer’s Accounts Payable office. Licensor may also submit invoices electronically to Customer’s Accounts Payable Department at vendorinvoices@octa.net. Each invoice shall be accompanied by the monthly progress report specified in Paragraph (a) of this Section. Customer shall remit payment within thirty (30) calendar days of the receipt and approval of each invoice. Each invoice shall include the following information:
 1. Agreement No. C-0-2067;
 2. Specify the task for which payment is being requested;
 3. The time period covered by the invoice;
 4. Total monthly invoice (including project-to-date cumulative invoice amount) and retention;
 5. Certification signed by the Licensor or his/her designated alternate that a) The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup information included with the invoice is true, complete and correct in all material respects; c) All payments due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The invoice does not include any amount which Licensor intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice.
 6. Any other information as agreed or requested by Customer to substantiate the validity of an invoice.

6.0 Proprietary Information

6.1 Licensor shall:

- a. Not use or disclose Customer Information to any third party except as is clearly necessary to provide the Services with prior written approval from Customer.
- b. Not attempt to access any portion of Customer Information, without authorization of Customer. If unauthorized access is nevertheless obtained, whether inadvertently or otherwise, Licensor shall have a duty to promptly report to Customer, in writing, each instance thereof, setting out the extent and circumstances of such access.
- c. Not attempt to defeat any security provisions maintained by Customer for the protection of Information Resources or information contained therein.
- d. Not remove, copy, alter, or install any software or information or data on any Customer computer unless specifically authorized by Customer in connection with the Services or make any attempt to learn or document passwords or other information, which could facilitate unauthorized access to Customer Information.
- e. Require each of its employees, contractors and agents needing access to Customer Information to obtain passwords from Customer's authority responsible for the security of Customer Information, to use and protect passwords as required by Customer, and to follow such protocols governing access as may be set out by Customer.

6.2 Customer agrees it shall not, during the term of this Agreement or thereafter, disclose, make commercial or other use of, give or sell to any person, firm, or corporation, any information of Licensor that is treated and identified in writing to Customer by Licensor as confidential, except Customer can disclose such information if (i) required to do so pursuant to applicable law; (ii) it was rightfully in the possession of Customer from a source other than Licensor prior to the time of disclosure of said information to Customer hereunder; (iii) it was in the public domain prior to the time of receipt; (iv) it became part of the public domain after the time of receipt by any means other than an unauthorized act or omission on the part of Customer; (v) it is supplied to Customer after the time of receipt without restriction by a third party who is under no obligation to Licensor to maintain such information in confidence; (vi) it was independently developed by Customer prior to the time of receipt.

6.3 Licensor hereby acknowledges and agrees that Customer's remedies at law for a breach by Licensor of its obligations under this Article may be inadequate and Customer shall, in the event of any such breach, be entitled to equitable relief (including without limitation preliminary and permanent injunctive relief and specific performance) in addition to all other remedies provided hereunder or available at law.

7.0 Data Security

7.1 Licensor may have access to Personal Data in connection with the performance of the Agreement. Customer Personal Data ("CPD") means any Personal Data relating to Customer's customers.

7.2 Licensor shall take reasonable steps maintain the confidentiality, security, safety, and integrity of all CPD. Notwithstanding the above, the Parties hereby expressly acknowledge and agree that Licensor shall not be responsible for any security for the transmission of data over the internet, payment processing or credit or debit card transactions or the data security or data privacy associated with the services of third-party vendors performing payment processing, hosting, or cloud vendor services. Notwithstanding the foregoing, Licensor will adhere to the following requirements concerning CPD:

- a. Licensor shall take reasonable steps in accordance with ISO 2700 to maintain the confidentiality of and will not reveal or divulge to any person or entity any CPD that becomes known to it during the term of this Agreement.
- b. Licensor must maintain policies and programs that prohibit unauthorized disclosure of CPD by its employees and subconsultants and promote training and awareness of information security policies and practices. Licensor must comply, and must cause its employees,

representatives, agents, and sub-consultants to comply, with such commercially and operationally reasonable directions as Customer may make to promote the safeguarding or confidentiality of CPD.

- c. Licensor must conduct background checks for employees or sub-consultants that have access to CPD or systems hosting CPD.
- d. Licensor must limit access to computers and networks that host CPD, including without limitation through user credentials and strong passwords, data encryption both during transmission and at rest, firewall rules, and network-based intrusion detection systems.
- e. This Section will survive termination or expiration of this Agreement.

8.0 Indemnification

8.1 General

Licensor agrees to indemnify, hold harmless and defend Customer and its employees, directors, agents, successors, and assigns ("Indemnified Parties") from and against any and all third party claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature; including investigation costs and expenses, settlement costs, and attorney fees and expenses ("Claims"), sustained by or asserted against Indemnified Party resulting from the willful misconduct, negligence, errors, or omissions of Licensor, its employees, subcontractors, consultants, representatives, and agents; provided, however, such indemnification shall not apply to the extent that such Claim results from the sole negligence or willful misconduct of an Indemnified Party.

8.2 Intellectual Property

Licensor will defend, indemnify and hold Indemnified Parties harmless from and against any Claims arising out of or in connection with any claim that the Software infringes or violates any intellectual property right of any third party. Customer agrees to promptly notify Licensor of the Claim and give Licensor control of the defense of the Claim and negotiations for its settlement or compromise. If a final judgment prohibits Customer from continued use of any Software, or if at any time Licensor is of the opinion that any Software is likely to become the subject of a claim, Licensor shall: (a) obtain for Customer the right to use the Software; (b) replace or modify such Software so that it is no longer subject to the Claim but performs the same functions in an equivalent manner as determined by Customer; or (c) in the event that Licensor is unable or determines, in its reasonable judgment, that it is commercially unreasonable to do either of the aforementioned, Licensor shall recover such Software from Customer, in which event in addition to the foregoing indemnification: (i) the license of such Software shall be void as between Licensor and Customer as of the date Licensor retakes possession; and, (ii) Licensor shall reimburse to Customer the full cost for such Software and shall, if applicable, cancel Customer's then current Maintenance service, if any, for such Software so returned and issue to Customer a prorated refund of any Maintenance fees paid, if any, to Licensor with respect to such Software.

8.3 Exclusion from Intellectual Property Indemnification

Licensor's obligations set forth in Section 8.2 (Intellectual Property Indemnification) do not apply to the extent that an Indemnified Claim regarding intellectual property infringement arises out of:

- a. Customer's breach of this Agreement.
- b. Use of the Software in combination with hardware or software not provided by Licensor, unless the Specifications refers to a combination with such hardware or software (without directing the user not to perform such combination) or such combination achieves functionality described in the Specifications.
- c. Any modifications by the Customer or its contractors after performance.

- d. Where the Product is combined by the Customer or its contractors with devices, methods, systems or processes not furnished hereunder and by reason of said design, instruction, modification, or combination a suit is brought against the Customer.

9.0 Warranties

Licensor warrants the following:

9.1 Media Defects

The media on which the Software is provided shall be free of defects in material and workmanship.

9.2 Function and Features

The Software shall possess all material functions and features as described in the Specifications.

9.3 Performance

The Software shall operate in conformance with the Specifications for the Warranty Period. If Customer shall give Licensor oral or written notice of nonconformance during the Warranty Period, Licensor shall investigate such nonconformance as soon as possible but not later than two (2) hours after receipt of such notice and will classify the problem with concurrence by Customer as either a problem preventing normal operations (Category A), or other problem (Category B). Licensor will provide a temporary fix or work around for all Category A problems within four (4) hours of receipt of such notice and provide a permanent fix or work around within twenty-four (24) hours unless Customer agrees in writing to a longer time. Category B problems will be corrected within five (5) days. At any time during the first one hundred eighty (180) days of the Warranty Period, if Licensor has failed to correct any nonconformance within thirty (30) days of notification thereof, Customer may elect to terminate the Agreement and request a refund of all fees paid to Licensor pursuant to this Agreement, provided Customer returns to Licensor all software licensed hereunder after Customer has had a reasonable time to procure substituted software from a third party. The provisions of Response Times, Service Tracking and Reporting, Revision Levels, and Periods of Inoperability as described in the Maintenance Article shall also apply to the warranty services provided by Licensor during the Warranty Period.

9.4 Compatibility

The Software shall be compatible with Customer's Operating System, application programs, CPUs, and networks specified in the Documentation.

9.5 Hardware Configuration

The Recommended Hardware Configuration shall be adequate in all aspects for the Software to function in accordance with the Specifications and to fulfill the current and reasonably anticipated future information processing needs of the Software.

9.6 Free and Clear Title

Licensor has and will continue to have free and clear title (including all proprietary rights) to any Products delivered to Customer and the right to license, transfer, or assign any and all Software.

9.7 No Infringement

Licensor represents and warrants that it is not aware of any copyright, patent or other intellectual property right infringed by the Software, and that it is not aware of any claim of intellectual property infringement related to the Software.

9.8 Good and Workmanlike Manner

All services performed under this Agreement will be performed in a good and workmanlike manner.

9.9 Illicit Code

Licensor warrants that (a) unless authorized in writing by Customer, or (b) necessary to perform valid duties under this Agreement, all Software shall: (i) contain no hidden files; (ii) not replicate, transmit,

or activate itself without control of a person operating computing equipment on which it resides; (iii) not alter, damage, or erase any data or computer programs without control of a person operating the computing equipment on which it resides; (iv) contain no key, node lock, time-out or other function, whether implemented by electronic, mechanical, or other means, which restricts or may restrict use or access to any programs or data developed under this Agreement, based on residency on a specific hardware configuration, frequency or duration of use, or other limiting criteria; (v) contain no virus malware, or similar items, whether known or unknown to Licensor. At the request of Customer, Licensor must remove any Illicit Code from the Software at Licensor's expense.

9.10 Disclaimer of Warranties

EXCEPT FOR THE EXPRESS WARRANTIES MADE OR REFERENCED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

11.0 Terms and Termination

11.1 Term

- a. This Agreement shall commence upon execution by both parties and shall continue in full force and effect through June 30, 2025 (Initial Term), unless earlier terminated or extended as provided in this Agreement.
- b. Customer, at its sole discretion, may elect to extend the term of this Agreement an additional twenty-four (24) months, commencing July 1, 2025, and continuing through June 30, 2027 (First Option Term), and thereupon require Licensor to continue to provide services, and otherwise perform, in accordance with Exhibit A, entitled "Scope of Work," and at the rates set forth in 5.0 Compensation.
- c. Customer, at its sole discretion, may elect to extend the term of this Agreement an additional twenty-four (24) months, commencing July 1, 2027, and continuing through June 30, 2029 (Second Option Term), and thereupon require Licensor to continue to provide services, and otherwise perform, in accordance with Exhibit A, entitled "Scope of Work," and at the rates set forth in 5.0 Compensation.
- d. Customer's election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Customer's convenience or Licensor's default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period extending through June 30, 2029, which period encompasses the Initial Term, First Option Term, and Second Option Term.

11.2 Termination for Cause

Either Party may terminate this Agreement if the other Party breaches any provision of this Agreement and fails to cure such breach within thirty (30) days after notice of the breach from the non-breaching Party.

11.3 Termination for Convenience

Customer may terminate this Agreement for any reason at any time with thirty (30) days written notice. Upon such termination, Customer shall pay Licensor its allowable costs incurred to date of termination and those allowable costs determined by Customer to be reasonably necessary to effect such termination. Thereafter, Licensor shall have no further claims against Customer under this Agreement. If the Customer cancels this Agreement for convenience, it shall pay all cancellation charges including, without limitation: (i) the full price for any completed Products and Services; (ii) the allocable portion of the price as determined by the Licensor for any partially completed Products and Services, including reasonable overhead and profit; (iv) reasonable demobilization costs; and (v) any payments due to subcontractors and/or suppliers for any materials, components or products ordered which cannot be: (1) cancelled without any payment obligation; or (2) refunded.

12.0 Survival Upon Termination

The terms, provisions, representations, and warranties contained in this Agreement including but not limited to the following Articles, License, Advertising and Publicity, Warranties, Proprietary Information, Equitable Relief and Survival of Restrictions and Obligations, Indemnification, Illicit Code, Assignment, Taxes, and Miscellaneous, shall so survive the completion of performance and termination of this Agreement, including the making of any and all payments due hereunder, the Secrecy and Nondisclosure agreements, insurance, any rights and obligations conveyed by Licensor, and any cause of action that accrued prior to termination.

13.0 Dispute Resolution

Except as otherwise provided in this Agreement, when a dispute arises between Licensor and Customer, the project managers shall meet to resolve the issue. If project managers do not reach a resolution, the dispute will be decided by Customer's Director of Contracts Administration and Materials Management (CAMM), who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to Licensor. The decision of the Director, CAMM, shall be the final and conclusive administrative decision.

Pending final decision of a dispute hereunder, Licensor shall proceed diligently with the performance of this Agreement and in accordance with the decision of Customer's Director, CAMM. Nothing in this Agreement, however, shall be construed as making final the decision of any Customer official or representative on a question of law, which questions shall be settled in accordance with the laws of the State of California.

14.0 Notice

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

Customer:

Orange County Transportation Authority
550 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
ATTENTION: Iris Deneau
Phone: (714) 560 - 5786
Email: ideneau@octa.net

Licensor:

Bytemark, Inc.
One Pennsylvania Plaza
Floor 11, Suite 1100
New York, New York 10119
ATTENTION: Justin Deno
Phone: (920) 973-4079
Email: justin@bytemark.co

15.0 Order of Precedence

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 0-2067; (3) Licensor's proposal dated March 12, 2020 and Licensor's payment processing proposal dated June 17, 2020; (4) all other documents, if any, cited herein or incorporated by reference.

16.0 Audit and Inspection of Records

Licensor shall provide Customer, or other agents of Customer, such access to Licensor's accounting books, records, payroll documents and facilities, as is reasonably required in order for Customer to verify Licensor's compliance with this Agreement and to verify that Licensor has incurred any costs for which it seeks reimbursement from Customer. Licensor shall maintain such books, records, data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items required to verify the foregoing readily accessible to such parties during Licensor's performance hereunder and for a period of four (4) years from the date of final payment by Customer. Where required, Licensor shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary.

17.0 Prohibited Interest

Licensor covenants that, for the term of this Agreement, no director, member, officer or employee of Customer 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.

18.0 Users

There shall be no limit on the number of machines, number of users, number of locations or size of CPU on which Customer can operate the Software. Customer shall have the right to receive free of charge additional copies of the Software as required by Customer for use on additional or alternate computers for Customer's business operations.

19.0 Platform Specifications

Customer shall have the right, at no additional cost, to operate simultaneously on, move, or upgrade the Software to other hardware or software platforms on which the software may operate. Licensor supports the following versions of software platforms: (1) Latest two (2) versions of iOS software; (2) Android version 5.0+.

20.0 Delivery and Installation (if applicable)

20.1 Delivery and Risk of Loss

All deliveries under this Agreement shall be F.O.B. destination. Title and risk of loss of all Software and media on which said Software is delivered shall remain with Licensor at all times until Final Acceptance with Licensor.

20.2 Installation by Licensor

If Customer has agreed in writing for installation by Licensor, then

- a. Installation shall occur not more than ten (10) days after delivery of the Software to Customer, unless otherwise specified and agreed to by both Parties.
- b. Licensor shall conduct its standard diagnostic evaluation at Customer's site to determine that the Software is properly installed and fully ready for productive use subject to testing as provided in Acceptance Testing Article and shall supply Customer with a copy of the results of the diagnostic evaluation promptly after completion thereof.
- c. The Software shall be deemed to be installed upon successful completion of the diagnostic test and Customer's approval of the results thereof. The installation procedures of this Article are in addition to all procedures required under Acceptance Testing Article hereof.

20.3 Installation by Customer

If installation is to be performed by Customer, the Software shall be deemed to be installed when all programs, program libraries, and user interfaces are copied to and initialized on the appropriate CUP(s) and when Customer demonstrates that Software is executable by invoking the primary function of each major component on the platform. The installation procedures of this Article are in addition to all Acceptance Test Procedures required under Acceptance Testing Article hereof.

21.0 Insurance

21.1 Licensor shall procure and maintain insurance coverage during the entire term of this Agreement. Coverage shall be full coverage and not subject to self-insurance provisions. Licensor shall provide the following insurance coverage:

- a. Commercial General Liability, to include Products/Completed Operations, Independent Contractors', Contractual Liability, and Personal Injury Liability, and Property Damage with a minimum limit of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate;
- b. Automobile Liability Insurance to include owned, hired and non-owned autos with a combined single limit of \$1,000,000.00 each accident;
- c. Workers' Compensation with limits as required by the State of California including a waiver of subrogation in favor of Authority, its officers, directors, employees or agents;
- d. Employers' Liability with minimum limits of \$1,000,000.00;

- e. Professional Liability with minimum limits of \$1,000,000.00 per claim; and
- f. Cyber Liability with minimum limits of \$1,000,000 per claim. Coverage by this insurance this insurance policy shall include without limitation: (a) costs to notify individuals whose Personal Data was lost or compromised; (b) costs to provide credit monitoring and credit restoration services to individuals whose Personal Data was lost or compromised; (c) costs associated with third party claims arising from the Data Breach or loss of Personal Data, including litigation costs and settlement costs; and (d) any investigation, enforcement or similar miscellaneous costs.
 - a. Such insurance must address all of the foregoing without limitation if caused by an employee of Licensor or an independent contractor working on behalf of Licensor in performing services under this contract. Policy must provide coverage for wrongful acts, claims, and lawsuits anywhere in the world. Insurer must have a A.M. Best rating of "A- VII" or better. Any material change in the policy or cancellation must be reported to the Client with not less than thirty (30) days prior written notice with ten (10) days notice for non-payment. The policy must be kept in force during the life of the contract and for five (5) years (either as a policy in force or extended reporting period) after contract termination.

21.2 Proof of such coverage shall be provided to Customer, in the form of a certificate of insurance, that names Customer, its officers, directors, employees and agents, designated as additional insureds as required by this Agreement. In addition, provide an insurance policy blanket additional insured endorsement. Both documents must be received by Customer prior to commencement of any work. Proof of insurance coverage must be received by Customer within ten (10) calendar days from the effective date of this Agreement. Such insurance shall be primary and non-contributive to any insurance or self-insurance maintained by Customer. Furthermore, Customer reserves the right to request certified copies of all related insurance policies.

21.3 Licensor shall include on the face of the Certificate of Insurance the Agreement No. C-0-2067; and, the Senior Contract Administrator's Name, Iris Deneau.

21.4 Licensor shall be required to immediately notify Customer of any modifications or cancellation of any required insurance policies.

22.0 Acceptance Testing

22.1 Live Environment Testing

As soon as practical after installation, Customer may in its discretion begin utilizing the Software in a live environment and has thirty (30) days to accept the Software in writing to Licensor. Nothing contained in this Article or any other provision of this Agreement shall be deemed to prevent Customer from using any portion of the Software in a live environment for productive processing prior to Final Acceptance of the Software and any such use shall not alter, amend, or modify any of Licensor's obligations pursuant to this Agreement.

22.2 Correction of Specification Nonconformities

Licensor shall promptly correct any nonconformance with the Specifications revealed during any phase of acceptance testing, and appropriate Documentation for such correction shall be produced and delivered to Customer within thirty (30) days of such correction.

22.3 Acceptance Testing

Upon completion of installation, Licensor and Customer shall perform acceptance testing of all Software in the following three (3) phases. The acceptance testing requirements of this Article also apply to substitute, replacement, and conversion Products that are acquired by Customer after the Software has passed earlier acceptance testing.

Phase One

Licensor shall initially perform its standard test procedures for Customer's personnel and shall certify to Customer in writing that all components and each applicable module are

operating in accordance with Specifications. In the event Licensor is unable to, or does not, so certify to Customer within thirty (30) calendar days from the Installation Date, the Software will be deemed not to have completed Phase One.

Phase Two

With the advice and assistance of Licensor's representatives, Customer will operate the Software for five (5) business days, using all portions of the Software necessary for the Software to function as specified in this Agreement, to perform: (i) the Software routine business transactions; (ii) transactions performed during pre-acceptance testing benchmark or other demonstration included, referenced, or incorporated into the Acceptance Test Procedures; and (iii) such other transactions as may be specified in the Acceptance Test Procedures. In the event the Software fails to perform in accordance with the Specifications and within two percent (2%) of applicable benchmark or other demonstration results stated in the Acceptance Test Procedures for a period of five (5) consecutive business days, Customer shall operate the Software for additional consecutive business days until the Software so performs for a period of five (5) consecutive business days. In the event such failure continues in whole or in part for a period of more than thirty (30) calendar days from the Installation Date, the Software will be deemed not to have completed Phase Two.

Phase Three

With the advice and assistance of Licensor's representatives, Customer will continue to operate the Software for an additional period commencing on the date the System successfully completes Phase Two and shall end when the Software has performed in accordance with the Specifications for a period of sixty-two (62) consecutive days at an effectiveness level of ninety-nine percent (99%) or better. In the event the System or any module thereof fails to so perform within ninety (90) days of the Installation Date the Software will be deemed not to have completed Phase Three.

22.4 Failure to Complete Acceptance Testing Successfully

In the event the Software is deemed not to have successfully completed any phase of the acceptance testing, then Customer may, in its sole discretion, elect one (1) of the following options, which election shall be effective upon written notification to Licensor by Customer.

- a. Customer may terminate this Agreement and request the removal of the Software failing to meet the applicable phase of acceptance testing, in which event Customer may pursue any remedy hereunder or available at law or in equity, or seek to enforce any damages, including any liquidated damages that may be specifically set forth in this Agreement.
- b. Licensor shall install at Licensor's sole expense, within such time period as may be mutually agreed in writing by Customer and Licensor, a direct replacement of the Software failing to meet the applicable phase of the acceptance testing. Such replacements shall be subject to acceptance testing as provided in this Article. Licensor shall use due care in the removal and replacement of Software.

23.0 Training

Licensor shall be responsible for providing Customer and its employees with such training in the operation and maintenance of the Software as Customer may reasonably request from time to time during the term of the Agreement. Such training shall be provided at Customer's principal place of business or other site selected by Customer, through instructors satisfactory to Customer in the reasonable exercise of its discretion. Training will be performed "hands-on" using the actual system and the user manual. The courses will train Customer-designated employees or agents, who can then train the Software operators, such that Customer will have an ongoing in-house Software training capability. Without limitation of the foregoing right, Licensor and Customer shall prepare and agree upon a proposed training schedule for submissions to Customer not later than the date specified in the Scope of Work. Customer shall be entitled to have any number of its employees attend any training session held pursuant to this Article. All training shall be conducted at Licensor's sole expense including, but not limited to, training materials, travel, meals and

lodging for instructors. Licensor's employees shall follow all of Customer's work rules, confidentiality rules, and drug policies, including the nondisclosure obligations of the Proprietary Information Article hereof.

24.0 Assignments and Subcontracts

24.1 Neither this Agreement nor any interest herein nor claim hereunder may be assigned by Licensor either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by Licensor, without the prior written consent and endorsement of Customer, which consent shall not be unreasonably withheld. Consent by Customer shall not be deemed to relieve Licensor of its obligations to comply fully with all terms and conditions of this Agreement.

24.2 If Licensor wishes to subcontract any of the work described in Exhibit A, Customer must be given prior notification and must consent to Licensor's subcontracting portions of the Scope of Work to the requested subconsultant(s). If Customer approves of the subconsultant, Licensor shall include in the subcontract agreement the stipulation that Licensor, not Customer, is solely responsible for payment to the subconsultant for the amounts owing and that the subconsultant shall have no claim, and shall take no action, against Customer, its officers, directors, employees or sureties for nonpayment by Licensor.

25.0 Time is of the Essence

Time is of the essence with regard to Licensor's deadline for delivering the Software. Any failure of Licensor to deliver the Software by the due date constitutes a material breach of this Agreement.

26.0 Miscellaneous

26.1 Amendment

This Agreement shall not be amended except by an instrument in writing signed by both Parties.

26.2 Governing Law; Choice of Forum and Attorney's Fees

Any dispute arising out of or relating to this Agreement or the breach thereof shall be governed by the laws of the State of California without regard to or application of choice of law rules or principles. Both Parties hereby consent to the exclusive jurisdiction of the Orange County Superior Court and expressly waive any objections or defense based upon lack of personal jurisdiction or venue. The prevailing Party shall be entitled to recover its reasonable attorney's fees incurred in connection with any action or proceeding arising out of this Agreement.

26.3 Independent Contractor

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

26.4 Cumulative Remedies

Except as specifically provided, no remedy made available to Customer hereunder is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy provided hereunder or available at law or in equity.

26.5 Waiver

Performance of any obligation required of a Party hereunder may be waived only by a written waiver signed by the other Party, which waiver shall be effective only with respect to the specific obligation

described therein. Failure by either Party to insist in any one or more instances upon the performance of any terms of conditions of this Agreement shall not be construed as a waiver or relinquishment of that Party's right to such performance or future performance of such terms or conditions.

26.6 Entire Agreement

This Agreement constitutes the entire understanding and contract between the Parties and supersedes any and all prior or contemporaneous oral or written representations or communications with respect to the subject matter hereof.

26.7 Severability of Provisions

In the event any provision hereof is found invalid or unenforceable pursuant to a final judgment or judicial decree of a court of competent jurisdiction, the remainder of this Agreement shall remain valid and enforceable according to its terms.

26.8 Licensor Bankruptcy

All rights and licenses granted under or pursuant to this Agreement by Licensor to Customer are, and shall otherwise be deemed to be, for the purposes of Section 365(n) of the United States Bankruptcy Code, or replacement provision therefore (the "Code"), licenses to rights to "intellectual property" as defined in the Code. The Parties agree that Customer, as licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and election under the Code. The Parties further agree that, in the event of the commencement of bankruptcy proceedings by or against Licensor under the Code, Customer shall be entitled to retain all of its rights under the Agreement.

26.9 Conflict of Interest

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

26.10 Advertising and Publicity

Licensor shall not use the name of or refer to Customer directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from Customer. Licensor shall not use the Customer's logo directly or indirectly in any advertisement, news release, or professional or trade publication. Licensor may include Customer on its customer lists upon receipt of Customer's written consent.

26.11 Code of Conduct

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

26.12 Force Majeure

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

26.13 Health and Safety Requirement

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

27.0 Intellectual Property

- 27.1** The copyright and all other Intellectual Property Rights (defined below) in the Licensor's Software are the sole and exclusive property of Licensor. Except for the limited license granted to Customer herein, Licensor is the sole and exclusive owner of all rights, title and interest in and to its Software, Services, deliverables, any Preexisting Works (as defined below), and Product, including all updates, modifications, customizations, enhancements, and other derivative works ("Derivative Works") thereof, and in any copyrights, patents, trademarks, trade secrets and other proprietary and or Intellectual Property Rights therein or thereto. To the extent that any Derivative Works is developed by Licensor based upon ideas or suggestions submitted by Customer to Licensor, Customer hereby irrevocably assigns all rights to modify or enhance the Software or Product using such ideas or suggestions or joint contributions to Licensor, together with all copyrights, patents, trademarks, trade secrets, and other proprietary and/or Intellectual Property Rights related to such Derivative Works. Nothing contained in this Agreement shall be construed to convey to Customer (or to any party claiming through Customer) any rights in or to the Software, Services, deliverables, Preexisting Works or Product, other than the limited license rights expressly granted in this Agreement. For purposes of this Agreement, the term "Intellectual Property Rights" means any and all now known or hereafter existing: (i) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (ii) trademark or service mark rights (iii) trade secret rights; (iv) patents, patent rights, and industrial property rights; (v) layout--design rights, design rights, and other proprietary rights of every kind and nature; and (vi) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world. All aspects of Intellectual Property are confidential information and proprietary and will (i) remain the exclusive property of Licensor, (ii) not be used by Customer except as permitted by this Agreement, and (iii) not be disclosed or otherwise communicated by Customer, directly or indirectly, to anyone except as permitted by this Agreement.
- 27.2** It is understood that Consultant may use its own previously developed data, documentation, software, ideas, concepts, materials, or information, in whatever form, in performing its obligations hereunder (collectively "Preexisting Works"). All Licensor's Preexisting Works shall remain the sole, exclusive and unrestricted property of Licensor.
- 27.3** It is understood that in performing its obligations, Licensor may develop new and unique work product for use in conjunction with this Agreement. For the purpose of this Agreement, "Work Product" shall mean all data, documentation, software, ideas, Confidential concepts, materials, and information, in whatever form, produced or created by Licensor which may or may not relate solely and exclusively to the performance of work or the rendition of obligations under this Agreement (hereinafter "Work Product"). All Work Product shall remain the sole, exclusive and unrestricted property of Licensor.
- 27.4** Licensor may, at its sole discretion and without restriction, use any feedback, suggestions and ideas ("Feedback") Customer provides in future modifications of the Licensor's Software. Customer hereby grants and assigns to Licensor all ownership rights in and title to and all rights to use, reproduce, modify, create derivative works from, distribute and display the Feedback in any manner and for any purpose.
- 27.5** The ownership rights referenced above in this section include all rights (including title to physical objects) of whatever nature including without limitation any patent, URL website address, software, software design, domain name (whether registered or not), trade secret, trademark or service mark rights (and any goodwill appurtenant thereto), any "moral rights of authors, any rights of publicity, and any right, title and interest in any copyright and any right that may affix under any copyright law now or hereinafter.

28.0 Limitation of Liability

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT FOR THE EXISTENCE, FURNISHING, FUNCTIONING, OR CUSTOMER'S USE OF THE SOFTWARE, DOCUMENTATION, OR TOOLS PROVIDED BY LICENSOR. A PARTY'S AGGREGATE LIABILITY TO THE OTHER FOR ANY DIRECT DAMAGES ARISING OUT OF OR RELATING TO ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, EQUITY, NEGLIGENCE, TORT, OR OTHERWISE FOR ALL EVENTS, ACTS, OR OMISSIONS UNDER THIS AGREEMENT SHALL NOT EXCEED \$1,101,058 OR THE TOTAL COMPENSATION PAID TO LICENSOR FOR THE PERFORMANCE OF THIS WORK, WHICHEVER IS GREATER, AND PROVIDED, FURTHER, THAT THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (I) CLAIMS FOR DAMAGES FOR PERSONAL INJURY OR WRONGFUL DEATH;; (II) CLAIMS FOR DATA BREACH CAUSED BY THE FAULT OF LICENSOR; (III) CLAIMS BY CUSTOMER PURSUANT TO THE FOLLOWING ARTICLES: MAINTENANCE AND PROPRIETARY INFORMATION.

29.0 Non-Exclusive Agreement

This Agreement is a non-exclusive Agreement and Licensor remains free to enter into similar agreements or work arrangements with other third parties or customers. Licensor may at any time, both during the duration of this Agreement and following the termination or expiration of this Agreement, market its work or services to third parties and solicit business from third parties for any purpose. Licensor remains free to conduct business without limitation or restriction whether or not such business is now or in the future directly or indirectly competitive with Customer's business or the work or services provided under this Agreement. Nothing in this Agreement shall be construed as limiting or restricting in any way Licensor's right to work with other third-party customers. Licensor and Customer shall however abide at all times by the confidentiality provision contained herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-0-2067 to be executed as of the date of the last signature below.

BYTEMARK, INC.

By: [Signature]
Eric Reese
President/Chief Executive Officer
Date: 29 JUN 2020

Bytemark, Inc.

By: [Signature]
Fleur Gessner
CFO
Date: June 29th, 2020

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: [Signature]
Darrell E. Johnson
Chief Executive Officer
Date: 6/30/20

APPROVED AS TO FORM.

By: [Signature]
James M. Donich
General Counsel

APPROVED: [Signature]

By: _____
Andrew Oftelie
Chief Financial Officer, Finance and Administration
Date: 6/30/2020

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**SCOPE OF WORK
Mobile Ticketing Application**

Project Overview

The Orange County Transportation Authority (Authority) currently operates an OC Bus mobile application which provides riders the ability to present and validate media on all routes. The active fleet consist of 505 vehicles with an additional 20 vehicles serving as part of the contingency fleet for 59 fixed routes. Each vehicle is equipped with INIT validators enabling the 2D barcode validation for users of the mobile application.

As the current mobile provider commences to exit the market, Consultant shall replace the existing mobile ticketing application (existing Solution). The replacement mobile ticketing application (Solution) shall provide the same barcode-based mobile ticketing functionality provided by the Authority's existing Solution. To remain consistent, the Authority will continue to leverage the existing validating infrastructure, in which the Solution shall utilize to validate media.

The Solution shall continue to provide Authority's passengers with reliable, secure, intuitive interfaces for various ticket types. In addition, the Solution shall provide "ease of use" functionality in fare enforcement and allow for passengers' seamless travel throughout the OC Bus system and other services developed during the life of the contract, such as, but not limited to, the OC Streetcar.

The current guiding principles for the mobile Solution have been identified as follows:

- Replace the existing Solution as a stand-beside to the current fare system with a Solution capable of integrating with the current mobile validation infrastructure
- Integrate with existing INIT validating equipment through the web services connectivity (https) from the vehicle to the Solution's automated programming interfaces (API)
- Provide a back-end service configured to run in two (2) modes enabling for both an online and offline validation mode
- Continue the current level of functionalities offered to the Authority's riders and administration

Project Goals and Objectives

The procurement and implementation of the Solution is designed to meet the existing service with minimal impact or service disruption to the Authority's current mobile users.

The Authority's goal for the Solution include:

1. Functionality:

Replace existing mobile Solution while maintaining these high-level functionalities:

- a. Provide both a visual and integrated mobile ticket that utilizes the existing INIT Proxmobile3 validators for 2D barcode validation
- b. During validation, the Solution shall have the ability to pull data points from INIT, specifically the CAD/AVL data points, to report on the transaction location
- c. The ability to tap into users' phone setting to automatically brighten their screen when barcode is launched for 2D barcode validation
- d. The Solution shall provide a hosted backend with configurable user level access
- e. Online user portal and application user interface with the ability to view purchase history, update payment card, update personal information, view active tickets, access quick links connecting to OC Bus services such as trip planner, frequently asked questions (FAQ), additional relevant links, and mobile language support options
- f. A customer service user interface enabling the ability to conduct several administrative functions, such as; account activation/deactivation, pass deactivation, issuing courtesy tickets
- g. Reduced or Free Fare – Available to only prequalified riders using the application
- h. The application must have the ability to offer various types of media; One-way Fare, Day, Multiple Day, and Promotional Pass Types
- i. Offer and Expandable Institutional Program – Available to only prequalified riders using the application which will include a mechanism in place not only to prequalify riders, but to distribute semester passes, along with reporting capabilities of all passes distributed
- j. The Authority shall have the ability to add, remove, and edit fare catalog without the need to request change(s) from Consultant; this includes but is not limited to dates and times of media activation
- k. After full system deployment, the application shall have an option(s) to provide mobile riders with loyalty rewards such as; promotional codes, buy one get one. May be available after full system deployment.
- l. Transactional, Ridership, and User System Reporting – Both canned and custom reporting with additional capabilities to perform automated direct data extracting
- m. Solution shall meet current needs and provide a transition path from the existing Solution to the next Solution
- n. Solution shall not use technologies that do not integrate via API, are not scalable, and/or require additional hardware on vehicles for validation
- o. Continue to stimulate growth in ridership with an easy to use mobile application user interface

- p. Desired Option – The Solution shall be expandable to allow the Authority to conduct mobile validation utilizing mobile devices operating on an Android or iOS platform
- q. Funds shall be deposited to the Authority’s concentration account no later than 24 hours of initial transaction date and time
- r. Consultant may use its contracted payment processor, but Solution shall also support the Authority’s current payment processor if desired

2. Security:

Replacement Solution shall maintain a high level of security features:

- a. Bar code images shall be secured via encryption using both cryptographical and private key generation for security or other method to ensure the integrity of issued tickets
- b. Additionally, Solution shall contain a variety of security features to allow for applicable Transit Agency personnel to easily visually and electronically identify invalid, expired, or fraudulent mobile tickets
- c. Data security for Solution, system, and interfaces shall employ the most current industry and U.S. government security techniques to include IPS, IDS, vulnerability scanning & remediation, patch management, access controls, and encryption (AES and other modern encryption techniques) to ensure that all data is safeguarded from unauthorized access or use, and programs are protected from any known cyber-attack or computer virus
- d. Data security for Solution, system, and interfaces shall employ the most current industry and U.S. government techniques such as AES, 3DES, etc. to ensure that all data is safeguarded from unauthorized access or use, and programs are protected from any known cyber-attack or computer virus
- e. All Personally Identifiable Information (PII) or Payment Card Industry (PCI) relevant data transmissions must be encrypted and meet all California state and federal requirements
- f. Consultant shall describe data storage and network protection methodologies to include an incident management response plan
- g. Consultant shall describe privacy policy and handling of PII
- h. All elements of the system shall comply with the Authority’s privacy policy (<http://www.OCTA.net/disclaimer/>)
- i. Consultant shall provide a plan for monitoring, controlling, and updating security and encryption tools on an ongoing basis.

3. Data Management:

- a. All data generated by the reader including all fare transactions at the reader shall be sent in transactional form to both the Authority's central data warehouse and the Solution's backend on a daily basis.
- b. Consultant shall process reduced fare and college passes sent from the Authority's data warehouse to validate customer boarding.
- c. Consultant shall provide support on the availability, accessibility, and integrity of their data.
- d. All data generated shall be stored in Consultant's central data warehouse. The data warehouse shall collect data from all back-office modules to provide a central source for agency reporting.
- e. The Authority will have administrative access to database with no usage or ownership restrictions, in addition to full access to canned reports.
- f. As part of implementation, Consultant shall deliver a full data dictionary and schema for the data warehouse. The Authority will have read-level access to the data warehouse through a secure connection. This interface shall provide the ability to query the database directly, export data in a variety of formats, and establish a connection to a third-party reporting tool for use in custom reporting.
- g. Data shall be fully available to the Authority with no usage or ownership restrictions.
- h. All data collected, processed, and transmitted by the readers are owned by the Authority. If any encryption device or algorithmic masking formula is applied to achieve data security at the collection source, then a utility program must be provided which can be applied to the encrypted data to de-encrypt the data into a readable and portable (e.g., ASCII or a database file/table) format unless such data would conflict with PCI and EMV compliance.

4. Reporting:

- a. The back-office shall include a robust reporting tool that generates canned and custom reports. The reporting tool shall allow the viewing, running, and scheduling of predefined reports, as well as the creation of custom reports.
- b. The reporting interface shall be a website dashboard that shall be viewable in both desktop and mobile platforms
- c. A set of canned reports shall be developed and defined during system design. These reports shall include, but are not limited to:
 - I. Validation/ridership reports
 - II. Sales Transaction, Deposit, Refund, and Courtesy reports
 - III. User access report
 - IV. Software status reports

V. System performance reports

5. User Access Management:

- a. Consultant's back-office shall include a User Access Management tool that shall control and configure user access privileges to each module or component of the system provided by Consultant
- b. The User Access Management tool shall provide password control for individual users and groups or subsets of users.

6. Mobile Ticketing Integration:

It will be the joint responsibility of INIT, the Authority, and Solution Consultant to provide full integration between the Solution-supplied mobile ticketing system and the on-board readers. Consultant shall implement the client side of the APIs or SDKs. The service side of the APIs and their documentation/specification are fully in context of the Solution contract with the Authority. Only the mobile barcode ticket validation (2D barcodes) is in scope of this project. The reader's configuration parameters shall be changed with INIT's parameter management and not via the Solution API.

- a. This shall be a collaborative effort between INIT and Consultant utilizing the Solution's API provided by Consultant to enable interaction with the individually supplied components and software.
- b. Consultant shall provide to INIT a full and complete set of APIs to enable functional operability and full integration of INIT's supplied smartcard reader and the Solution. The APIs shall enable the readers to communicate with both smart phone with the mobile ticketing application and the Consultant's backend to ensure validation.
- c. INIT will be responsible for working closely and cooperatively with Consultant during early design phase to implement the APIs. It is likely that INIT will provide input to finalization of the API, providing suggested modifications where necessary to improve the APIs and facilitate their implementation on INIT's readers and data system, notwithstanding that ultimate responsibility to define the APIs shall rest with Consultant (subject to approval of the Authority) and INIT will be fully responsible to implement the approved APIs.
- d. The intent of the API is to provide an open system for addition of readers to support the mobile ticketing application. The APIs shall be fully licensed for use by the Authority in conjunction with the mobile ticketing system.
- e. The APIs shall include the specifications for routines, data structures, object classes, and protocols used to communicate with the mobile application. The APIs shall also define the necessary message set to enable Consultant's backend to supply INIT's system with all the necessary configuration information as applicable.

- f. The functionality enabled by the reader's integration with the APIs shall include but not be limited to all activity required to facilitate reading, processing, and logging a boarding with the Solution, this includes the downloading of configurations (where applicable), business rules, whitelists and hotlists, the full set of possible interactions with the mobile application, the reader responses including display and sound, and the uploading of transactional data.
- g. Consultant shall fully support applicable Authority business rules, in addition to standard fare policies and fare products similarly used by major transit agencies. Additional fare media (e.g. open payment, agency cards) are future enhancements to the system and not applicable under this scope of work; however, Consultant's reader shall be capable of accepting additional media and products.
- h. Canned reports shall be available as soon as the data is transmitted from the devices, or twenty-four (24) hours later at maximum (given that communications are available).
- i. The Authority will have administrative access to the reports database with no usage or ownership restrictions, in addition to full access to canned reports.

All data shall be held in a standard commercial database satisfactory to the Authority and shall be accessible by standard commercial SQL query tools for which Consultant supplies to the Authority with the schema. Data that is encrypted at the reader level, if any, shall be encrypted according to the standards established for those media and will not be de-encrypted at any point.

7. Mobile Ticketing Project Overview:

The Solution shall be rolled out in three (3) phases: The first phase shall be tested on a selected view mobile application with the initial phase centered around the rollout of mobile ticketing for selected riders as the current system is phased out. The first phase shall be completed once the Solution is released for both the Android and iOS platforms and Authority bus fleet, consisting of 525 fixed route vehicles, are actively accepting full release of the Solution. The second phase shall ensure service meets the existing level of service for all pass types and programs currently supported for the duration of the contract and provide additional support to additional services, such as the OC Streetcar. The third and final phase shall be to transition the Solution with the service selected with the next fare collection system. The next fare collection system estimated to be operational by late 2023 or early 2024 subject to Authority Board approval.

8. Implementation Approach:

The Authority will implement the Solution in phases, building on the successes and progression of each previous phase. The implemented Solution shall be a fully hosted Solution following a Software as a Service (SaaS) model.

9. Project Schedule:

The full system is shall be in revenue service approximately six (6) to nine (9) months after Notice to Proceed (NTP).

Consultant shall provide a proposed project schedule for delivery of the Solution within three (3) weeks of NTP. Consultant shall also describe how the schedule will be tracked and reported to the Authority and what mitigation efforts will be used if the project falls behind schedule.

The schedule will be based on the Solution schedule, which is shown below, with readers being updated in Phase I.

Phase I – Initial system setup and transition from existing application to the new Solution by collaborating with INIT in order to update the onboard mobile validators. Estimated one (1) to five (5) months.

Phase II - System-wide rollout and system maintenance with approximately 556 buses. System shall support all current media and institutional programs. Estimated six (6) to nine (9) months.

Phase III – Transition Solution into an integrated Solution with the next fare collection system. Estimated three (3) to three-and-a-half (3.5) years from initial award of this contract.

The schedule should assume a Notice to Proceed date agreed upon by the Authority Project Manager and Consultant to include at a minimum the following elements for each proposed phase:

1. Needs analysis
2. Design
3. Design submittal
4. Design approval
5. Readers (updating/programming)
6. Acceptance testing
7. System acceptance Training
8. Metrics reporting

TASKS

1. Task 1: Project Management

As part of the Solution, Consultant shall provide the following deliverables and perform project management services throughout the implementation of the Solution, and the subsequent integration/transition of the Solution with the Authority's next fare collection system.

- Regular Project Status Team Meetings including Agenda and Meeting Minutes for each meeting
- Regular Project Status Reports and Schedule Updates
- Regular Action Items/Issues Log Reviews and Updates
- Regular Risk Management Plan Review and Updates

Consultant shall provide an experienced Project Manager to perform the following services throughout the implementation of the Solution, and the subsequent integration/transition of the Solution with the Authority's next fare collection system:

- Manage deliverables for each phase of the project.
- Be the Authority's single point of contact for all communication regarding work under this contract.
- Coordinate all tasks with the designated Authority Project Manager.
- Communicate regularly with the Authority's Project Manager and any other staff designated to discuss progress, critical risk factors that may affect the project schedule, or other success factors, as well as unique issues that may surface.
- Obtain signed Authority acceptance for tasks and deliverables as outlined and agreed upon in the system implementation plan.
- Establish and lead the project team to manage the mobile ticketing application system project.

2. Task 2: Implementation/Deployment

Consultant shall provide a multi-phased deployment approach. The following capabilities shall be available in the Solution and be available for the Authority to deploy in its timeline.

The following phases/tasks shall be adhered to and specified phase deliverables produced by Consultant as part of delivering a fully functional and tested mobile ticketing application:

a. Task 2.1: Project Initiation

Consultant shall meet with Authority project management and business area stakeholders for project planning, including review of proposed schedule, roles, and responsibilities, conduct complete review of functionality to be delivered, and other project activities.

Consultant shall provide the following deliverables and perform the following actions during this task:

- Project Organization
- Project Schedule (Draft)
- System Implementation Plan (Draft)

- Project Resource Plan (Draft)
- Risk Management Plan (Draft)
- Project Kick Off Meeting (Consultant and the Authority)

b. Task 2.2: Design

Consultant shall gather technical requirements and provide a detailed design, beginning with on-site assessment and discussions with affected Authority departments. It will include but not be limited to the following activities:

- Determine how the hardware (if any) and systems will be installed with existing validating equipment
- Determine application presentation and user interaction including layouts and screenshots
- Determine how the Solution will be managed on the backend
- Determine interactions with other systems (Trip planners, FAQ, etc.)

Consultant shall provide the following deliverables and perform the following actions during this task:

- On-site Assessment; documentation of findings
- System Detailed Design
- System Implementation and Resource Plan (Final)
- Risk Management Plan (Final)
- Application Branding (to Authority specifications)
- Final Project Schedule

c. Task 2.3: Development

Consultant shall develop and install all applications within a test environment so configuration and testing of the required functionality can be started. The engineering of validation hardware must be completed and a prototype available for testing.

Consultant shall perform the initial set-up and configuration, to allow testing and any required changes if needed.

Consultant shall prepare and plan the rollout of the system, which includes training all of the Authority's Information Systems (IS), maintenance, administrators, and operational staff who will have a role in the support.

Consultant shall provide the following deliverables and perform the following actions during this task:

- Mobile ticketing application
- Validation of API
- Test Environment
- Inspection of API
- Test Procedure/Plan including use cases; test scripts
- Training Plan (Draft)
- Maintenance & Support Responsibility Matrix (Draft)

d. Task 2.4: Integration Testing

Consultant shall integrate and test the Solution with the Authority's assistance to ensure all required functionality is available and working as described in this document.

Testing will not be accepted until all functional requirements of the newly implemented mobile ticketing application system have been fully tested and approved by the Authority's project team.

Consultant shall provide a test procedure document with test scripts for review and acceptance by the Authority, with the appropriate updates and/or revisions based on previous phase implementation findings.

Consultant shall provide the following deliverables and perform the following actions during this task:

- Test Procedure/Plan including use cases; test scripts; acceptance test criteria (Final)
- Test Results, with Test Failure Log & Remediation Plan
- Training Plan (Final)
- Maintenance & Support Responsibility Matrix (Final)

e. Task 2.5: Training, Marketing, and Outreach

Consultant shall develop the training materials, marketing approach, and customer outreach.

Consultant shall, with the Authority's assistance, develop training materials that will provide a basis to help instruct Authority customers on the easiest and most efficient way to use the system.

Consultant shall develop a Marketing and Outreach plan with recommendations for a successful launch of mobile ticketing based on Consultant's expertise. However, Consultant shall not lead customer outreach effort.

Consultant shall provide high quality images for use in marketing materials, informational copy explaining how to use the system, and assist with motion graphics and other marketing materials needed to educate and promote the Solution including branding of the application.

Consultant shall provide the following deliverables and perform the following actions during this task:

- Marketing & Customer Outreach Plan
- User Training Plan and Documentation

f. Task 2.6: Deployment

Deployment may commence only after all testing issues and errors have been corrected to the Authority requirements. Consultant shall install the hardware and software in the live environment and conduct training so that all pupils are knowledgeable and understand their role in managing the system.

If Consultant's Solution requires hardware to be installed on the Authority's vehicles, then Consultant shall provide and install a first article of all onboard vehicle equipment of each vehicle type (e.g. Bus, Streetcar Platform, Shuttle, Van, etc.). The Authority will oversee, in conjunction with Consultant, the installation of these first articles. After Authority inspection and approval of the first article of each different vehicle type, Consultant shall proceed with installation based on the approved methodology and under Authority's quality assurance procedures.

Consultant shall provide the following deliverables and perform the following actions during this task:

Deployment of all application software systems

- Delivery of all Documentation (Final)
- Integration of Trip Planning System
- Go Live Schedule and Transition Plan
- Security Certification Audit
- Training Conducted
- Acceptable First Articles

g. Task 2.7: Limited Rollout

The Authority will conduct a live test of the Solution with a limited and controlled number of users. This limited testing will last at least thirty (30) days, during which the Authority will report to Consultant any anomalies and performance issues. Issues determined by the Authority to require resolution prior to go-live must receive immediate attention and resolution from Consultant. Issues determined by Authority to be less critical may be resolved on a schedule mutually agreed upon by the Authority and Consultant.

Consultant shall provide the following deliverables during this task:

- Limited Test Results & Test Failure Log
- Remediation Plan

h. Task 2.8: System Acceptance

The monitoring period will end after final acceptance and sign-off by the Authority.

Consultant shall provide the following deliverables and perform the following actions during this task:

- Activation of Warranty & Maintenance processes and services
- Review of Lessons Learned Session

i. Task 2.9: Go-Live

Consultant shall monitor the Solution for the first thirty (30) days of live revenue service and respond to issues so they are quickly resolved. The Authority may at its sole discretion extend this monitoring period until all issues are resolved.

Consultant shall provide the following deliverables during this task:

- Final Action Items & Issues Log showing all items have been closed
- Revised (final) copies of all required documentation

3. Task 3: Post Go-Live Warranty and Support

After System Acceptance and sign-off by the Authority, Consultant shall provide a warranty period of one (1) year and will assist the Authority in troubleshooting and correcting any issues the Authority is unable to complete on its own. Any bug detected during that period must be fixed by Consultant before the end of the warranty period.

Consultant shall at the beginning of the support year provide its latest PCI Compliance Audit.

Consultant shall provide the following deliverables and perform the following actions during this task:

- Warranty Period Final Action Items & Issues Log showing all items have been found and closed
- Finalized copies of all required documentation (updated for issue fixes)
- PCI Compliance Audit

4. Task 4: Next Fare Collection System Integration/Transition

The Authority is defining requirements for a next Fare Collection System that is subject to the Authority's Board of Directors approval and separate from this Consultant's Solution.

This next Fare Collection System will not be procured under this contract. The next Fare Collection System would replace the back-end of the Authority's current fare management system and will be a hybrid of account-based and card-based technologies. The overall project includes provisions for updated software for managing customer accounts, as well as hardware, including but not limited to:

- Fareboxes
- Cashless Point of Sale Devices
- Validators (Bus, Streetcar Platform, On-demand vehicles)
- Administrative Point of Sale Devices
- Ticket Vending Machines
- Handheld Inspection Terminals

The next Fare Collection System Integrator would integrate or transition its system with Consultant's Solution. The next Fare Collection System would capture, manage, and update customer account records based on its interaction with the various hardware devices above. Consultant shall perform all necessary updates and provide the assistance to the next Fare Collection System Integrator necessary to complete this integration or transition.

5. Task 5: Design Reviews

Design reviews shall be conducted to evaluate the progress and technical adequacy of the design and conformance to the performance requirements of the project. Prior to each review, Consultant shall submit a design review package that includes the design and other items required for the review.

Unless Consultant proposes an alternate method, which is acceptable to the Authority, the design review will be divided into three distinct levels:

- i. Conceptual Design Review
- ii. Preliminary Design Review
- iii. Final Design Review

i. Conceptual Design Review

The primary objectives of the Conceptual Design Review shall be to acquaint the Authority with Consultant's intended design and procurement activities, resolve external interfaces, and provide the basis for proceeding to Preliminary Design Review. At a minimum, the Conceptual Design Review shall accomplish the following:

- Confirm Consultant's management team and the scope of supply of sub-suppliers
- Provide narrative descriptions of the major subsystems proposed by Consultant
- Identify information needs and decisions required from the Authority
- Confirm that Consultant is familiar with the intended operations and maintenance environment
- Provide block diagrams showing functionality and interfaces between System Components and elements, such as the Authority's systems, that are not to be provided by Consultant but affect the system provided by Consultant
- Review the software conceptual design, including block diagrams and features

ii. Preliminary Design Review

The Preliminary Design Review shall be designed to review the adequacy of the selected design approach for equipment needed for collection of cash and evaluate requirement conformance. The Preliminary Design Review shall represent approximately sixty-five percent (65%) completion of the total engineering effort for the system. At a minimum, the Preliminary Design Review shall include:

- Detailed technical descriptions of the system's major components, allowing a thorough understanding of the implementation of the proposed System Components
- Drawing of passenger interface arrangements
- Preliminary installation layouts for onboard readers including mounting arrangements and installation methods
- Software system level flow charts, if applicable
- Software data backup and recovery procedures

iii. Final Design Review

The Final Design Review shall be conducted when the detailed design is complete. The Final Design Review shall determine whether the detailed design will conform to the design requirements. Data submitted for the Final Design Review shall be updated to a level of detail consistent with the completed design and submitted for the Final Design Review. At a minimum, the Final Design Review shall include:

- Latest revisions of the drawings and documentation submitted for the Preliminary Design Review
- Data documentation at the second level, including all software development. Documentation available or used in Consultant's design process, consisting of structured data flow diagrams, event tables and/or dialogue diagrams (as available) to the lowest level of decomposition with software module descriptions (or elemental process descriptions) in structured narrative format. The second level of software documentation is one level above source code.

- Review of Consultant's final interoperability and integration with onboard systems, including verification and test plans.

6. Task 6: Testing

- a. Consultant shall be expected to develop a Testing Plan for the entire project. The Testing Plan shall address each level of testing and be incorporated into the design reviews.
- b. The Testing Plan shall include device and network integration testing as part of component development following an Agile software development lifecycle.
- c. The schedule shall include testing of the user interface and user experience.
- d. The successful completion of the applicable design reviews will be a prerequisite to proceeding with testing.
- e. Consultant shall submit a Testing Plan for the Authority's review and acceptance at Final Design Review to be used in connection with all inspections and tests.
- f. The Testing Plan shall include a detailed schedule indicating the sequence of each test and where and when each test will take place.
- g. The objective of the Testing Plan shall be to ensure that the system furnished by Consultant will meet all the requirements specified in this document. Design reviews, testing, and acceptance will be conducted throughout the project to satisfy the production and delivery schedule.

7. Task 7: Pilot

- a. Consultant shall install the Solution to a small subset (exact number will be defined during the Design phase) of the Readers as a proof of concept for pilot testing. Consultant shall install cabling and all other hardware as needed for this test (if required).
- b. The pilot testing program shall be developed by Consultant for approval by the Authority. Consultant shall jointly review results with the Authority and determine whether the testing indicates the integration is successful, in which case it will be installed on the balance of buses.
- c. If the pilot is unsuccessful, Consultant shall submit a remediation plan and remediation schedule to the Authority for approval and in accordance with the remediation plan, install the necessary fixes and retest according to the test plan.

8. Task 8: Installation

- a. All required software shall be provided by Consultant.
- b. The Authority will make the fleet available for a reasonable time for installation of the readers. Typically, vehicles will be available for installation during the hours of

6:00PM and 2:30AM for any physical updates required on the mobile validators. However, the Solution shall have functionality capable of updating reader online, so it is unlikely that all work shall be completed by 2:30AM so that vehicles can be released for daily service.

- c. The Authority will have maintenance personnel available for the installation period to advise and assist, but Consultant shall perform the actual installation and maintenance of the readers.

9. Task 9: Training and Documentation

Consultant shall provide a Training Plan. The Training Plan shall be a breakdown of proposed training tools including, videos, manuals, classes, etc. The Authority is a diverse organization with a number of different types of internal users of the data generated by system. Consultant shall identify its approach to address the different training needs for the following areas within the Authority, by proposed phases.

- Customer Service
 - Marketing
 - Coach Operators
 - Revenue
- a. Training shall include course development, the providing of instructors, the supply of handouts and manuals, the preparation of classroom aids, and all other items as required to satisfactorily prepare personnel to operate Consultant supplied Solution.
 - b. Detailed outlines, lesson plans, and tests shall be submitted for approval at the Design Reviews. Instruction shall be designed to include equipment familiarization, systems operations, and field and shop maintenance.
 - c. The minimum training is that which is necessary to bring those employees designated to the level of proficiency required for operations, service, and maintenance of the furnished equipment.
 - d. Formal training shall include both classroom and practical work and shall be augmented by informal follow-up as needed.
 - e. Consultant shall also include roles and responsibilities and recommended tools and techniques for the Authority in the Training Plan.

10. Task 10: Documentation and Manuals

Consultant shall provide detailed manuals and documentation for the software platforms and general operation.

- a. The documentation shall be based on Consultant's standard documentation where it already exists.

- b. All documentation shall provide sufficient description, detail, and illustration to support installation, configuration, operation provided by Consultant.
- c. Manuals shall contain diagrams, illustrations, flowcharts, and program code description as necessary to fully support Solution.
- d. For the duration of the entire contract (including any applicable option terms), if Consultant produces updated or new training aids (e.g. video tapes, manuals, etc.), Consultant shall provide the Authority with copies of the updated material for its sole use in the Authority training programs, at no cost to the Authority.

11. Task 11: Additional Service

Consultant shall provide services relating to this project as required at any time following System Acceptance. If the need for additional services arises, the Authority will provide a defined requirement and schedule of deliverables to Consultant.

Consultant shall develop a cost estimate based only upon the Additional Service rate and associated travel. If this estimate is acceptable to the Authority, the Authority's Project Manager will provide approval to execute the requirement. Consultant shall then perform that work.

LEVEL 2 STANDARD HEALTH, SAFETY AND ENVIRONMENTAL SPECIFICATIONS

PART I – GENERAL

1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

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

C. INJURY AND ILLNESS PREVENTION PROGRAM

The Contractor shall comply with CCR Title 8, Section with California Code of Regulations (CCR) Title 8, Section 3203. The intent and elements of the IIPP shall be implemented and enforced by the Contractor and its sub-tier contractors, suppliers, and vendors. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.

D. SUBSTANCE ABUSE PREVENTION PROGRAM

Contractor shall comply with the Policy or Program of the Company's Substance Abuse Prevention Policy that complies with the most recent Drug Free Workplace Act. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.

E. HAZARD COMMUNICATION PROGRAM

- 1. Contractor shall comply with CCR Title 8, Section 5194 Hazard Communication Standard. Prior to use on Authority property and/or project work areas Contractor shall provide the Authority Project Manager copies of SDS for all applicable products used, if any. The program shall be provided to the Authority's Project Manager, upon request, within 72 hours.
- 2. All chemicals including paint, solvents, detergents and similar substances shall comply with South Coast Air Quality Management District (SCAQMD) rules 103, 1113, and 1171.

F. STORM WATER POLLUTION PREVENTION PLAN

1. The Contractor shall protect property and water resources from fuels and similar products throughout the duration of the contract. Contractor shall comply with Storm Water Pollution Prevention Plan (SWPPP) requirements. The program or plan if required by scope shall be provided to the Authority's Project Manager, upon request, within 72 hours.

G. DESIGNATED HEALTH, SAFETY, ENVIRONMENTAL (HSE) REPRESENTATIVE

1. Upon contract award, the contractor within 10 business days shall designate a health and safety representative and provide a resume and qualifications to the Authority project manager, upon request, within 72 hours.
2. This person shall be a Competent or Qualified Individual as defined by the Occupational, Safety, and Health Administration (OSHA), familiar with applicable CCR Title 8 Standards, and has the authority to affect changes in work procedures that may have associated cost, schedule and budget impacts.
3. The Contractor's HSE Representative is subject to acceptance by the Authority Project Manager, and the HSEC Department. All contact information of the HSE Representative (name, phone, and fax and pager/cell phone number) shall be provided to the Authority Project Manager, upon request, within 72 hours.
4. The Contractor's HSE Representative shall hold a current certification from the Board of Certified Safety Professionals (BCSP) and have five years of demonstrated construction/scope experience enforcing HSE compliance on construction, industrial or similar project scopes. The designated HSE Representative shall participate in any required HSE related submittals. The Authority reserves the right to allow for an exception and to modify these minimum qualification requirements for unforeseen circumstances, at the sole discretion of the Authority Project Manager and HSEC Department Manager.
5. Competent Individual means an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees and/or property, and who has authorization to take prompt corrective measures to eliminate them.
6. Qualified Individual means an individual who by possession of a recognized degree, certificate, certification or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his/her ability to solve or resolve problems relating to the subject matter, the work, or the Project.

H. SCOPE PLANNING

Prior to any scope work activity or task, the Contractor shall evaluate the hazards of the scope of work and the work environment to ensure proper control measures are identified for employee public and property protection measures to prevent incidents. This evaluation shall be implemented by developing a written site specific Job Hazard Analysis (JHA) or similar tool designed for planning the work to prevent incidents. The plan shall be provided to the Authority's Project Manager, upon request, within 72 hours.

I. ORIENTATION

1. The Contractor shall conduct and document a project site safety orientation for all Contractor personnel, subcontractors, suppliers, vendors, and new employees assigned to the project prior to performing any work on Authority projects. The safety orientation at a minimum shall include, as applicable, Personal Protection Equipment (PPE) requirements, eye protection, ANSI class 2 or 3 reflective vests, designated smoking, eating, and parking areas, traffic speed limit and routing, cell phone policy, and barricade requirements. When required by scope, additional orientation shall include fall protection, energy isolation/lock-out/tag-out (LOTO), confined space, hot work permit, security requirements, and similar project safety requirements.
2. Copies of orientation documents shall be provided to the Authority Project Manager within 72 hours upon request.

J. TRAFFIC & PARKING

The Contractor shall ensure that all Contractor vehicles, including those of their subcontractors, suppliers, vendors and employees are parked in designated parking areas, personal vehicles shall be parked in the employee parking lot, work vehicles required in the maintenance area of a bus base shall be identified by company name and/or logo, covered by the company insurance, and comply with traffic routes, and posted traffic signs in areas other than the employee parking lots. Vehicles without appropriate company name and logo are considered personal vehicles and not allowed in the maintenance area of the bus base.

K. GENERAL PROVISIONS

1. The Contractor shall provide all necessary tools, equipment, and related safety protective devices to execute the scope of work in compliance with Authority's HSEC requirements, CCR Title 8 Standards, and recognized safe work practices.
2. The Contractor shall immediately notify the Authority's Project Manager whenever local, state or federal regulatory agency personnel are identified as being onsite.

3. The Authority HSEC requirements, and references contained within this scope of work shall not be considered all-inclusive as to the hazards that might be encountered. Safe work practices shall be pre-planned and performed, and safe conditions shall be maintained during the course of this work scope.
4. The Contractor shall specifically acknowledge that it has primary responsibility to prevent and correct all health, safety and environmental hazards for which it and its employees, or its subcontractors (and their employees) are responsible. The Contractor shall further acknowledge their expertise in recognition and prevention of hazards in the operations for which they are responsible, that the Authority may not have such expertise, and is relying upon the Contractor for such expertise. The Authority retains the right to notify the Contractor of potential hazards and request the Contractor to evaluate and, as necessary, to eliminate those hazards.
5. The Contractor shall instruct all its employees, and all associated subcontractors under contract with the Contractor who work on Authority property in the recognition, identification, and avoidance of unsafe acts and/or conditions applicable to its work.
6. California Code of Regulations (CCR) Title 8 Standards are minimum requirements, and each Contractor is encouraged to exceed minimum requirements. When the Contractor safety requirements exceed statutory standards, the more stringent requirements shall be achieved for the safeguard of the public and workers.

1.2 ENVIRONMENTAL REQUIREMENTS

- A. The Contractor shall comply with Federal, State, county, municipal, and other local laws and regulations pertaining to the environment, including noise, aesthetics, air quality, water quality, contaminated soils, hazardous waste, storm water, and resources of archaeological significance. Expense of compliance with these laws and regulations is considered included in the agreement. Contractor shall provide water used for dust control, or for pre-wetting areas to be paved, as required; no payment will be made by OCTA for this water.
- B. The Contractor shall prevent pollution of storm drains, rivers, streams, irrigation ditches, and reservoirs with sediment or other harmful materials. Fuels, oils, bitumen, calcium chloride, cement, or other contaminants that would contribute to water pollution shall not be dumped into or placed where they will leach into storm drains, rivers, streams, irrigation ditches, or reservoirs. If operating equipment in streambeds or in and around open waters, protect the quality of ground water, wetlands, and surface waters.
- C. The Contractor shall protect adjacent properties and water resources from erosion and sediment damage throughout the duration of the contract. Contractor shall comply with applicable NPDES permits and Storm Water Pollution Prevention Plan (SWPPP) requirements.

- D. Contractor shall comply with all applicable EPA, Cal EPA, Cal Recycle, DTSC, SCAQMD, local, state, county and city standards, rules and regulations for hazardous and special waste handling, recycling and/ disposal. At a minimum, Contractor shall ensure compliance where applicable with SCAQMD Rule 1166, CCR Title 8, Section 5192, 29 CFR Subpart 1910.120, 49 CFR Part 172, Subpart H, 40 CFR Subpart 265.16 and CCR Title 22 Section 6625.16. Contractor shall provide OCTA a schedule of all hazardous waste and special or industrial waste disposal dates in advance of transport date. Only authorized OCTA personnel shall sign manifests for OCTA generated wastes. Contractor shall ensure that only current registered transporters are used for disposal of hazardous waste and industrial wastes. The Contractor shall obtain approval from OCTA for the disposal site locations in advance of scheduled transport date.

1.3 INCIDENT NOTIFICATION AND INVESTIGATION

- A. The Authority shall be promptly notified of any of the following types of incidents including but not limited to:
1. Damage incidents of property (incidents involving third party, contractor or Authority property damage);
 2. Reportable and/or Recordable injuries (as defined by the U. S. Occupational Safety and Health Administration), a minor injury, and near miss incidents;
 3. Incidents impacting the environment, i.e. spills or releases on Authority property.
- B. Notifications shall be made to Authority representatives, employees and/or agents. This includes incidents occurring to contractors, vendors, visitors, or members of the public that arise from the performance of Authority contract work. An immediate verbal notice followed by a written incident investigation report shall be submitted to Authority's Project Manager within 24 hours of the incident.
- C. A final written incident investigative report shall be submitted within seven (7) calendar days and include the following information. The Current Status of anyone injured, photos of the incident area, detailed description of what happened, Investigative photos of the existing conditions and area around the injury/incident scene, the contributing factors that lead to the incident occurrence, a copy of the company policy or procedure associated with the incident and evaluation of effectiveness, copy of task planning documentation, copy of the Physician's first report of injury, copy of Cal/OSHA 300 log of work related injuries and illnesses, the Cal/OSHA 301 Injury Illness Incident Report, and corrective actions initiated to prevent recurrence. This information shall be considered the minimum elements required for a comprehensive incident report provided to OCTA.

- D. A Serious Injury, Serious Incident, OSHA Recordable Injury/Illness, or a Significant Near Miss shall require a formal incident review at the discretion of the Authority's Project Manager. The incident review shall be conducted within seven (7) calendar days of the incident. This review shall require a company senior executive, company program or project manager from the Contractors' organization to participate and present the incident review as determined by the OCTA Project Manager. The serious incident presentation shall include action taken for the welfare of the injured, a status report of the injured, causation factors that lead to the incident, a root cause analysis (using 5 whys and fishbone methods), and a detailed recovery plan that identifies corrective actions to prevent a similar incident, and actions to enhance safety awareness.
1. Serious Injury: includes an injury or illness to one or more employees, occurring in a place of employment or in connection with any employment, which requires inpatient hospitalization for a period in excess of twenty-four hours for other than medical observation, or in which an employee suffers the loss of any member of the body, or suffers any serious degree of physical disfigurement. A serious injury also includes a lost workday or reassignment or restricted injury case as determined by the Physician's first report of injury or Cal/OSHA definitions.
 2. Serious Incident: includes but not limited to property damage of \$500.00 or more, an incident requiring emergency services (local fire, paramedics and ambulance response), news media or OCTA media relations response, and/or incidents involving other agencies (Cal/OSHA, EPA, AQMD, DTSC, Metrolink, FTA, FRA etc.) notification or representation.
 3. OSHA Recordable Injury / Illness: includes and injury / illness resulting in medical treatment beyond First Aid, an injury / illness which requires restricted duty, or an injury / illness resulting in days away from work.
 4. Significant Near Miss Incident: includes incidents where no property was damaged and no personal injury sustained, but where, given a slight shift in time or position, damage and/or injury easily could have occurred.

1.4 PERSONAL PROTECTIVE EQUIPMENT

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

1.5 LANGUAGE REQUIREMENTS

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

1.6 WARNING SIGNS AND DEVICES

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

1.7 REFERENCES

- A. CCR Title 8 Standards (Cal/OSHA)
- B. FCR Including 1910 and 1926 Standards
- C. NFPA, NEC, ANSI, NIOSH Standards
- D. Construction Industry Institute (CII)
- E. Board of Certified Safety Professionals (BCSP)
- F. OCTA Yard Safety Rules

END OF SECTION