REQUEST FOR STATEMENT OF QUALIFICATIONS INCLUDING PRICE PROPOSAL AND FIRST PURCHASE ORDER PROPOSAL REQUEST (RFSOQ) K001201

ISO 18000 6C COMPLIANT TRANSPONDERS

Transportation Corridor Agencies™

FOOTHILL/EASTERN
TRANSPORTATION CORRIDOR AGENCY

AND

SAN JOAQUIN HILLS
TRANSPORTATION CORRIDOR AGENCY

125 Pacifica, Suite 100
Irvine, CA 92618
(949) 754-3483

RFSOQ With First Purchase Order Proposal Request Dates

Issue Date:	May 1, 2018
Questions Submittal Date:	May 8, 2018
Agency Response to Questions Date:	May 14, 2018
SOQ Submittal Date:	May 22, 2018
First Purchase Order Proposal Submittal Date:	May 22, 2018

RFSOQ Without First Purchase Order Proposal Request Dates

Issue Date:	May 1, 2018
Questions Submittal Period:	Open
Agency Response to Questions Period:	Open
SOQ Submittal Period:	Through December 30, 2020

REQUEST FOR STATEMENT OF QUALIFICATIONS INCLUDING PRICE PROPOSAL AND FIRST PURCHASE ORDER PROPOSAL REQUEST ("RFSOQ")

1.0 INTRODUCTION

The Foothill/Eastern Transportation Corridor Agency and the San Joaquin Hills Transportation Corridor Agency (hereinafter collectively the "Agency") desire to obtain Statements of Qualifications including Price Proposals (collectively an "SOQ") from firms capable of supplying transponders ("Transponders") utilizing ISO 18000 6C in the 900 MHz frequency range (the "6C Standard") to the Agency. Capitalized terms not separately defined elsewhere in this RFSOQ have the meanings assigned such terms in the Form of Contract provided in Attachment 5.

Comprised of State Routes 73, 133, 241, and 261, The Toll Roads make up over 20 percent of Orange County's limited-access highway system and are the fastest, easiest, and most predictable way to get to and around Orange County. The Transportation Corridor Agencies were created with the mission of enhancing mobility in Orange County and Southern California by developing and operating publicly-owned toll facilities as a part of the regional transportation system.

As a result of the Title 21 mandate in the state of California, starting January 2019 all electronic tolling facilities will be required to be able to read 6C Standard compliant Transponders, including 6C sticker tags. Agency currently has approximately 9 million vehicles registered to account holders. Agency is preparing to equip all vehicles with 6C sticker tags starting in 2018. Agency anticipates placing an initial order for 100,000 – 200,000 6C sticker tags concurrent with contract award for delivery not later than June 30, 2018. Agency expects to place orders for approximately 3 million 6C sticker tags in December of 2018, and to place additional orders throughout the term of the contract.

This RFSOQ is issued (i) to request that firms interested in supplying Transponders to Agency submit an SOQ to Agency for Agency's evaluation in order to establish a list of qualified firms to provide Agency with 6C certified Transponders as needed via purchase orders and to establish each such qualified firm's maximum price(s) for such Transponders, and (ii) to request that firms that wish to be considered eligible to supply from 100,000 – 200,000 interior mounted sticker Transponders for delivery to Agency not later than June 30, 2018 also submit with their Statement of Qualifications and Price Proposal an additional proposal specifying the price at which the firm offers to deliver the Transponders and the date on which such delivery would be made (a "First Purchase Order Proposal"). Submittal of a First Purchase Order Proposal is optional. A firm's SOQ submittal will be considered by Agency in accordance with the terms of this RFSOQ regardless of whether or not the SOQ is accompanied by a First Purchase Order Proposal. However, a First Purchase Order Proposal must be accompanied by an SOQ that meets the requirements of this RFSOQ, and both the SOQ and First Purchase Order Proposal must be received by Agency on or before the First Purchase Order Proposal Submittal Date in order for the First Purchase Order Proposal to be considered by Agency.

Agency desires to enter into contracts only with firms that are capable of supplying Agency with Transponders that have achieved independent, third-party certification in accordance with the 6C Coalition's Certification Specification, in any of a variety of types, including:

- interior mounted sticker transponders
- interior mounted 3-position, switchable, self-declaration transponders
- exterior mounted sticker and hard case transponders
- interior/exterior sticker transponders
- any other form factor suitable for tolling Agency's toll roads

2.0 CONTRACT REQUIREMENTS

Agency anticipates that contract(s) substantially in the Form of Contract provided in Attachment 5 to this RFSOQ (each a "Contract") will be awarded to one or more firms. The Contracts will be indefinite-delivery/indefinite-quantity contracts for delivery of Transponders of one or more of the types described above in Section 1. During the Contract term, upon identifying its periodic need for delivery of a particular type of Transponder, Agency will issue a Request for Purchase Order Proposal to each of the contracted firms that is capable of providing the Agency's selected Transponder type, in order to provide each such contracted firm with a fair opportunity to submit a proposal to supply the selected Transponders (a "Purchase Order Proposal"). The price submitted by each firm in its Purchase Order Proposal for each type of Transponder included in the Request for Purchase Order Proposal shall not be higher than the price specified for the relevant Transponder type(s) in the firm's Contract. Agency will evaluate the Purchase Order Proposals and issue one or more Purchase Orders to the firm(s) that Agency determines submitted the Purchase Order Proposal(s) offering Agency the best value. If no Purchase Order Proposals are received in response to an Agency Request for Purchase Order Proposal, Agency shall have the option of issuing a Purchase Order to any of the contracted firms capable of supplying the selected Transponder type(s) for the price(s) specified in such firm's Contract.

Agency desires to purchase 100,000 – 200,000 interior-mounted sticker tag Transponders for delivery not later than June 30, 2018 (the "First Purchase Order"). Any firm that desires to be considered for receipt of the First Purchase Order will be expected to enter into a purchase order substantially in the Form of Transponder Purchase Order set forth in Exhibit C to the Form of Contract ("First Purchase Order"). Time is of the essence for the First Purchase Order. Any firm awarded a First Purchase Order will be required to **guaranty delivery on or before June 30, 2018** (the "First Purchase Order Delivery Deadline").

The Transponder Technical Requirements and Scope of Services are provided in Attachment 5, Form of Contract, Exhibit A.

To be eligible for a Contract, a firm's SOQ must demonstrate that it is qualified. Qualified

firms must:

- have at least one (1) year of experience producing Transponders suitable for tolling applications on a large scale of no less than 100,000 per year;
- produce one or more of the types of Transponders specified in Section 1, above, that have achieved independent, third-party certification in accordance with the 6C Coalition's Certification Specification ("6C Certification") as of the date of the firm's SOQ submittal. A firm will be qualified for purposes of eligibility to receive Requests for Purchase Order Proposal only for those Transponder types for which the firm has achieved 6C Certification as of the date of the Agency's Request for Purchase Order Proposal;
- be willing and able to provide 20 samples of each make, model, or revision of Transponder being proposed for inclusion in Agency's price listing at no cost to Agency;
- have the capacity to fulfill Transponder orders for the types of Transponders for which the firm is qualified in a reliable and timely manner and in the anticipated quantities described in this RFSOQ; and
- provide at least a one-year warranty/guarantee that any non-functioning transponder be replaced at no cost to Agency.

Other tolling entities and government agencies ("Other Entities") may desire to participate in the Contract(s) resulting from this RFSOQ. Agency intends to distribute relevant documents, including pricing sheets, to interested Other Entities. The Contract(s) resulting from this RFSOQ shall be available for use by Other Entities. If an Other Entity desires to participate in the Contract resulting from this RFSOQ, the Other Entity will provide contracted firms, capable of providing the selected Transponder, with a fair opportunity to submit a proposal to supply the desired Transponders to such Other Entity. If the Other Entity elects to purchase Transponders from one of the proposing firms, it will do so under a separate Third-Party Purchasing Addendum between the Other Entity and the selected contractor. The order will be placed by the Other Entity, and payments will be made by the Other Entity, under such Third-Party Purchasing Addendum. Agency shall have no liability or responsibility whatsoever and the firm waives, and the selected contractor and the Other Entity will waive in such Third-Party Purchasing Addendum, any claim against Agency for the actions or inactions of whatever nature by either party to the Third-Party Purchasing Addendum. There is no guaranty that Other Entities will participate in piggybacking on any contract that results from the RFSOQ.

3.0 STATEMENT OF QUALIFICATIONS (SOQ)

Response to this solicitation will be in the form of an SOQ and additional forms (Attachment 1, 2 and 3). If a firm desires to provide an optional First Purchase Order Proposal, the SOQ shall also be accompanied by Attachment 4. The SOQ shall document the firm's qualifications to deliver Transponders meeting the Transponder Technical Requirements for any, or all, of the above-described Transponder types in accordance with the terms of the Contract specified in Attachment 5. The firm's proposed maximum

price for each of the types of Transponders, by quantity, that the firm proposes to supply, shall be submitted in a separate sealed envelope (no form provided) marked "RFSOQ No. K001201 Price Proposal."

The SOQ must contain sufficient detailed information to enable the Agency to make an adequate assessment of the firm's overall qualifications to supply Transponders meeting the Transponder Technical Requirements consistent with the terms of the Contract specified in Attachment 5. Information provided must relate to the services being solicited. Corporate brochures or other forms of preprinted materials, if included, shall be as an Appendix to the SOQ. Agency will evaluate the firm's qualifications independent of the Price Proposal. The firm's Price Proposal will be used to establish the firm's maximum Transponder Prices for purposes of the Contract after the Agency has made a determination that the firm is qualified to provide one or more of the Transponder types. The number of prequalified firms shall be subject to Agency discretion, and Agency may identify additional prequalified firms and issue Contracts to such firms at any time during the SOQ Submittal Period. Agency may ask for additional information or clarification regarding the SOQs.

Firms will be provided notification as to their prequalification status, and whether the firm's First Purchase Order Proposal, if any, is accepted by Agency. Firms that Agency determines are qualified will be provided with a Contract in the form of Attachment 5. Prequalified firms that are not awarded a First Purchase Order must execute and return the Contract to Agency within thirty (30) days of receipt. The First Purchase Order shall be provided to any firm selected to receive a First Purchase Order with the Contract. In such case, the firm shall execute and return the Contract and the First Purchase Order within five days of receipt. Agency may require appropriate evidence that the persons executing the Contract and First Purchase Order are duly empowered to do so.

The content and format of the SOQ and the evaluation and subsequent prequalification of firms and/or teams will be based on the following:

Qualifications

1. Describe in detail the firm's level of experience in supplying transponders suitable for non-stop, high speed toll projects. Such description shall at a minimum include: (i) length of time the firm has been in the business of supplying transponders, (ii) total revenues from transponder business, (iii) total number of transponders supplied, (iv) description of the different types of certified 6C Transponders supplied and percent of total Transponders supplied represented by each type, (v) list of projects to which transponders have been supplied and contract value for each project.

2. Identify which of the types of transponders specified in Section 2 above that the firm proposes to supply. For each such type of transponder, describe in detail the transponder's independent third-party certification including mounting specifications, operating instructions (if applicable), availability and information and/or

requirements pertaining to operation in proximity to a Title-21 transponder. Provide a sample of 20 Transponders for each type of Transponder that the firm proposes to supply. Describe in detail the warranty terms for each type of Transponder that the firm proposes to supply. Warranty terms must meet or exceed the minimum requirements specified in this RFSOQ and the Form of Contract in Attachment 5.

3. For each type of Transponder that the firm proposes to supply, include evidence of 6C Certification.

4. For each type of Transponder that the firm proposes to supply, if such Transponder is or has been used in another project, describe in detail the performance experience for such Transponder type(s).

5. Describe the firms' quality assurance and quality control procedures.

6. For each type of Transponder that the firm proposes to provide, describe the firm's fulfillment capabilities in terms of quantities of Transponders and time frames for delivery from receipt of a Purchase Order.

7. Describe the ability to individually brand the Transponders, and necessary lead time for customization.

8. Identify point of contact who would be assigned to the project and their functions (roles) in connection with the contract.

9. Provide a description of any subcontracting arrangements or partnering relationships with other firms, including the functions of each such subcontractor or partner firm.

10. Describe any work that will be required to integrate the Transponders with Agency's existing roadside toll collection system.

11. Describe the firm's approach to warranties and replacements for the Transponders being proposed. If the warranties vary by product, please specify.

12. Identify an official representative for the firm's SOQ and, if relevant, the firm's First Purchase Order Proposal.

13. Identify contact information for at least three (3) references from other projects to which the firm has supplied Transponders and who are familiar with the level of service provided by the firm and the performance of the Transponders that the firm supplied to the project. Include name, title, email and phone contact information.

4.0 OPTIONAL FIRST PURCHASE ORDER PROPOSAL

A firm wishing to be considered for award of the First Purchase Order shall prepare and

submit a First Purchase Order Proposal in the form of Attachment 4 in a separate sealed envelope marked "RFSOQ No. K001201 First Purchase Order Proposal" on or before the First Purchase Order Proposal Submittal Date. The firm shall complete all required information. Failure to do so may render the proposal incomplete and non-responsive and may cause its rejection.

First Purchase Order Proposal Review/Evaluation/Award

1. All First Purchase Order Proposals submitted by prequalified firms will be reviewed to determine if they meet the requirements of this RFSOQ. The First Purchase Order Proposal must contain all required certifications and/or documentation. Failure to meet the requirements of this RFSOQ will be cause for rejection of the First Purchase Order Proposal from further consideration. Agency may reject any First Purchase Order Proposal which is found to be conditional, incomplete, or contain irregularities.

2. Agency shall examine all proposals for mistakes. In cases of apparent mistakes and in cases where Agency has reason to believe that a mistake may have been made, Agency shall request from the firm a verification of the proposal calling attention to the suspected mistake.

3. A firm may withdraw its proposal before the First Purchase Order Proposal Submittal Date by emailing contracts@thetollroads.com with the following email subject line: "RFSOQ NO. K001201 FIRST PURCHASE ORDER PROPOSAL WITHDRWAL."

4. If Agency issues a First Purchase Order, it will be issued to the firm(s) that Agency determines offers Agency the best value, considering qualifications, proposed warranty terms, price and proposed delivery date.

5. Agency may issue a First Purchase Order for any amount of Transponders from 100,000 to, and including, 200,000 at the firm's proposed Transponder unit price to any firm up to 25 days from the date that First Purchase Order Proposals are due. Agency reserves the right to negotiate the proposed Transponder unit price for delivery of a lesser quantity.

5.0 ADDITIONAL INFORMATION

Agency may at any time request additional information or clarification regarding a firm's SOQ and/or First Purchase Order Proposal or may request the firm verify or certify certain aspects of its SOQ or proposal.

6.0 SOLICITATION SCHEDULE

This solicitation is being accomplished in a multi-step process. The SOQs being solicited for Transponder supply will be evaluated and a listing of prequalified firms will be developed. The Agency will issue Requests for Purchase Order Proposals to firms on the prequalified list for the particular Transponder type that Agency wishes to procure on an

as-needed basis, based on the firm's capacity to supply the particular type(s) and quantities of Transponders to meet Agency's needs. Firms that receive a Request for Purchase Order Proposal may, but shall not be required to, submit a Purchase Order Proposal to Agency quoting, among other terms, the unit price at which the firm proposes to deliver the required Transponder type(s). Such price shall not be greater than the price specified in the firm's Contract based on the firm's Price Proposal submitted with its SOQ.

After completing its review of any SOQs received on or before the First Purchase Order Proposal Submittal Date, Agency will evaluate any First Purchase Order Proposals submitted by firms that Agency has prequalified based upon its review of the SOQs. The Agency will issue a First Purchase Order to the firm or firms that the Agency determines meet the Contract requirements and offer(s) the best value to Agency.

The schedule of activities for this RFSOQ if submitting a First Purchase Order Proposal is as follows:

Issue Request for SOQ and Price Proposal.....May 1, 2018

Written Questions Received .....May 8, 2018

Written Questions Answered .....May 14, 2018

First Purchase Order Proposals Received.....May 22, 2021

SOQs Received.....May 22, 2021

Notification of Prequalification .....On or about June 14, 2018

Issuance of First Purchase Order .....On or about June 14, 2018

The schedule of activities for this RFSOQ if not submitting a First Purchase Order Proposal is as follows:

Issue Request for SOQ and Price Proposal.....May 1, 2018

Written Questions Received ..... Open

Written Questions Answered ..... Open

SOQs Received.....Through December 30, 2020

Notification of Prequalification .....Per Agency's Discretion

7.0 SUBMITTAL DETAILS

The SOQ shall not exceed ten (10) 8-½" x 11" single-sided, single-spaced typewritten pages, excluding any pre-printed material. In addition to the SOQ, the attached forms must be completed and included at the beginning of the SOQ behind the firm's cover letter: Contractor Information (Attachment 1), Contractor Certification (Attachment 2), and Disclosure of Contributions (Attachment 3), and Conflict-of-Interest Disclosure Statement (Exhibit D to the Form of Contract provided in Attachment 5). The Price Proposal must be completed and submitted in a separate sealed envelope marked "RFSOQ No. K001201 Price Proposal." The required attachments are excluded from the page limitations. If the firm wishes to be eligible for receipt of the First Purchase Order, a First Purchase Order Proposal (Attachment 4) must be completed and submitted in a separate sealed envelope marked with "RFSOQ No. K001201 First Purchase Order Proposal" along with the SOQ on or before the First Purchase Order Proposal Submittal Date.

Five (5) copies of the SOQ and, if relevant, the optional First Purchase Order Proposal, shall be submitted and addressed as follows:

Patty Tam
Contracts Administrator
Transportation Corridor Agencies
125 Pacifica, Suite 100
Irvine, CA 92618-3304

In the lower left-hand corner of the submittal, place the following notation:

"RFSOQ No. K001201 Statement of Qualifications"

SOQs and First Purchase Order Proposals shall be delivered to the Agency's Contracts and Procurement Department, located at 125 Pacifica, Suite 100, Irvine, California 92618-3304. SOQs that include First Purchase Order Proposals shall be delivered to the Agency's Contracts and Procurement Department, located at 125 Pacifica, Suite 100, Irvine, California 92618-3304, **no later than 3:00 p.m. on May 22, 2018**. It is each submitting firm's responsibility to have its SOQ and First Purchase Order Proposal delivered to the Agency's Contracts and Procurement Department by the due date and time. SOQs from firms that do not wish to be eligible for the First Purchase Order may be submitted at any time during the SOQ Submittal Period.

It is the firm's responsibility to check the Agency's PlanetBids website to determine if any addenda have been issued. Each submitting firm must include an acknowledgement all addenda in its SOQ. Failure to acknowledge all posted addenda may cause the SOQ and/or First Purchase Order Proposal to be disqualified or rejected.

8.0 AGENCY RIGHTS REGARDING RFSOQ

Agency reserves the right to:

- Disqualify any firm that does not follow the instructions herein.
- Reject any and all SOQs and/or First Purchase Order Proposals at its discretion, including SOQs and/or First Purchase Order Proposals found to be conditional or incomplete, contain irregularities or found to be not responsive to this RFSOQ.
- Investigate the qualifications of any firm under consideration.
- Require confirmation of information furnished by the firm.
- Require additional evidence of ability to perform the Services described in this RFSOQ.
- Contact the submitted references regarding the information provided in the SOQ.
- Postpone or cancel the entire RFSOQ or a portion thereof.
- Issue a First Purchase Order for fewer than 100,000 Transponders at a negotiated price and otherwise negotiate the terms of the First Purchase Order.
- Postpone or cancel the First Purchase Order award for its own convenience.
- Issue subsequent RFSOQs and RFPs.
- Disqualify a firm upon evidence of collusion, with intent to defraud, or other illegal practices on the part of the firm.
- Waive any errors or informalities in any SOQ or First Purchase Order Proposal to the extent permitted by law.

Agency has no obligation to consider any SOQ and/or First Purchase Order Proposal unless it is responsive to this RFSOQ, conforming in all respects to the Form of Contract included in Section III. This RFSOQ does not commit Agency to enter into a Contract.

9.0 QUESTIONS

Questions regarding this RFSOQ if submitting a First Purchase Order Proposal must be submitted in writing **no later than 3:00 p.m. Pacific time on May 8, 2018.** Questions regarding the RFSOQ if not submitting a First Purchase Order Proposal may be submitted anytime during the SOQ Submittal Period. Questions must be submitted using the Agency's PlanetBids question submittal function. Responses to questions if submitting a First Purchase Order Proposal shall be provided to all participants by close of business on May 14, 2018 using the Agency's PlanetBids answer submittal function. Questions received after the above stated due date and time may not be responded to at the Agency's sole discretion.

Responses to RFSOQ questions submitted after May 8, 2018 shall be provided to all participants at the sole discretion of the Agency using the Agency's PlanetBids answer submittal function.

Requests for changes to the terms and conditions must be communicated no later than May 8, 2018. A response will be provided by Agency as to whether a change in the terms and conditions of the RFSOQ has been made, and if so, the change will be

provided via an addendum. Agency shall have no obligation to consider further requests for changes to terms and conditions after May 8, 2018.

10.0 PROTESTS REGARDING RFSOQ

Firms may protest the terms of the RFSOQ on the grounds that (a) a material provision contained herein is ambiguous, (b) any aspect of the process described herein is contrary to express legal requirements applicable to the Agency's procurement of Transponders, or (c) this RFSOQ in whole or in part exceeds the authority of Agency. Protests regarding this RFSOQ shall be filed only after the firm has informally discussed the nature and basis of the protest with Agency in an effort to remove the grounds for protest. Protests regarding this RFSOQ shall completely and succinctly state the grounds for protest and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. Protests regarding this RFSOQ shall be filed as soon as the basis for protest is known to the firm, but in no event later than ten days before the First Purchase Order Proposal Submittal Date. No hearing will be held on the protest, but it shall be decided, on the basis of the written submissions, by the Director, Contracts and Procurement, whose decision shall be final and conclusive. The Director, Contracts and Procurement may, but need not, request other firms to submit statements or arguments regarding the protest and may, in their sole and absolute discretion, discuss the protest with the protester. A decision regarding any protest shall be in writing and, if necessary, appropriate revisions to this RFSOQ shall be made by issuing addenda. The failure of a firm to raise a ground for a protest regarding this RFSOQ shall preclude consideration of that ground in any protest of a selection unless such ground was not and could not have been known to the firm in time to protest prior to the final date for such protests. The written decision shall be made available to all firms that have registered to receive the RFSOQ via PlanetBids. Agency may extend the First Purchase Order Proposal Submittal Date, if necessary, to address any such protest issues.

11.0 PROTESTS REGARDING AWARD OF CONTRACT AND/OR ISSUANCE OF FIRST PURCHASE ORDER

Protest of the award of a Contract and/or issuance of a First Purchase Order must be filed with the Director, Contracts and Procurement within seven days after Agency's posting of the Notice of Intent to Award Contract. The protester shall concurrently file a copy of the Notice of Protest with the intended recipient of the award and the other submitting firms. The Notice of Protest shall state the grounds of the protest.

A detailed statement of the grounds, legal authority and facts, including all documents and evidentiary statements in support of the protest shall be filed with the Director, Contracts and Procurement within 7 days of the Notice of Protest. Evidentiary statements, if any, shall be submitted under penalty of perjury. The protester shall have the burden of proving its protest.

Other submitting firms may file a statement in support of or in opposition to the protest within seven days of the filing of the detailed statement of protest.

The Director, Contracts and Procurement shall prepare a response to the protest and shall submit the response, the protest and any support or opposition from other submitting firms to the Chief Executive Officer ("CEO") of Agency within 14 days of the filing of the detailed statement of protest. The response shall set forth all legal authority and facts, including declarations and documents, in support of Agency's position.

The CEO shall issue a written decision regarding the protest within 14 days after receiving the response package from the Manager, Contracts and Procurement. Unless otherwise required by law, no evidentiary hearing or oral argument shall be provided, except, in the sole and absolute discretion of the CEO, a hearing or argument may be permitted if necessary or for protection of the public interest or an express, legally recognized interest of a firm.

If the CEO concludes that the entity filing the protest has established a basis for protest, Agency may withdraw the award and take any other appropriate actions, including issuing a new award.

If a Notice of Protest is filed, no new award of the Contract will thereafter be made until the protest is withdrawn or decided, unless Agency determines that public interest requires Agency to proceed with the award prior to a decision or that the protest is so wholly lacking in merit that the protester is unlikely to succeed in the protest. Such a determination shall be in writing and shall state the facts on which it is based.

If the protest is denied, the entity filing the protest shall be liable for Agency's costs reasonably incurred in defending against the protest, including legal and consultant fees, and any unavoidable damages sustained by Agency as a consequence of the protest. If the protest is granted, Agency shall not be liable for payment of the protester's costs unless Agency acted fraudulently or in bad faith in opposing the protest. Except as provided in the previous sentence, Agency shall not be liable for any damages to the entity filing the protest or to any participant in the protest, on any basis, express or implied.

12.0 EXAMINATION OF RFSOQ; COMMUNICATION

By submitting a SOQ and, if relevant, First Purchase Order Proposal, the firm represents that it has thoroughly examined and has become familiar with the contents of this RFSOQ and that it is capable of providing quality services to achieve Agency's objectives. The firm is responsible for requesting clarification of any deficiency, ambiguity, error or omission contained in this RFSOQ, or of any provision in this RFSOQ which the firm fails to understand. Any communication regarding this RFSOQ must be submitted to Agency's Director, Contracts and Procurement in writing via email to contracts@thetollroads.com, unless alternate directions are identified herein for specific items.

No verbal or written information which is obtained other than through this RFSOQ or its addenda shall be binding on the Agency. No employee of the Agency is authorized to

interpret any portion of this RFSOQ or give information as to the requirements of the RFSOQ in addition to that contained in or amended to this written RFSOQ document.

13.0 PRE-SELECTION EXPENSE

Agency shall not in any event be liable for any expenses incurred by the submitting party in the preparation of its SOQ.

14.0 PUBLIC RECORDS ACT

Responses to this RFSOQ become the exclusive property of Agency. At such time as a selection is made by Agency, all materials submitted in response to this RFSOQ become a matter of public record and shall be regarded as public records. Said materials shall be subject to the provisions of the California Public Records Act (California Government Code sections 6250 et seq.). Agency's use and disclosure of its records are governed by this Act.

Agency shall accept materials clearly and prominently marked "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY," as determined by the submitting party. Agency shall endeavor to inform the submitting party of any request for disclosure of such materials. Under no circumstances, however, shall Agency be responsible or liable to the submitting party or any other party for the disclosure of any such labeled materials, whether the disclosure is required by law or a court order, or occurs through inadvertence, mistake, or negligence on the part of Agency or its officers, employees, consultants, or any of the above.

Agency shall not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definition of "Trade Secret." The submitting party shall be solely responsible for all determinations made under the Act, and for clearly and prominently marking each and every page or sheet of materials with "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY" as it determines to be appropriate. Each submitting party is advised to contact its own legal counsel concerning the California Public Records Act and its applicability to the firm's own circumstances.

In the event of litigation concerning the disclosure of any material submitted, Agency's sole involvement shall be as a stakeholder, retaining the material until otherwise ordered by a court. The submitting party, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials and shall hold Agency and each of the governmental entities that is now or may in the future become a member of Agency and their respective successors and assigns and their respective officers, directors, employees, agents and representatives harmless from all costs and expenses, including attorneys' fees, in connection with such actions.

15.0 DISCLOSURE OF CONTRIBUTIONS

You are advised that Government Code 84308(d) provides as follows:

(d) A party to a proceeding before an agency involving a license, permit, or

other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars ($250) made within the preceding 12 months by the party, or his or her agent, to any officer of the agency. No party, or his or her agent, to a proceeding involving a license, permit, or other entitlement for use pending before any agency and no participant, or his or her agent, in the proceeding shall make a contribution of more than two hundred fifty dollars ($250) to any officer of that agency during the proceeding and for three months following the date a final decision is rendered by the agency in the proceeding. When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in subdivisions (b), (c), and this subdivision.

Refer to http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=84308.for the full text of Section 84308, including definitions of terms used in Section 84308(d).

All submitting firms are responsible for determining whether disclosure is required. The submitting firm shall complete Attachment 3 to this RFSOQ and submit same with its SOQ. The completed Attachment 3 shall identify all officers (i.e. Board members and alternates) who received contributions subject to paragraph (d) or affirm that no contributions were made that require disclosure. Attachment 3 shall name the contributor and amount and date of each contribution. The submitting firm must submit forms for any persons who are considered "participants" under Section 84308. The submitting firm is responsible for delivering an updated form(s) to the Director, Contracts and Procurement prior to any proceeding of the Boards or committee of the Boards concerning the SOQ.

16.0 FORM OF CONTRACT

Qualified firms shall supply Transponders in accordance with Purchase Orders as issued by Agency, in accordance with the attached Form of Contract (Attachment 5).

(END OF RFSOQ)

Attachment 1 – Contractor Information
Attachment 2 – Contractor Certification
Attachment 3 – Disclosure of Contributions
Attachment 4 – First Purchase Order Proposal Form
Attachment 5 – Form of Contract

CONTRACTOR INFORMATION

Name of Firm: _____ Individual Contact: _____

Year Established: _____ Individual's Title: _____

Federal Tax ID No.: _____ Telephone No.: _____

Standard Industry Classification Code: _____ Fax No.: _____

Name of Official Representative: _____ Email: _____

Business Organization (check one):

☐ Corporation (If yes, then indicate the State and Year of Incorporation): _____
☐ Partnership (If yes, complete Sections A-E and the Contractor's Certification form for each member)
☐ Joint Venture (If yes, complete Sections A-E and the Contractor's Certification form for each member)
☐ Other (describe) _____

_____

A. Business Name: _____

B. Business Address:

Headquarters: _____
(Street Address) (Suite)

_____
(City) (State) (Country) (Zip)

Office Performing Work: _____
(Street Address) (Suite)

_____
(City) (State) (Country) (Zip)

_____
(Contact Telephone No.)

C. Services to be performed:
(Check applicable boxes)

- ☐ Solely by Proposing Firm
- ☐ Joint Venture/Member Firm
- ☐ Subcontractor
- ☐ Other (describe below)

_____

D. If the entity is a Joint Venture or a Partnership, indicate the name and role of each member firm in the space below. Complete a separate Contractor Information form for each member firm and attach it to the SOQ. Also indicate the name and role of each other financially liable party and attach a separate form.

Name of Member Firm	Role	Financial Liability
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

E. Is the firm under investigation by any agency of the federal government (e.g. the Justice Department, SEC, Department of Defense, Federal Trade Commission) or by any agency of a state or foreign government? If yes, please explain.

_____

_____

_____

F. Have any banks refused to lend to the firm in the last two years? If yes, please explain.

_____

_____

_____

CONTRACTOR CERTIFICATION

1. Has the firm or any affiliate* ever failed to provide any services for which it was contracted to provide, or had a contract terminated because it was in default?

   Yes ☐ No ☐
   If yes, please describe:

2. Has the firm or any affiliate, or any officer of the firm or any affiliate, been indicted or convicted of bid or other contract related crimes or violations or any other felony or serious misdemeanor within the past five years?

   Yes ☐ No ☐
   If yes, please describe:

3. Has the firm or any affiliate ever sought protection under any provision of any bankruptcy act?

   Yes ☐ No ☐
   If yes, please describe:

4. Has the firm or any affiliate ever been debarred or suspended from performing work for the federal government, any state or local government, or any foreign governmental entity?

   Yes ☐ No ☐
   If yes, please describe:

5. Has the firm or any affiliate ever been assessed liquidated damages or stipulated damages?

   Yes ☐ No ☐
   If yes, please describe:

(Must be signed by the Firm's Official Representative)

Name of Firm: _____

By: _____

Printed Name: _____

Title: _____

***For purposes of this form, the term "affiliate" means any parent company, subsidiary companies, joint venture members and partners, other financially liable parties, and any subcontractors providing 50% or more of the services.**

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY
SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR AGENCY

Disclosure of Contributions

To be completed with the submission of any Statement of Qualifications.

Prime Firm's Name: _____

Party's Name: _____

Party's Address: _____
Street

_____
City State

_____ (_____) _____
Zip code Phone

Request for Statement of Qualifications No. K001201 – ISO 18000 6C Compliant Transponders

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the 12 months preceding June 14, 2018 (see attached list):

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amounts(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amounts(s): _____

If no contributions are noted above, I hereby certify that no contributions have been made by the Party identified above to any of the agency's Board(s) of Directors or their Alternates.

Date: _____ _____
Signature of Party and/or Agent

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY BOARD MEMBERS & ALTERNATE BOARD MEMBERS		
MEMBER AGENCY	**BOARD MEMBER**	**ALTERNATE**
City of Anaheim	Jose F. Moreno	Lucille Kring
City of Dana Point	Joseph L. Muller	Richard A. Viczorek
City of Irvine	Christina Shea – Vice Chair	Lynn Schott
City of Lake Forest	Scott Voigts	Dr. Jim Gardner
City of Mission Viejo	Ed Sachs - Chair	Patricia Kelley
City of Orange	Mark Murphy	Teresa "Tita" Smith
City of Rancho Santa Margarita	Anthony Beall	Michael Vaughn
City of San Clemente	Kathy Ward	Steve Swartz
City of San Juan Capistrano	Brian L. Maryott	Kerry Ferguson
City of Santa Ana	Sal Tinajero	Vincent Sarmiento
City of Tustin	Charles Puckett	Al Murray
City of Yorba Linda	Peggy Huang	Tara Campbell
County of Orange (3rd District)	Todd Spitzer	Martin Gardner
County of Orange (4th District)	Shawn Nelson	Denis Bilodeau
County of Orange (5th District)	Lisa Bartlett	Kelley Lee

SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR AGENCY BOARD MEMBERS & ALTERNATE BOARD MEMBERS		
MEMBER AGENCY	**BOARD MEMBER**	**ALTERNATE**
City of Aliso Viejo	Mike Munzing	Dave Harrington
City of Costa Mesa	Katrina Foley	Alan Mansoor
City of Dana Point	Richard A. Viczorek	Joseph L. Muller
City of Irvine	Christina Shea	Lynn Schott
City of Laguna Hills	Janine Heft	Melody Carruth
City of Laguna Niguel	Fred Minagar – Chair	Linda Lindhold
City of Laguna Woods	Cynthia Conners	Carol Moore
City of Mission Viejo	Ed Sachs	Trish Kelley
City of Newport Beach	Scott Peotter – Vice-Chair	Will O'Neill
City of San Clemente	Steve Swartz	Kathy Ward
City of San Juan Capistrano	Brian L. Maryott	Derek Reeve
City of Santa Ana	Sal Tinajero	Vicente Sarmiento
County of Orange (3rd District)	Todd Spitzer	Martin Gardner
County of Orange (5th District)	Lisa Bartlett	Kelley Lee

INDEFINITE DELIVERY / INDEFINITE QUANTITY TRANSPONDER DELIVERY CONTRACT

FIRST PURCHASE ORDER PROPOSAL FORM

Proposer: _____

Proposal Date: May 22, 2018 at 3:00pm Pacific time.

The undersigned ("Proposer") submits this proposal ("First Purchase Order Proposal") in response to that certain REQUEST FOR STATEMENT OF QUALIFICATIONS INCLUDING PRICE PROPOSAL AND FIRST PURCHASE ORDER PROPOSAL REQUEST (RFSOQ) K001201 (as amended, the "RFSOQ") issued by the San Joaquin Hills Transportation Corridor Agency and the Foothill/Eastern Transportation Corridor Agency (collectively, "Agency"), to provide Transponders (as defined in the RFSOQ) for the San Joaquin Hills, Foothill and Eastern Transportation Corridors (collectively "The Toll Roads"), as more specifically described herein and in the documents provided with the RFSOQ (the "RFSOQ Documents"). Initially capitalized terms not otherwise defined herein shall have the meanings set forth in the RFSOQ and the RFSOQ Documents.

Proposer hereby offers to provide the following to Agency:

TRANSPONDER TYPE	QUANTITY	UNIT PRICE
Interior Mounted Sticker Tag	100,000 – 200,000 at the Agency's discretion.	$

Total Sales Tax (7.75%): $ TBD

Estimated Shipping and Handling Charges:

Quantity: 100,000 $ _____
Quantity: 125,000 $ _____
Quantity: 150,000 $ _____
Quantity: 175,000 $ _____
Quantity: 200,000 $ _____

Proposed Delivery Date: _____ [must be on or before June 30, 2018]

Manufacturer's Warranty Terms: [Attach additional sheets as necessary]

_____
_____
_____
_____
_____

Evidence of 6C Coalition Certification: [Attach to form for Interior Mounted Sticker Tag]

In consideration for Agency supplying us, at our request, with the RFSOQ Documents and agreeing to examine and consider this First Purchase Order Proposal, the undersigned undertakes to keep this First Purchase Order Proposal open for acceptance through June 30, 2018, without unilaterally varying or amending its terms without first obtaining the prior written consent of the Agency, in its sole discretion.

If selected by the Agency, Proposer agrees to perform its obligations as set forth in the Contract and First Purchase Order, including compliance with all commitments contained in this First Purchase Order Proposal.

The following individual(s) is/are authorized to enter into negotiations with the Agency on behalf of the Proposer in connection with this Proposal and the Contract:

_____ [insert names]

Proposer certifies that its First Purchase Order Proposal is submitted without reservation, qualification, assumptions or conditions, and that all information submitted with its Proposal is true and correct. Proposer certifies that it has carefully examined and is fully familiar with all of the provisions of all of the RFSOQ Documents, has reviewed all materials posted by Agency and the Addenda.

Proposer understands that the Agency is not bound to award the First Purchase Order to any firm.

Proposer further understands that all costs and expenses incurred by it in preparing this Proposal and participating in the RFSOQ process will be borne solely by the Proposer.

Subject to Proposer's rights under the California Public Records Act, Proposer consents to disclosure by Agency of Proposer's Proposal to any persons, after award of the First Purchase Order. Proposer expressly waives any right to contest such disclosures.

Proposer agrees that Agency will not be responsible for any errors, omissions, inaccuracies, inconsistencies or incomplete statements in this Proposal.

This Proposal shall be governed by and construed in all respects according to the laws of the State of California.

Business Address:

_____

(Street Address) (Suite)

_____

(City) (State) (Country) (Zip)

State or Country of Incorporation/Formation/Organization:

_____

[Insert Proposer's name]

By: _____

Print Name: _____

Title: _____

RFSOQ NO. K001201

ATTACHMENT 5

FORM OF CONTRACT

ISO 18000 6C COMPLIANT TRANSPONDERS

BETWEEN

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY
AND
SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR AGENCY

AND

[VENDOR NAME]

INDEFINITE DELIVERY / INDEFINITE QUANTITY
TRANSPONDER DELIVERY CONTRACT

CONTRACT NO. K######

[date]

FORM OF CONTRACT

SIGNATURE DOCUMENT

Contract No. K######, made [date], between the **FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY**, a joint powers agency and the **SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR AGENCY**, a joint powers agency (collectively referred to as "Agency or TCA")

whose address is: 125 Pacifica, Suite 100
Irvine, California 92618-3304
Tel.: (949) 754-3400
Fax: (949) 754-3491

and **[VENDOR NAME]**
(hereinafter referred to as "Vendor")

whose address is: [Street Address]
[City, State Zip Code]
Tel: (___) ___-____
Fax: (___) ___-____

RECITALS

A. Vendor submitted a Statement of Qualifications and Price Proposal ("SOQ") in response to Agency's Request for Statement of Qualifications ("RFSOQ") Number K001201 ISO 18000 6C Compliant Transponders ("Transponder") for the multiple award Indefinite Delivery / Indefinite Quantity Transponder Delivery Contract.

B. After evaluating Vendor's SOQ, Agency selected Vendor to be one of the proposers awarded an Indefinite Delivery / Indefinite Quantity Transponder Delivery Contract, pursuant to which Vendor shall be provided a fair opportunity to compete for Transponder Purchase Orders to be issued by Agency in accordance with the terms and conditions set forth in this Contract, by offering to supply Transponders to Agency in accordance with the Transponder Technical Requirements and Scope of Services set forth in Exhibit A, a copy of which is attached hereto and incorporated herein by reference, for prices not to exceed the prices set forth in Vendor's SOQ. The Price Proposal section of Vendor's SOQ is attached hereto as Exhibit B and incorporated herein by reference. Agency's Form of Transponder Purchase Order for ISO 18000 6C Compliant Transponders is attached hereto as Exhibit C and incorporated herein by reference.

C. In accordance with the terms set forth in the RFSOQ, Agency has selected or may select one or more other proposers to be awarded contracts for the delivery of Transponders substantially in the form of this Contract. Vendor and each of the other proposers who has

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entered into a contract with Agency on the terms set forth in this Contract are referred to herein as "Primary Contract Holders."

D. This Contract is available for use by other FasTrak® tolling entities and government agencies ("Other Entities") who may elect to purchase Transponders under this Contract by entering into a Third-Party Purchasing Addendum directly with Vendor. There is no guaranty that Other Entities will participate in piggybacking on this Contract.

In consideration of the agreements contained in the Contract, the parties contract and agree as follows:

1.0 CONTRACT DOCUMENTS – This Contract (the "Contract") consists of this Signature Document and the following Exhibits to this Signature Document:

A. Transponder Technical Requirements and Scope of Services,

B. Vendor's Price Proposal,

C. Form of Transponder Purchase Order,

D. Conflict-of-Interest Disclosure Statement,

E. General Terms,

and any drawings, specifications, and documents referred to in such documents, all of which by this reference are incorporated herein and made a part of the Contract. The Contract sets forth the entire agreement between the parties and supersedes all previous communications, agreements, and commitments, whether written or oral, pertaining to the Services (as defined in Section 2.0). The provisions of the Contract may be changed only by a writing executed by the parties to the Contract.

2.0 DESCRIPTION OF SERVICES – If awarded a Purchase Order in accordance with the process set forth in Section 4, Vendor shall deliver Transponders meeting the requirements set forth in the Technical Requirements and Scope of Services described in Exhibit A ("Services"), and as specifically described in each Purchase Order (as defined in Section 4.2) and other Contract provisions, in accordance with practices generally accepted as standards of the industry in the State of California, and in accordance with the terms and conditions, sequence, time and manner defined in the Contract. Services shall include, without limitation, the performance, fulfillment and discharge by Vendor of all obligations, duties, tasks, services and warranties imposed upon or assumed by Vendor under the Contract.

3.0 TERM – The term of the Contract shall commence on the effective date of the Contract specified above and shall continue until June 30, 2021 or until otherwise terminated, canceled, or extended in accordance with the procedures contained in the Contract. The Agency may at its sole option authorize Vendor to continue performance of Services for

FORM OF CONTRACT

up to three (3) additional one-year periods under the same terms and conditions herein. Time is of the essence of the Contract.

4.0 PURCHASE ORDERS

4.1 This Contract is in the nature of an umbrella arrangement. Its purpose is to set out the terms under which Agency may issue Purchase Orders pursuant to which Vendor will carry out the Services for Agency in accordance with the terms set out in the Purchase Order and this Contract.

4.2 From time to time Agency may issue Purchase Order Proposal Requests to all Primary Contract Holders inviting them to submit a proposal to perform the Services. The Purchase Order Proposal Requests will include, among other details, the type of Transponders sought, the quantity, the delivery date, any additional requirements beyond those specified in the Technical Requirements, and the deadline by which Vendor must submit a Purchase Order Proposal. Purchase Order Proposals must be submitted in accordance with the instructions in the Purchase Order Proposal Request, and must include all information requested. The Transponder prices that Vendor proposes in its Purchase Order Proposal shall not exceed the Vendor's prices in the Price Proposal, but may be less than the prices in the Price Proposal.

4.3 Should it determine to issue a Purchase Order, Agency will issue a Purchase Order to the Primary Contract Holder whose Purchase Order Proposal represents the best value to Agency. Best value will be based upon capacity, product quality, past performance and price.

4.4 If no Purchase Order Proposals are received in response to a Purchase Order Proposal Request, Agency may issue a Purchase Order in the form of Exhibit C ("Purchase Order") to Vendor for Transponders in the quantity specified in the Purchase Order Proposal Request and the price(s) specified in Exhibit B.

4.5 Each Purchase Order issued to Vendor shall be numbered sequentially (PO-001, PO-002, etc.), and shall include a detailed description of the Services, a schedule of performance (the "Purchase Order Schedule") and a per Transponder unit price and total amount to be paid by Agency for the specified quantity (the "Purchase Order Total Amount").

4.6 Upon Vendor's receipt of an executed Purchase Order in accordance with Section 4.5, Agency and Vendor will be deemed to have entered into a contract for performance of the Services described in the particular Purchase Order and the Vendor must carry out the Services, in accordance with the terms set out in the Purchase Order and the Contract.

4.7 Vendor acknowledges that Agency does not guarantee any volume of Services under the Contract. Agency shall not have any obligation to order any Services.

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4.8 If an Other Entity desires to participate in this Contract, the Other Entity will issue an Other Entity Purchase Order Proposal Request to each of the Primary Contract Holders. If such Other Entity elects to purchase Transponders from Vendor, it will do so under a separate Third-Party Purchasing Addendum between the Other Entity and Vendor. The purchase order will be placed by the Other Entity, and payments will be made by the Other Entity, under such Third-Party Purchasing Addendum. Agency shall have no liability or responsibility whatsoever and Vendor waives, and the Other Entity will waive in such Third-Party Purchasing Addendum, any claim against Agency for the actions or inactions of whatever nature by either party to the Third-Party Purchasing Addendum

5.0 NOTICE TO PROCEED – Vendor shall not perform any Services unless and until directed by a written notice to proceed by the Agency for a specified Purchase Order.

6.0 SCHEDULE – Vendor shall comply strictly with the delivery deadlines and other schedule requirements applicable to each Purchase Order.

7.0 COMMERCIAL TERMS – Vendor shall be compensated in accordance with the commercial terms set forth in the Purchase Order.

8.0 COMMUNICATIONS – Any notice, demand, request, covenant, approval or other communication to be given by one party to the other shall be in writing (unless some other form of notice is specifically provided for under the Contract) and (a) delivered personally; (b) sent by certified mail, return receipt requested; (c) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (d) sent by facsimile or email communication followed by a hard copy and with receipt confirmed by telephone, addressed to the parties at their respective addresses as follows:

If to Agency:

Attn: Director, Contracts and Procurement
125 Pacifica, Suite 100
Irvine, California 92618-3304
Tel: (949) 754-3400
Fax: (949) 754-3491
Email: contracts@thetollroads.com

If to Vendor:

Attn: [Contact, Title]
[Street Address]
[City, State Zip]
Tel: (___) ___-____
Fax: (___) ___-____
Email: _____

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A change in address may be made by notifying the other party in accordance with this section.

Notices shall be deemed received when actually received in the office of the addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on the receipt of the U. S. Postal Service, private carrier or other person making the delivery. Notwithstanding the foregoing, notices sent by facsimile after 4:00 p.m. Pacific Standard or Daylight Time (as applicable) and all other notices received after 5:00 p.m. shall be deemed received on the first business day following delivery (that is, in order for a fax to be deemed received on the same day, at least the first page of the fax must have been received before 4:00 p.m.).

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IN WITNESS WHEREOF, the parties have executed the Contract on the date below written, but effective as of the date in Section 3.0.

[VENDOR NAME]

Date: _____ By: _____

Printed Name: _____

Title: _____

Date: _____ By: _____

Printed Name: _____

Title: _____

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY

Date: _____ By: _____
Coleen Franco
Director, Contracts and Procurement

SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR AGENCY

Date: _____ By: _____
Coleen Franco
Director, Contracts and Procurement

FORM OF CONTRACT

- END OF SIGNATURE DOCUMENT -

EXHIBIT A

TRANSPONDER TECHNICAL REQUIREMENTS AND SCOPE OF SERVICES

FORM OF CONTRACT

TRANSPONDER TECHNICAL REQUIREMENTS
AND
SCOPE OF SERVICES

FORM OF CONTRACT

1. INTRODUCTION

TCA is seeking transponders that conform to the ISO 18000 6C protocol and the California 6C Electronic Toll Collection Standard.

Transponders shall provide single or multiple protocol capabilities as supplied by Vendor.

Transponders are desired in the following form factors, as available from Vendor:

- Interior Mounted Sticker Transponders
- Interior Mounted, 3-Position Switchable, Self Declaration Transponders
- Exterior Mounted Sticker and Hard Case Transponders
- Interior/Exterior Sticker Transponders
- Any other form factor suitable for tolling

For all transponders supplied by Vendor, Vendor shall provide certificates of factory testing, warranties, and documentation concerning installation, operation and maintenance.

2. DEFINITIONS

Detection Zone shall mean a spatial area where the reader can establish a stable radio communication link with any transponder in this area to complete at least one set of communication interacts between transponder and reader as defined by the ISO 18000 6C protocol.

ISO 18000-6C shall mean the most recent version of the ISO/IEC 18000-63 communication protocol for tolling applications that use automatic vehicle identification (AVI).

Radio-frequency identification (RFID) shall mean the use of a device (typically referred to as a transponder) installed on a motor vehicle for the purpose of identification using radio waves.

3. GENERAL TRANSPONDER TECHNOLOGY REQUIREMENTS

3.1 Ready to Manufacture and Deliver

All supplied equipment shall have been already designed, developed, tested, and tooled for immediate manufacture and delivery. The supplied equipment shall be currently deployed or designed specifically to enable non-stop, high-speed electronic toll collection.

3.2 Radio Frequencies

The transponders shall utilize such FCC allocated radio frequencies as appropriate for this application. The transponder shall operate in the:

- 902 MHz to 928 MHz radio frequency band

Transponders shall be resistant to Radio Frequency (RF) interference present in the toll lane due to other toll lane equipment; equipment carried personally, such as cellular phones; or other RF devices operating in the 900 MHz band whether these devices are licensed or not.

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3.3 Toll Lane Configurations

The technology shall enable electronic toll collection in a variety of toll lanes including conventional toll plaza lanes and high-speed open road tolling lanes. These lane types may be stand-alone configurations or adjacent to other lane types. Lanes may vary from 10 to 15 feet in width and 10 to 21 feet in height.

- *Toll Lanes*: A traditional toll lane is part of a toll plaza where tolls may be collected by toll collectors in booths, including a variety of antenna placement areas in compact spaces. Lanes dedicated to electronic toll collection in a toll plaza environment are considered toll lanes even if they do not require the vehicle to slow down.

- *Open Road Tolling Lanes*: An open road tolling lane is a lane where a toll is collected but there are no toll booths or other toll collection equipment beyond that needed for electronic toll collection, allowing the vehicle to continue at highway speeds at any lateral position across the travel lanes or shoulder.

- *Reversible Lanes*: A reversible lane is a lane where tolls may be collected from vehicles traveling in either direction during different periods of the day.

- *Dedicated Lanes*: A dedicated lane is a lane where only one form of payment is accepted such as a lane where only transponder equipped vehicles can pass without triggering a violation enforcement system.

- *Mixed Mode Lanes*: A mixed mode lane is a lane where multiple forms of payment are accepted. For example, it could consist of any combination of manual toll collection, automatic coin machines as well as electronic toll collection.

- *High Occupancy Toll (HOT) Lanes:* HOT lanes are highway lanes that provide free or reduced cost access to qualifying High Occupancy Vehicles (HOVs), and also provide access to other paying vehicles not meeting passenger occupancy requirements.

3.4 Transponder Technology Performance Requirements

3.4.1 DETECTION RATE

Vehicles properly equipped with transponders passing through the toll point shall be detected and read completely at least 99.50 percent of the time (no more than five missed reads or incorrect detects in 1,000 equipped vehicle passages).

3.4.2 COMMUNICATION BIT ERROR RATE (BER)

The communication bit error rate between transponder and reader shall be less than 0.0001 percent of the time (no more than one error in 1 million) from the transponder in a range of one to thirty-three feet and at zero to one hundred miles per hour.

3.5 Working Environment

The supplied transponder and reader technology shall meet the performance requirements specified in Section 0 under the following conditions:

- Vehicles traveling up to 100 miles per hour.

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- "Stop and go traffic" with continuous intermittent acceleration and deceleration between 0 and 15 miles per hour.
- Vehicles traveling as close as two (2) feet when traveling in non-stop tolling lanes.
- Different mixes of all vehicle types encountered on North American roads including, but not limited to, cars, trucks, recreation vehicles, motorcycles, buses, and delivery vans.
- Vehicles changing and straddling lanes.
- Environmental conditions that may be encountered in the Orange County region, including, but not limited to:
  - Rain – one quarter inch of rain per minute
  - Fog – 10 feet of visibility
  - Mud, dust, sand, and any other debris or contaminant as might be found at open road tolling sites

3.6 Security

The transponders shall minimize the possibility of something or someone compromising and corrupting the security integrity of the supplied technology. The transponder technology shall incorporate safeguards that would prevent unauthorized access to, recording of, and downloading of any data both stored and transmitted from the transponder or reader. Instances of the security integrity to be addressed include, but are not limited to:

- Unique transponder identification number is cloned or spoofed
- Unauthorized reading of transponders

Vendor shall document their security scheme.

3.7 Regulatory Compliance

The transponders and readers shall comply with applicable federal, state and local licensing and regulations for transponder technology. Transponder testing shall be certified by an OmniAir Certification Services laboratory or other approved laboratory. Vendor shall document all related licensing and regulations associated with their equipment.

3.8 Safety Requirements

The transponders shall meet all applicable safety and environmental requirements related to the technology and its applications in addition to any requirements of this document. The transponders shall not pose either a short-term safety risk or a long-term health risk to drivers, technicians, other people who may frequently be in the vicinity of the transponder technology, or any other people.

Vendor shall provide the material safety data sheet for any materials or equipment utilized within any supplied product that has a material safety data sheet. Vendor shall provide any information regarding any other materials that may be considered hazardous or require special handling or disposal.

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Vendor shall document any potential hazards to drivers, or other people from incorrectly mounted transponders, incorrectly installed transponders, or malfunctioning equipment.

3.9 Compliance with Requirements

Vendor shall certify and document that the transponder technology complies with the requirements of this Contract. Vendor shall conduct testing, as needed, to demonstrate compliance with the requirements. Testing shall generate statistically valid results which unambiguously demonstrate compliance with requirements and specifically address, but are not limited to:

- Compliance with the California 6C Electronic Toll Collection Standard
- Performance requirements
- Working environment requirements
- Security requirements

Vendor shall submit documentation to TCA describing:

- Testing methods and protocols
- Statistical methodologies applied
- Test results from testing conducted at test facilities and testing which has been documented in a production environment for RFID and/toll facilities

Test results from previous installations at other high-speed toll facilities and independent third-party certification shall be acceptable.

4. GENERAL TRANSPONDER REQUIREMENTS

4.1 Consumer Product Safety

All components used in the transponder shall be approved for use in consumer products in terms of safety. The transponder shall not give off dangerous substances at any time including when damaged.

4.2 Size

Interior mounted transponders shall be as small as possible and fit behind the rearview mirror. Interior mounted transponders shall not obstruct the driver's field of vision.

4.3 Environmental Requirements

The transponder shall operate as required while subjected to temperature, shock, vibration, direct sunlight, dust, impacts, working environment conditions, and radio frequency emissions as encountered in the mounting location of the transponder.

Transponders will be exposed to direct sunlight, which has been known to cause issues some transponders failing to respond to AVI Reader requests and / or providing incorrect reads in some cases. Sunlight screening shall be built into both the Interior and Exterior Transponders to ensure they perform as well under conditions of direct sunlight and in overcast conditions.

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4.4 Serial Numbers

Transponders shall be serialized to fit in with, and not conflict with, the transponder serial number ranges already procured by TCA. Specific details shall be provided to Vendor after award, prior to manufacturing.

4.5 Bar Code

Each transponder shall include a bar code or Quick Response (QR) code. The transponder bar code/QR code) information shall be in accordance with the California 6C Electronic Toll Collection Standard.

4.6 Transponder Branding

All transponders delivered under this Contract shall be branded “FasTrak” or any other branding that TCA may require in the future and shall not carry any visible manufacturer or vendor brand names. TCA will provide all required and appropriate “FasTrak” logos and artwork.

4.7 Shipping

All transponders shall comply with any and all current U.S. and international safety standards to permit unrestricted shipment by mail and commercial carriers with appropriate documentation and in the recommended packaging.

4.8 Disposal

If there are environmental restrictions on disposal of any type of supplied transponder, Vendor shall document the proper disposal procedures and the reason for the restrictions.

5. TRANSPONDER TYPES TO BE SUPPLIED

Vendor shall comply with the following requirements for the specific form factors of the transponder types that they provide under this Contract. Vendor is not required to provide all transponder types requested in this section. Transponder types shall accommodate all types of vehicles including automobiles, trucks and motorcycles.

5.1 Interior Sticker Transponder

The Sticker Transponder shall be a programmable, radio wave powered, windshield mounted, RFID transponder that is packaged as a flexible, self-adhesive sticker. Once the transponder is mounted to the windshield, any attempt to remove the transponder from its mounting location will result in it becoming permanently unusable. The Sticker Transponder must be designed in such a manner that it will not cause damage to the surface to which it is attached.

Sticker Transponder shall be designed for operation from -40º F to +185º F.

5.2 Interior Hard-Case Transponder

The Hard-Case Transponder shall be a programmable, radio wave powered, windshield mounted RFID transponder that is packaged in a monolithic plastic case. The Hard-Case Transponder shall be able to be unattached from vehicle windshield and reattached back to the vehicle windshield without the use of any tools.

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Hard-Case Transponder shall be designed for operation from -40º F to +185º F.

5.3 Interior High Occupancy Vehicle (HOV) Self Declaration Transponder

The High Occupancy Vehicle (HOV) Self Declaration Transponder shall be a programmable radio wave powered, windshield mounted RFID transponder that is packaged in a monolithic plastic hard case.

The transponder shall include a mechanism that causes the transponder to transition from one HOV status to another. The transponder shall support at least three statuses: single occupant vehicle (SOV), two-occupant vehicle (HOV 2), and a high occupant vehicle (HOV 3+). Transponders shall include some type of driver feedback.

The transponders shall have the ability transmit the unique transponder identification data and HOV status associated with the transponder when read by the reader when passing through a toll point.

The transponder shall be able to be unattached from vehicle windshield and reattached back to the vehicle windshield without the use of any tools.

The HOV Self Declaration Transponder shall be designed for operation from -40º F to +185º F.

5.4 Exterior Transponder

The Exterior Transponder shall be a programmable, radio wave powered, RFID transponder that is packaged in a monolithic plastic hard case or a flexible self-adhesive sticker. Both form factors shall be for installation on surfaces outside of the passenger compartment of motor vehicles.

Exterior Transponders shall withstand ice, snow, steam, dirt, mud, any solutions used in the lanes, as well as stones and other projectiles such as sand particles and gravel.

The Exterior Transponder shall be designed for operation from -40º F to +150º F.

5.5 Mounting Bracket and Strips

5.5.1 INTERIOR MOUNT TRANSPONDERS

Interior transponder models shall be held stationary in their location by means sufficient to provide reliable attachment. The attachment methods shall be sufficient to prevent inadvertent displacement or projectile motion in case of rough road surfaces or accident. If the transponder model is transferable, the attachment methods shall allow removal without risk of damage to the transponder or vehicle. Any strips, tabs, cups or other mounting device used to meet these requirements shall be completely removable without damaging or marring the vehicle in any way. The transponder models proposed shall be marked in a manner that incorrectly orienting the transponder upon installation or reinstallation is unlikely.

Vendor shall supply the required strips, tabs, cups or other mounting devices with all supplied transponder models.

Vendor shall document the means of attachment and mounting devices used by all supplied transponder models.

5.5.2 EXTERIOR MOUNT TRANSPONDERS

License plate mounted transponders shall be mounted using the top license plate mounting holes, and their design shall incorporate bolt holes spaced for the holes in a license plate in the transponder casing or attachment bracket. When mounted, transponders shall not obscure the

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license plate numbering (numbers and letters) information. Transponders shall be readily moved using common tools when the owner replaces his or her vehicle. The mounting method shall allow removal without risk of damage to the transponder or vehicle.

If an exterior transponder is not mounted on the license plate frame, the transponder shall have sufficient marking to ensure that the correct orientation shall always be selected by the user. The attachment methods shall be sufficient to prevent inadvertent displacement or projectile motion in case of rough road surfaces or accident. The mounting method shall allow removal without risk of damage to the transponder or vehicle.

Vendor shall supply the required mounting material or hardware with all supplied transponder models.

Vendor shall document the means of attachment and mounting devices used by all transponder models.

5.6 Transponder Storage Bags

For each supplied transponder model, Vendor shall provide one metallic bag that will not allow a transponder to be read while the transponder is in the bag.

6. HANDHELD READER AND PROGRAMMER

6.1 Handheld Reader

Vendor shall provide a Handheld Reader that is compatible with the provided transponders. The Handheld Reader shall be of ergonomic design and powered by a rechargeable battery. The Handheld Reader shall be able to be carried, moved and operated by one person. The Handheld Reader shall be able to read data from all provided transponders. The Handheld Reader shall be equipped with a display which displays, at a minimum, the transponder ID of any transponder that is read. The Handheld Reader shall support an external interface allowing it to exchange all transponder data with a desktop or laptop workstation (supplied by others). Vendor shall provide any software for installation on desktop or laptop workstations required to support interfacing with the Handheld Reader. For the Contract Term, and at no additional cost to TCA, Vendor shall provide the following software maintenance services as it pertains to the Handheld Reader:

- Updates to the Handheld Reader firmware;
- Updates to Software for use on connected workstation;
- Release Notes for firmware and Software; and
- Documentation Updates.

Vendor shall provide training to TCA or its designated representatives in the use and maintenance of the Handheld Reader. The microwave energy radiated from the Handheld Reader shall be well below the limits set by health and telecommunication authorities of United States, and these units shall be allowed for continuous use in an operational environment.

6.2 Transponder Programmer

Vendor shall provide a Transponder Programmer that is compatible with the transponders. The Transponder Programmer shall allow programming of all TCA read-only data fields in the transponders. Vendor shall provide any software for installation on desktop or laptop workstations required to support interfacing with the Transponder Programmer. For the Contract Term, and at no

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additional cost to TCA, Vendor shall provide the following software maintenance services as it pertains to the Transponder Programmer:

- Updates to the Transponder Programmer firmware;
- Updates to Software for use on connected workstation;
- Release Notes for firmware and Software; and
- Documentation Updates.

Vendor shall provide training to TCA or its designated representatives in the use and maintenance of the Transponder Programmer.

7. WARRANTY

Vendor shall warrant and represent that all the equipment shall meet the requirements and specifications set forth in this document. Vendor shall warrant that all transponders provided be free of defects in design, workmanship and materials.

The warranty period shall be:

1. Transponders – one (1) year

The warranty period shall begin on the date the equipment was delivered to the designated delivery location.

During the warranty period, Vendor shall adjust, repair, or replace all equipment that is defective or not performing in conformance with these technical requirements. All costs for such adjustments, repairs, or replacements, including all costs for replacing parts or units and any transportation and delivery fees, shall be at Vendor's expense. Any defective equipment shall be repaired or replaced for TCA so that it conforms to the specifications.

All warranty service provided hereunder shall be performed by manufacturer-trained, certified, and authorized technicians.

Vendor shall act as the sole point of contact for warranty service.

The terms and conditions of the warranty shall be incorporated into the Contract.

8. DOCUMENTATION

8.1 Regulator Compliance

Vendor shall provide documentation stating that the transponders are compliant with appropriate regulations and standards.

8.2 Security Scheme

The transponders shall be designed to minimize the possibility of something or someone compromising and/or corrupting the integrity of the toll collection system. The Vendor shall document the safeguards its equipment provides that would prevent unauthorized access to, recording of, and/or downloading of, any data, stored or transmitted, from the transponder.

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8.2.1 TRANSPONDER MEMORY MAP

Vendor shall provide a bit level description of the transponder memory map including transponder identification number, Read-Only Memory, Read/Write Memory (as applicable) and access condition.

8.2.2 TRANSPONDER PASSWORD (AS APPLICABLE)

Vendor shall provide a description of the creation and the usage of transponder password(s), as applicable.

8.2.3 AUTHENTICATOR CALCULATION (AS APPLICABLE)

Vendor shall provide a description of the creation and the usage of authenticator(s) as applicable.

8.3 Quality Control Plan

Vendor shall provide documentation on how the transponders are individually certified in both the on and off position prior to shipment.

9. MANDATORY SERVICES

Vendor shall provide the services listed below to TCA or its designated representative for the duration of the Contract.

9.1 Transponder Technology Testing and Certification

Vendor shall demonstrate that both the readers and the transponders are certified as compliant with ISO 18000-6C Interoperability Requirements through OmniAir Certification Services (OCS).

9.1.1 COMPLIANCE WITH PROTOCOLS

Vendor shall provide proof of certification compliance. Test results from previous installations at other non-stop, high-speed toll facilities and independent third-party certification shall be acceptable.

Certification of compliance documentation shall be submitted to TCA for approval prior to Vendor submitting a Purchase Order Proposal for additional transponder types.

Approval by TCA of Vendor documentation for certification compliance will be required before payment for any Vendor-supplied equipment or services will be made by TCA.

9.1.2 PROOF OF COMPLIANCE

Prior to Vendor submitting a Purchase Order Proposal for additional transponder types, the Vendor shall submit proof of certification compliance and compliance with these requirements. Formal test results previously conducted at other toll facilities for other clients and independent third-party certification entities shall be acceptable. The documentation provided by Vendor shall be cross referenced to these requirements.

Vendor shall submit draft documentation of compliance for comment by TCA. TCA will require a minimum of ten (10) business days to review the documentation. TCA will provide Vendor with a consolidated set of comments on the documentation. Vendor shall respond in writing to all TCA comments. A comment resolution meeting may be conducted to clarify and resolve any remaining questions and issues concerning the comments provided by TCA to Vendor. Based on TCA

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comments and the results of the comment resolution meeting, Vendor shall prepare a final version of the documentation of compliance for TCA approval.

Approval by TCA of Vendor documentation for certification compliance will be required before payment for any Vendor-supplied equipment or services will be made by TCA.

9.2 Integration Support

Vendor shall provide technical support and advice to TCA or its designated representative during the integration of Vendor supplied transponders into toll collection systems at any TCA toll transportation facility at no additional cost for the duration of this Contract. Vendor shall be required to acknowledge requests for information within one (1) business day and respond in a timely manner to all requests for information and questions from TCA or its designated representative.

9.3 Maintenance Support

Vendor shall provide on-going maintenance support and advice to TCA or its designated representative for equipment not under warranty at no additional cost for the duration of this Contract.

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EXHIBIT B

VENDOR'S PRICE PROPOSAL

[Insert Price Proposal from Vendor's SOQ]

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EXHIBIT C

FORM OF TRANSPONDER PURCHASE ORDER

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FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY
SAN JOAQUIN HILLS TRANSPORTATION CORRIDOR AGENCY

PURCHASE ORDER DOCUMENT

Address: 125 Pacifica, Suite 100
Irvine, CA 92618 -3304

The following number must appear on all related correspondence, shipping papers, and invoices:

PURCHASE ORDER NUMBER: PO-###

To:

Ship To:

Transportation Corridor Agencies
125 Pacifica, Suite 100
Irvine, CA 92618
Attention: _____

Ship by:

P.O. DATE	REQUISITIONER	SHIP VIA	F.O.B. POINT	TERMS
TBD	TBD	TBD	Ship To Address	See Attached

This Purchase Order (Order) is made by and between the Foothill/Eastern Transportation Corridor Agency and the San Joaquin Hills Transportation Corridor Agency (jointly referred to as "Agency" or "TCA") and _____ ("Vendor") of the respective addresses provided above, with reference to that certain Indefinite Delivery/Indefinite Quantity Transponder Delivery Contract between Agency and Vendor dated [insert DATE] ("Transponder Delivery Contract").

Description: Provide the Transponders (as such term is defined in the Transponder Delivery Contract) of the types and in the quantities specified in Schedule 1 hereto, in accordance with the terms and conditions set forth in the Transponder Delivery Contract (including all exhibits thereto) and the Purchase Order Terms and Conditions herein, the Transponder Specifications attached to this Order as Exhibit A, and the Delivery Schedule, attached to this Order as Exhibit B. Payment shall be made as specified in the Commercial Terms attached as Exhibit C to this Order. Additional warranties shall apply as set forth in Vendor's Additional Warranties attached as Exhibit D to this Order.

Nondiscrimination: Vendor shall comply with the provisions set forth in Exhibit E to this Order.

The Order consists of this Purchase Order Document and the following attachments:

-Purchase Order Terms and Conditions,
-Exhibit A, 6C Transponder Specifications,
-Exhibit B, 6C Transponder Delivery Schedule [**NOTE**: The First Purchase Order, as defined in the RFSOQ, shall have a delivery date of not later than June 30, 2018 (the "First Purchase Order Delivery Deadline"). The First Purchase Order shall provide that time is of the essence.],
-Exhibit C, Commercial Terms,
-Exhibit D, Vendor's Additional Warranties, and
-Exhibit E, Nondiscrimination Provisions

See Exhibit C, Commercial Terms for pricing details

SUBTOTAL	
SALES TAX	
SHIPPING & HANDLING	
OTHER	
TOTAL AMOUNT	**$**

1. Please notify us immediately if you are unable to ship as specified.

2. Send all correspondence to:
[Name, Title]
Transportation Corridor Agencies
125 Pacifica, Suite 100
Irvine, CA 92618-3304
(949) 754-3400; Fax (949) 754-3467

Acceptance Required
Vendor:

By: _____
Vendor Signature Date

_____
Vendor Signature Date

By: _____
Agency Authorized by Date

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SCHEDULE 1 TO TRANSPONDER PURCHASE ORDER

A. REQUIRED TRANSPONDER TYPES, QUANTITIES, UNIT PRICING AND LOGO

TRANSPONDER TYPE	QUANTITY	UNIT PRICE

B. LOGO REQUIREMENTS

1. Interior Sticker Tag Transponder Logo:

[Logo to be provided under separate cover]

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PURCHASE ORDER TERMS AND CONDITIONS

ACCEPTANCE: The Transponder Delivery Contract and this Purchase Order (Order) and its attachments (if any), properly executed, constitute the entire agreement of the parties. The terms stated by Vendor, in accepting or acknowledging this Order, shall not be binding unless accepted in writing by Agency. Vendor will acknowledge acceptance of the terms and conditions of this Order by signing a copy of this Order and returning an original to Agency.

ATTORNEY'S FEES: If any legal action is necessary to enforce the terms of this Order, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may be entitled.

CHANGES: Agency shall have the right to make changes in this Order, but no additional charge by Vendor for such changes will be allowed unless authorized in writing by Agency. If such changes affect Vendor's contract price or delivery schedule, Vendor shall notify Agency immediately, and within 30 days of such notice, shall submit a detailed cost breakdown comparing original requirements and costs to the changed requirement. The parties will then negotiate an equitable adjustment in Order price, delivery schedule or both. However, nothing in this clause shall excuse Vendor from proceeding with this Order as changed.

Except as set forth in the preceding paragraph, Vendor shall not perform extra or additional work or alter or deviate from the work specified in this Order unless agreed in writing by Agency. Any such extra work to which Agency has not agreed in advance in writing will not be compensated by Agency.

DELIVERY TERMS: Unless otherwise stipulated, the delivery terms mean prices quoted are inclusive of shipping charges. Unless otherwise stipulated, shipment is to be made to destination: Transportation Corridor Agencies, 125 Pacifica, Irvine, CA 92618. Delivery shall include shipping and handling to Agency's "Ship To" facility, as identified on the Purchase Order, via lift-gate equipped truck. Vendor shall conform to all applicable shipping, handling and transport storage laws and regulations and standard industry practices.

INSPECTION: Anything (including, but not limited to, construction, services, materials or articles, as applicable) provided by Vendor under this Order (hereinafter referred to as "Transponders") may be subject to inspection and final inspection prior to acceptance or shipment at either source or at destination, notwithstanding any prior payment or inspection and acceptance of the Transponders hereunder. Vendor shall promptly remedy such defective and uncompleted portion of the Transponders at Vendor's expense. Agency shall not be obligated to make final payment until Vendor has delivered to Agency a final invoice and a certificate and release satisfactory to Agency that Vendor has fully performed under this Order, that no property of Agency is subject to any unsatisfied lien or claim as a result of Vendor's performance, and that upon making such final payment, all claims of Vendor and all rights of lien against Agency and their property in connection with the Transponders are released. If Agency requests, Vendor shall furnish full releases of lien satisfactory to Agency, executed by all parties who by reason of their work or connection to the Transponders are potential lienors against Agency's property.

INSURANCE: The Vendor shall maintain statutory liability insurance and workers' compensation coverage.

ORDER OF PRECEDENCE: In the event of any conflict between the terms and conditions of this Order and those set forth in the Transponder Delivery Contract, the terms and conditions of the Transponder Delivery Contract shall control unless expressly provided otherwise in this Order. In the event of any conflict among the Order documents, this Order and all amendments hereto shall in all events control. The order of precedence set forth below shall apply with respect to the other Order documents:

1. Purchase Order Cover Sheet
2. Purchase Order Terms and Conditions
3. Purchase Order Exhibits
4. Vendor's Purchase Order Proposal

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PACKING: Any Transponders shipped under this Order are to be packaged in a manner that will provide for efficient handling and will preclude damage to the Transponders during shipping and/or storage; as well as transaction processing should the Transponders traverse a tolled facility during delivery. Damage to the Transponders resulting from improper packaging will be charged to the Vendor. No additional charges will be allowed for boxing, packing, returnable containers, or transportation thereof, unless stated on the face of this Order. Packing slips must accompany all shipments. Agency's count will be accepted as final and conclusive on all shipments. Agency's order number and Vendor's packing slip number, description and count must appear on all invoices, packages and bills of lading.

PAYMENTS: Except to the extent expressly stated otherwise herein, the Vendor's compensation shall be payable on a one-time basis or monthly if term Order. Payment shall be considered being made on the day a check is dated or an electronic funds transfer is made. No payments shall be construed to be an acceptance of defective Transponders or relieve Vendor of any of its contractual obligations.

PRICE WARRANTY: The Vendor warrants that the prices of the goods set forth herein do not exceed those charged by the Vendor to any other customers or most favored customers purchasing the same goods in like or lesser quantities and under the same or similar circumstances.

PRICING BASIS: The Purchase Order Price set forth herein is firm for the duration of this Order and includes all Vendor's costs, expenses, overhead and profit for complete performance under this Order.

TAXES: The Vendor shall pay all local, municipal, county, state, federal taxes, duties and fees when due, including sales and use taxes that are required to complete performance hereunder. The Purchase Order Prices as set forth in this Exhibit C are inclusive of such taxes, duties and fees, excluding sales tax. Vendor shall indemnify Agency against any loss, cost, damage, or liability that Agency suffers by reason of Vendor's violation of this clause.

TIME OF PERFORMANCE: All days referred to herein are calendar days. Time is of the essence in the performance of this Order. If services cannot be performed or goods or deliverables provided within the specified time, Vendor shall promptly notify Agency of the earliest possible date for performance or delivery.

WARRANTIES: Vendor warrants that the Transponders complies with all specifications and that workmanship and materials are free from defects. If any portion of the Transponders has not been completely described in this Order, it shall comply with nationally recognized codes and established industry standards.

Agency may return any Transponders that are defective, unsatisfactory, of inferior quality or workmanship, or fail to meet the requirements of this Order. Such Transponders shall, unless used by Agency, remain the property of the Vendor. Agency will return such Transponders at the Vendor's risk and expense, and Vendor will reimburse Agency for all prior payments and costs incurred in connection with delivery or return of such Transponders. Any Transponders proving defective when used for its intended purpose will be replaced, credited or refunded to Agency, at its option.

In the event that any Transponder sold and delivered hereunder is defective, Vendor will indemnify and save harmless Agency from any and all loss cost, damage, expense, or the payment of all sums of money by reason of all accidents, injuries, and/or damages to persons or property that may happen or occur in connection with the use or sale of such Transponders.

END OF TERMS AND CONDITIONS

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EXHIBIT A

6C TRANSPONDER SPECIFICATIONS

[TBD]

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EXHIBIT B

6C TRANSPONDER DELIVERY SCHEDULE

[TBD]

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EXHIBIT C

COMMERCIAL TERMS

These Commercial Terms shall apply to the Order to which this Exhibit is attached.

1.0 COMPENSATION

1.1 Payment to Vendor as provided herein shall constitute full consideration for the Transponders.

1.2 In no event shall Vendor be entitled to receive more than the Purchase Order Total Amount on the Purchase Order Cover Sheet ("Order Total Amount"). Vendor agrees that it must complete performance and comply with all of its other obligations under this Order without entitlement to any payment in excess of the Order Total Amount.

1.3 The following items shall be provided by Vendor, at the sole discretion of the Agency, at the prices indicated, to the Agency in accordance with Exhibit A, 6C Transponder Specifications, and Exhibit B, 6C Transponder Delivery Schedule, to this Order, with warranties in accordance with Exhibit D, Vendor's Additional Warranties.

Description	Unit Price
TBD	TBD

2.0 INVOICING INSTRUCTIONS

2.1 Upon submittal of proper invoices, Agency shall pay for the delivered Transponders ordered herein at the prices stipulated in this Order. All amounts invoiced shall be substantiated and supported by receipts and other documents satisfactory to Agency and verified by Agency. Any invoices regarding the delivery of goods shall include shipping and delivery addresses, quantity delivered and delivery date.

2.2 Such invoice shall be paid within 30 days after receipt in form satisfactory to Agency and verified by Agency.

2.4 Each invoice shall be delivered to Agency, ATTN: Accounting, to the address indicated on the Purchase Order Document, or emailed to: apinvoices@thetollroads.com.

- End of Exhibit C -

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EXHIBIT D

VENDOR'S ADDITIONAL WARRANTIES

[TBD]

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EXHIBIT E

NONDISCRIMINATION PROVISIONS

During the performance of the Order, Vendor shall not discriminate against any person or group of persons on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation or military and veteran status.

Vendor confirms that it has an equal employment opportunity policy ensuring equal employment opportunity without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation or military and veteran status ; and that it maintains no employee facilities segregated on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation or military and veteran status.

Vendor shall not discriminate against, or fail to make reasonable accommodation of, any person covered by the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. §§ 12101-12213, as amended (the "Act"), or fail to comply with any provision of the Act in the course of its performance of its obligations hereunder, or in any way connected with Agency. Vendor shall defend, indemnify, protect, and hold harmless the Agency, their respective successors and assigns, and their respective officers, directors, employees, agents, and representatives from any and all damages, losses, claims, suits, costs, liabilities, or actions of every kind or description (including attorneys' fees) incurred or brought for, or on account of, Vendor's violation or alleged violation of the Act in the course of performance of its obligations hereunder, or in any way connected to Agency by Vendor, its agents, its subcontractors, or any officers, partners, or employees of any of the foregoing.

- End of Exhibit E -

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EXHIBIT D

CONFLICT-OF-INTEREST DISCLOSURE STATEMENT

1. DISCLOSURE POLICY

It is the policy of the Agency to ensure that firms and individuals providing services to Agency on the transportation corridor projects are not subject to organizational conflicts affecting their objectivity or their ability to provide impartial assistance or advice to the Agency. This form requires certain relationships to be disclosed to the Agency so that it may determine whether a potential organizational conflict exists and whether mitigation measures may be implemented so as to allow the firm or individual to perform services notwithstanding such potential conflict. Relationships with the following entities must be disclosed:

a. Any firm, individual, partnership, corporation, association, or other legal entity currently retained for services by an owner or developer or any other representative of a real property interest adjacent to, or coincident with, the transportation corridors.

b. Any firm currently retained or which may be retained for services by any member agency of Agency or other public entity within Orange County, California (see list of member agencies below).

c. Any firm, individual, partnership, corporation, association, or other legal entity that (i) is currently retained for services by an organization that is actively opposing any Agency project, or (ii) was previously retained by an organization to provide services to the organization supporting its opposition to any Agency project.

2. DISCLOSURE

a. _____ Vendor is not currently retained for services as defined in Subparagraphs 1.a, b, and/or c above.

b. _____ Vendor is currently retained for services as defined in Subparagraphs 1.a, b, and/or c above.

1) Vendor is doing business on the following Agency transportation corridor projects (Check all applicable transportation corridors):

____ San Joaquin Hills Transportation Corridor
____ Eastern Transportation Corridor
____ Foothill Transportation Corridor

2) Vendor is retained for services by the following member agencies of Agency or other entity (Check all applicable):

____ City of Aliso Viejo	___ City of Newport Beach
____ City of Anaheim	___ City of Orange
____ City of Costa Mesa	___ City of Rancho Santa Margarita
____ City of Dana Point	___ City of San Clemente
____ City of Irvine	___ City of San Juan Capistrano
____ City of Laguna Hills	___ City of Santa Ana
____ City of Laguna Niguel	___ City of Tustin
____ City of Laguna Woods	___ City of Yorba Linda
____ City of Lake Forest	___ County of Orange
____ City of Mission Viejo	

3) Vendor is retained for services by the following other public agencies and public or private entities within Orange County, California. (List individually.) _____
_____
_____
_____
_____

4) Please describe briefly those services potentially affected by this Disclosure: _____
_____
_____
_____
_____

Vendor is required to disclose to Agency, in writing, any services relationship which may be entered into during the term of the Contract, which violates or appears to violate the intent of this Disclosure.

[VENDOR NAME]

_____
Date

_____
Authorized Representative

_____
Title

- END OF EXHIBIT D -

EXHIBIT E

GENERAL TERMS

1.0 WARRANTY

1.1 Vendor warrants that all Services supplied by Vendor in performance of the Contract shall be new and of good quality, free from defects, fit for use for the intended function and shall meet or exceed all of the requirements set forth in the Transponder Technical Requirements and Scope of Services in Exhibit A to this Contract, and shall meet or exceed all requirements in the relevant Purchase Order ("Warranty"). The items furnished pursuant to any Purchase Order shall be provided with the Vendor's warranty of design, material, workmanship, quality and performance meeting the terms set forth in this Section 1 at a minimum, and shall meet the proposed form of warranty submitted by Vendor with its SOQ ("Vendor's Warranty"). The Agency approved-minimum form of Vendor's Warranty is attached to these General Terms as Attachment 1. The Vendor shall submit its proposed form of warranty in response to each Request for Purchase Order Proposal with each Purchase Order Proposal submitted by Vendor for approval by Agency. If Agency selects Vendor's Purchase Order Proposal, the Agency-approved form of Vendor Warranty shall be attached to the Purchase Order issued by Agency and incorporated by reference therein. In the event of any conflict between such Vendor Warranty and the terms of this Section 1, the terms most advantageous to Agency shall control.

1.2 The Warranty for each Transponder delivered by Vendor shall apply for a period of [TBD] (#) years from the date that [insert relevant start date – e.g., date of acceptance by Agency, date item is issued to a customer] (the "Warranty Commencement Date") until the date that is the [TBD] (#) year anniversary of the Warranty Commencement Date (the "Warranty Period"). If any Transponder delivered by Vendor is later corrected, repaired and/or replaced, then the warranty applicable to such Transponder shall apply for [TBD] (#) years from the date of correction, repair or replacement, but in no event longer than [TBD] (#) years from the date. Notwithstanding the above, the expiration of the Warranty Period does not bar Agency's claim for any latent defect that could not have been reasonably discovered prior to the expiration of the Warranty Period.

2.0 CHANGES

2.1 The Services under any Purchase Order shall be subject to changes by additions, deletions, or revisions by Agency in accordance with the terms set forth in the relevant Purchase Order. Vendor shall be advised of any such changes by written change orders or other written notification from Agency describing the change.

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2.2 Vendor shall not suspend performance of the Contract during the review and negotiation of any change, except as may be directed by Agency. Vendor shall perform all changes in strict accordance with all terms of the Contract, including guarantees and warranties.

3.0 CONFIDENTIALITY

3.1 Ownership of Materials

All materials furnished to Vendor by Agency under the Contract, shall be delivered to Agency upon request and in any event upon completion or termination of the Contract. Agency and its authorized representatives may use any drawings, specifications, documents, calculations, sketches, notes, reports, data, models and samples delivered by Vendor to Agency without Vendor's permission. Vendor agrees to execute all documents and to take all steps requested by Agency at Agency's expense which Agency deems necessary or desirable to complete and perfect in Agency ownership of property rights in any Agency Transponder branding materials.

3.2 Confidentiality

Except as otherwise expressly authorized by Agency, or as necessary for Vendor to perform the Services, Vendor shall not at any time, in any manner whatsoever, either directly or indirectly, disclose to any person or entity any information of any kind or description, whether oral or written, concerning Agency or any matters affecting or relating to the Services or to the project to which the Services relate. Vendor shall refer all requests for information regarding the Services to the Agency's Director, Contracts and Procurement. Vendor's obligations under this section shall survive the termination of the Contract.

Vendor acknowledges that certain documents that may be provided under the Contract are subject to disclosure under the Public Records Act.

3.3 Public Information

Notwithstanding the terms of Section 3.2, Vendor shall not be required to keep confidential any information which is or becomes publicly available, is already rightfully in Vendor's possession, is independently developed by Vendor outside the scope of the Contract or is rightfully obtained from third parties not under a duty of confidentiality to Agency.

4.0 TERMINATION AT AGENCY'S OPTION

4.1 Agency shall have the right at any time to terminate, with or without cause, further performance of the Services in whole or in part by written notice to Vendor specifying the date of termination. On the date stated, Vendor shall

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discontinue performance of the Services under any Purchase Order unless Agency has in writing directed Vendor to complete such Purchase Order irrespective of the notice of termination, and shall preserve work in progress and completed work product, and shall turn over such work product in accordance with Agency's instructions.

4.2 If Vendor has completely performed all obligations under the Contract up to the date of termination, Vendor shall be entitled to compensation for (a) costs incurred in performance of the Services under any active Purchase Order prior to termination, **plus** (b) the actual cost necessarily incurred in effecting the termination of such Purchase Order; **less** (c) all amounts previously paid to Vendor for the Services under such Purchase Order. Vendor shall substantiate all costs with documentation satisfactory to Agency and verified by Agency. In no event shall Vendor be entitled to anticipated profits or any damages because of such termination.

5.0 TERMINATION FOR DEFAULT

Agency may declare Vendor in default upon occurrence of any of the following: (a) Vendor makes a general assignment for the benefit of its creditors; (b) a petition in bankruptcy is filed by or against Vendor; (c) a receiver is appointed on account of Vendor's insolvency; (d) Vendor fails to perform in accordance with the terms and conditions of the Contract and does not cure its breach within five business days following receipt of written notice thereof from Agency (or, in the event that the breach is capable of cure but cannot reasonably be cured within five business days, if Vendor fails to commence cure within said five-day period and thereafter diligently prosecute cure to completion); or (e) Vendor violates any laws, ordinances, rules, regulations or orders of a public authority in performance of the Services. Upon declaration of default, Agency may, without prejudice to any other rights or remedies Agency may have, hold in abeyance further payments to Vendor, or terminate the Contract by written notice to Vendor specifying the date of termination, or both. In the event of such termination, Agency may take possession of all work product and finish the Services by whatever method Agency may deem expedient. A waiver by Agency of one default of Vendor shall not be considered to be a waiver of any subsequent default.

6.0 REVIEW OF SERVICES

Agency may disapprove all or a portion of the Services on any reasonable basis. Vendor shall promptly remedy any disapproved portion of the Services at Vendor's expense. No review, failure to review, approval, acceptance, or payment for Services, shall be construed as an acceptance of Services that fail to meet contractual requirements or otherwise to relieve Vendor from any of its obligations under the Contract.

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7.0 INDEMNITY

To the maximum extent permitted by law, Vendor agrees to release, protect, indemnify, hold harmless, and defend Agency and each of the governmental entities that is now or may in the future become a member of Agency, their respective successors and assigns, and their respective officers, directors, employees, agents, and representatives ("Agency Indemnitees"), from and against any claim, demands, cause of action, loss, expense, attorneys' fees, costs or liability of any kind or amount arising:

7.1 In connection with actual or asserted infringement, improper appropriation, or use of trade secrets, proprietary information, copyrights or patents; and

7.2 On account of injury to or death of persons (including the employees of Agency, Vendor and its subcontractors) or damage to or loss of property (including the property of Vendor or Agency) arising directly or indirectly out of the acts or omissions to act of Vendor or its subcontractors, or their employees or agents, in the performance of the Services, except to the extent the injury or death of persons or damage to or loss of property was caused by the sole negligence or willful misconduct of the party to be indemnified.

7.3 In accordance with Public Contract Code Section 9201, each party agrees to notify the other promptly upon receipt of any third-party claim for which a party is entitled to indemnity under the Contract.

8.0 EXPERIENCE AND QUALIFICATIONS

Vendor represents that it is fully experienced and properly qualified, equipped, organized, and financed to perform the Services provided for under the Contract. Vendor represents that it is properly licensed and qualified to do business in all governmental jurisdictions in which the Services are to be performed.

9.0 ASSIGNMENTS AND SUBCONTRACTS

Any attempt by Vendor to assign or subcontract the Contract, in whole or in part, without first obtaining Agency's written consent, shall be voidable and may be grounds for termination in accordance with Section 5.0 at the sole discretion of Agency. Agency retains the right at its sole discretion to review and approve all subcontractors and related agreements.

10.0 COMPLIANCE WITH LAWS

Vendor shall comply with, and shall cause all of Vendor's employees, agents and subcontractors to comply with, all applicable existing and future laws, ordinances, regulations, orders and decrees of bodies or tribunals having any jurisdiction or authority over the Services, and shall defend, indemnify, protect and hold harmless each Agency Indemnitee from any and all damages, losses, claims, suits, costs, liabilities, or actions of

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every kind or description (including attorneys' fees) incurred or brought for, on or on account of, Vendor's violation or alleged violation of any such law, ordinance, regulation, order or decree.

11. NONDISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

During the performance of the Contract, Vendor shall not discriminate against any person or group of persons on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation or military and veteran status.

Vendor confirms that it has an equal employment opportunity policy ensuring equal employment opportunity without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation or military and veteran status; and that it maintains no employee facilities segregated on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation or military and veteran status.

12. COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT

Vendor shall not discriminate against, or fail to make reasonable accommodation of any person covered by the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. §§ 12101-12213, as amended (the "Act"), or fail to comply with any provision of the Act in the course of its performance of its obligations under the Contract, or in any way connected with Agency. Vendor shall defend, indemnify, protect, and hold harmless the Agency Indemnitees from any and all damages, losses, claims, suits, costs, liabilities, or actions of every kind or description (including attorneys' fees) incurred or brought for, or on account of, Vendor's violation or alleged violation of the Act in the course of performance of its obligations under the Contract, or in any way connected to Agency by Vendor, its agents, its subcontractors, or any officers, partners, or employees of any of the foregoing.

13.0 INDEPENDENT CONTRACTOR

Vendor is an independent contractor.

14.0 CONTRACT INTERPRETATION

The Contract shall be construed as though jointly prepared by both parties. No provision of the Contract shall be interpreted for or against a party because that party or its representative drafted such provision. In the Contract, where appropriate, the singular includes the plural and vice versa; references to statutes or regulations include all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation

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referred to; and words not otherwise defined which have well-known technical or construction industry meanings, are used in accordance with such recognized meanings. In the event that Vendor discovers any material discrepancy, deficiency, ambiguity, error or omission in the Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, Vendor shall immediately notify Agency and request clarification of Agency's interpretation.

15.0 DOCUMENTATION AND RIGHT OF AUDIT

Vendor shall maintain all records and accounts pertaining to Services performed by Vendor under the Contract during the term of the Contract and for a period of six years after final payment under the Contract. Agency shall have the right to audit, copy, and inspect said records and accounts at all reasonable times during the course of such Services and for the above six-year period.

16.0 GRATUITIES

Vendor, its employees, agents, or representatives shall not offer or give to an officer, official, or employee of Agency, gifts, entertainment, payments, loans, or other gratuities to influence the award of a contract, or obtain favorable treatment under a contract. Violation of this requirement may be deemed by Agency to be a material breach of the Contract.

17.0 DISCLOSURE REQUIREMENT

Vendor shall comply with the disclosure requirement set forth in Exhibit D.

18.0 GOVERNING LAW

The Contract shall be governed, construed and interpreted under the laws of the State of California.

19.0 HEADINGS

Headings used in the Contract are for administrative convenience and reference purposes only and shall not be considered in interpreting the provisions of the Contract.

20.0 CLAIMS

Vendor shall give Agency written notice within 10 days after the occurrence of any event which becomes known to Vendor which Vendor believes should result in an increase in price or scheduled time for performance of the Services. This notice shall contain a statement of Vendor's claim, and shall include a detailed estimate of the change in price or scheduled time for performance occasioned thereby, or both. Agency shall not be liable for, and Vendor hereby waives, any claim or potential claim of Vendor of which Vendor knew or should have known and which was not reported by Vendor in

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accordance with the provisions of this section. Vendor shall not suspend performance of the Services during the time any claim of Vendor under the Contract is pending. No claim under the Contract by Vendor shall be allowed if asserted after final payment under the Contract.

21.0 DISPUTES

21.1 Resolution by Agency's Chief Executive Officer

Disputes between the parties hereto in connection with the Contract (including but not limited to disputes over payments, reimbursements, costs, expenses, Services to be performed, scope of Services, time of performance, or any of the above), shall be presented to the Chief Executive Officer of Agency or his duly authorized representative (the "CEO") for resolution. The CEO shall provide a determination within 30 days after receipt of notice from Vendor identifying the issues in dispute and including a particular statement of the grounds of the dispute. The CEO may also provide a determination on his own initiative. The CEO's determination shall be transmitted to Vendor. If it does not accept the CEO's determination, Vendor shall provide a written response within 10 days after receipt of notice of the CEO's determination, stating in general terms the factual or legal objections, or both, to the determination. Vendor's failure to object in writing within the above-specified time limit shall constitute acceptance of the CEO's determination. Thereafter, either Vendor, if Vendor objects to the CEO's determination in accordance with this section, or Agency, at Agency's discretion, may seek a determination of the dispute by the dispute resolution procedure set forth below.

21.2 Dispute Resolution

Agency and Vendor have agreed on the following mechanisms in order to obtain a prompt and expeditious resolution of disputes between them under the Contract which are not resolved through the administrative procedures described above. Compliance with the Government Claims Act, Government Code, Sections 810-996.6, shall not be necessary and any such compliance is hereby waived.

21.2.1 Judicial Reference

(a) Any dispute aggregating more than $50,000 shall be heard by a referee pursuant to the provisions of California Code of Civil Procedure Sections 638 to 645.1, inclusive. The referee shall be initiated by either party filing a complaint in superior court within 10 days following issuance of the CEO's decision under Section 26.1 or personal or mailed service of the notice set forth in Section 913 of the Government Code if the dispute involves a claim by Vendor.

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(b) If Agency and Vendor are unable to agree upon a referee within 30 days of a written request to do so by either Agency or Vendor, then the requesting party may thereafter have one appointed pursuant to California Code of Civil Procedure Sections 638 et seq. The referee shall be a retired judge or a lawyer experienced in the subject matter of the dispute. The venue of any proceeding under the Contract shall be in Orange County, California (unless changed by order of the judge or referee).

21.2.2 Arbitration

(a) Any dispute aggregating $50,000 or less shall be submitted to binding arbitration in accordance with the Contract terms. The arbitration shall be initiated by either party serving on the other a demand for arbitration within 10 days following issuance of the CEO's decision. The arbitrator shall be experienced in the subject matter of the dispute, as agreed upon by Agency and Vendor.

(b) If Agency and Vendor are unable to agree upon such arbitrator within 10 days of a written request to do so by either Agency or Vendor, then Agency and Vendor shall each select an arbitrator within 10 days after such failure to agree upon an arbitrator and within 10 days after their selection they shall select a third arbitrator and these three arbitrators shall, within 10 days after their selection, hold an information hearing at which they shall resolve the dispute. The venue of such arbitration shall be in Orange County, California, and such arbitration shall be conducted in accordance with the laws of the State of California.

21.2.3 Binding Effect

Any decision by such referee or arbitrator(s) shall be binding on Agency and Vendor and judgment thereon may be entered in any court having jurisdiction thereof.

21.2.4 Cooperation

Agency and Vendor shall diligently cooperate with one another and the person(s) appointed to resolve the dispute, and shall perform such acts as may be necessary to obtain a prompt and expeditious resolution of the dispute. If either Agency or Vendor refuses to diligently cooperate, and the other party, after first giving notice to the other of intent to rely on the provisions of this section, incurs additional expenses or attorneys' fees solely as a result of such failure to diligently cooperate, the referee or arbitrator may award such additional expenses and attorneys' fees to the party giving such notice, even if the party is not the prevailing party in the dispute.

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21.2.5 Costs

The cost of the proceeding shall initially be borne equally by Agency and Vendor but the prevailing party in such proceeding, except as set forth in Section 21.2.4, shall be entitled to recover, in addition to reasonable attorneys' fees and all other costs, its contribution for the reasonable cost of the referee or arbitrator as an item of damage or recoverable costs, or both. If either Agency or Vendor refuses to pay its share of the costs, at the time(s) required, the other party may do so, in which event that party shall be entitled to recover (or offset) the amount advanced, with interest, even if that party is not the prevailing party. The referee or arbitrator(s) shall include such costs in the award.

21.2.6 California Government Code

The parties agree that, except to the extent that any provision of California Government Code Sections 900 et seq. requires presentation of a claim on a date prior to the deadline for submitting a claim under Section 21.2.1 or 21.2.2, all statutes of limitation shall be tolled from the date of submission of a dispute to the referee or arbitrator (as the case may be) to the date of the final recommendation.

21.3 Participation in Other Proceedings

Vendor agrees that at Agency's request, Vendor will allow itself to be joined as a participant in any arbitration or other proceeding that involves Agency and any other Primary Contract Holder or participant in the Agency's electronic toll collection operation. This provision is for the benefit of Agency and not for the benefit of any other party.

21.4 Continued Performance of the Contract

The existence of a dispute shall not excuse or justify any suspension of Vendor's performance of the Contract which shall proceed with due diligence. Neither Agency's determination, nor either party's response in connection with a dispute, nor the continued performance of the Contract by either party shall constitute an admission by either party as to any factual or legal position, or both, in connection with the dispute or a waiver of its rights under the Contract or at law

22.0 SEVERABILITY

The invalidity or unenforceability of any portion of the Contract, shall not affect the validity or enforceability of any other portion or provision of the Contract. Any invalid or unenforceable portion or provision shall be deemed severed from the Contract and the balance hereof shall be construed and enforced as if the Contract did not contain such invalid or unenforceable portion or provision.

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23.0 ENTIRE AGREEMENT

23.1 The Contract and any executed Purchase Order constitutes the sole and complete agreement governing the Services and supersedes any prior understandings, written or oral, between the parties respecting the within subject matter. All previous proposals, offers, and other communications, written or oral, relative to the Contract, are superseded except to the extent that they have been incorporated into the Contract.

23.2 No agent, employee or representative of Agency has any authority to bind Agency to any affirmation, representation or warranty outside of, or in conflict with, the stated terms of the Contract, and Vendor hereby stipulates that it has not relied, and shall not rely, on same.

23.3 If there are any conflicts or inconsistencies within or between documents comprising the Contract, Vendor shall provide the better quality or greater quantity of Services required unless Agency directs otherwise in writing.

24.0 SUCCESSORS AND ASSIGNS

The Contract shall be binding upon and inure to the benefit of the successors and assigns of Agency and the permitted assigns of Vendor.

25.0 COUNTERPARTS

The Contract may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

26.0 CONFLICT OF INTEREST

Vendor shall not permit any member, officer, or employee of Agency to have any financial interest in the Contract prohibited by California Government Code Sections 1090 et seq., and 87100 et seq. In addition, neither Vendor nor any of its employees shall enter into any contract involving services or property with a person or business prohibited from transacting such business with Agency pursuant to Government Code Sections 1090 et seq. and 87100 et seq. Vendor acknowledges Agency's conflict of interest policy set forth in Exhibit D hereto, and agrees that any false statement in the "Conflict of Interest Disclosure Statement" included in Exhibit D shall be considered a material breach of the Contract. Vendor represents and warrants to Agency that the disclosures set forth in Exhibit D are true, correct and complete, and Vendor agrees that it shall update the disclosure statement as necessary to maintain its accuracy and completeness at all times during the term hereof.

27.0 [RESERVED]

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28.0 RELEASE OF INFORMATION; NEWS REPORTING

Vendor shall not release any information regarding the Services without prior Agency written approval. Vendor is directed to refer all requests for information regarding the Services to the Agency's Director, Contracts and Procurement.

29.0 NO THIRD-PARTY BENEFICIARIES

It is not intended by any of the provisions of the Contract Documents to create any third-party beneficiary hereunder, or to authorize anyone not a party hereto to maintain a suit for personal injury or property damage pursuant to the terms or provisions hereof. The duties, obligations and responsibilities of the parties to the Contract Documents with respect to such third parties shall remain as imposed by law. The Contract shall not be construed to create a contractual relationship of any kind between Agency and a subcontractor, or any other entity except Vendor.

– END OF EXHIBIT E –

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EXHIBIT E

GENERAL TERMS

ATTACHMENT 1

PROPOSED FORM OF VENDOR WARRANTY

[To be attached upon approval by Agency]

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