



METROPOLITAN
TRANSPORTATION
COMMISSION

Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700
TEL 510.817.5700
TTY/TDD 510.817.5769
FAX 510.817.5848
EMAIL info@mtc.ca.gov
WEB www.mtc.ca.gov

October 6, 2015

**REQUEST FOR QUALIFICATIONS (RFQ)
FUTURE MOBILITY RESEARCH PROGRAM**

NOTICE IS HEREBY GIVEN that the Metropolitan Transportation Commission (MTC), invites your firm to submit a Statement of Qualification (SOQ) for the Future Mobility Research Program. Through this Request for Qualifications (RFQ), MTC will select one or more qualified consultants ("Consultant Bench") with which MTC may contract to provide services related to this project on an as-needed basis.

The RFQ documents for this project are available for download on the MTC website at <http://procurements.mtc.ca.gov/>. Proposers are responsible for checking the website for any Addenda to this RFQ. Responses should be submitted in accordance with the instructions set forth in the RFQ.

Interested firms must submit an original and three (3) copies, as well as one electronic PDF version, of their SOQ by **4:00 p.m. on Friday, November 13, 2015**, in accordance with the instructions contained in the RFQ. Other key RFQ Dates are listed in Section V, Consultant Selection Timetable of the RFQ.

MTC Point of Contact: Doug Johnson, Project Manager
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter,
101 Eighth Street, Oakland, CA 94607-4700
Tel: 510/ 817-5846
E-mail: djohnson@mtc.ca.gov

Thank you for your interest.

Sincerely,

DocuSigned by:
Steve Heminger
Steve Heminger
Executive Director

SH:DG

J:\CONTRACT\Procurements\Planning&Analysis\RFQs\Future Mobility Research Program\Future Mobility Final.docx

Dave Cortese, Chair
Santa Clara County

Jake Mackenzie, Vice Chair
Sonoma County and Cities

Alicia C. Aguirre
Cities of San Mateo County

Tom Azumbrado
U.S. Department of Housing
and Urban Development

Jason Baker
Cities of Santa Clara County

Tom Bates
Cities of Alameda County

David Campos
City and County of San Francisco

Dorene M. Giacomini
U.S. Department of Transportation

Federal D. Glover
Contra Costa County

Scott Haggerty
Alameda County

Anne W. Halsted
San Francisco Bay Conservation
and Development Commission

Steve Kinsey
Marin County and Cities

Sam Liccardo
San Jose Mayor's Appointee

Mark Luce
Napa County and Cities

Julie Pierce
Association of Bay Area Governments

Bijan Sartipi
California State
Transportation Agency

Libby Schaaf
Oakland Mayor's Appointee

James P. Spering
Solano County and Cities

Adrienne J. Tissier
San Mateo County

Scott Wiener
San Francisco Mayor's Appointee

Amy Rein Worth
Cities of Contra Costa County

Steve Heminger
Executive Director

Alix Bockelman
Deputy Executive Director, Policy

Andrew B. Fremier
Deputy Executive Director, Operations

TABLE OF CONTENTS

I. MTC AND PROJECT DESCRIPTION	1
A. DESCRIPTION OF MTC	1
B. PROJECT DESCRIPTION	1
II. MINIMUM QUALIFICATIONS.....	1
AREAS OF CONSULTANT EXPERIENCE	1
III. SCOPE OF WORK, PERIOD OF PERFORMANCE, AND BUDGET	2
A. SCOPE OF WORK	2
B. PERIOD OF PERFORMANCE	2
C. BUDGET	2
IV. PRE-SUBMITTAL CONFERENCE AND REQUESTS FOR CLARIFICATION OR EXCEPTIONS	2
V. CONSULTANT SELECTION TIMETABLE.....	3
VI. SUBMITTAL OF SOQ.....	3
VII. FORM OF SOQ.....	4
VIII. SOQ EVALUATION	7
A. VERIFICATION OF MINIMUM QUALIFICATIONS.....	7
B. REVIEW FOR GENERAL RESPONSIVENESS.....	7
C. EVALUATION PANEL AND EVALUATION CRITERIA	7
D. PROPOSER INTERVIEWS	7
E. RECOMMENDATION FOR CONTRACT AWARD	8
IX. GENERAL CONDITIONS	9
A. AWARD	9
B. CONTRACT ARRANGEMENTS	9
C. SELECTION DISPUTES	9
D. PUBLIC RECORDS	10
E. KEY PERSONNEL	11
F. CONFLICTS OF INTEREST	11
G. NOT USED	12
H. NOT USED	12
I. WEB-BASED COMMUNICATION	12
J. PAYMENT, SUB-CONTRACTOR AND PREVAILING WAGE INFORMATION	12
APPENDIX B, RESOURCE RATE SCHEDULE OR COST AND PRICE ANALYSIS FORM	16
APPENDIX C, CALIFORNIA LEVINE ACT STATEMENT.....	19
APPENDIX D, STANDARD MTC CONSULTANT CONTRACT	20
ATTACHMENT A, SCOPE OF WORK	35
ATTACHMENT A-1, TASK ORDER PROCESS	36
ATTACHMENT A-2, TASK ORDER FORM.....	38
ATTACHMENT B, PROJECT SCHEDULE	41
ATTACHMENT C, COMPENSATION AND METHOD OF PAYMENT	42
ATTACHMENT D, KEY PERSONNEL ASSIGNMENTS	44
ATTACHMENT E, INSURANCE AND FINANCIAL SECURITY (BOND) PROVISIONS	45
ATTACHMENT G, SUBCONSULTANT LIST.....	49
APPENDIX D-1, INSURANCE REQUIREMENTS	50

I. MTC AND PROJECT DESCRIPTION

A. *Description of MTC*

MTC was created by the state Legislature in 1970 (California Government Code § 66500 *et seq.*) to serve as the transportation planning, coordinating and financing agency for the nine-county San Francisco Bay Area.

B. *Project Description*

As the public agency charged with formally steering the Bay Area's transportation future, MTC remains aware and informed of emerging transportation technologies and trends and contributes proactively to the regional, state, and federal dialogue regarding the sector's future. Google, Google X, AirSage, Daimler autonomous trucking, Uber, Lyft, Sidecar, Chariot, Strava Labs, Carma, Nissan FutureLab, Zipcar, City CarShare, Metropia, NextBus, Urban Engines are entering the transportation space seeking to disrupt and profit. Emerging technologies will impact every mode: walking, bicycling, transit/paratransit, freight and passenger vehicles (driver, passenger, taxi, delivery, rideshare/hail, etc.). These companies are creating new travel options, challenging public policy, creating new planning and analysis tools.

In partnership with the Sacramento Area Council of Governments (SACOG), the Southern California Council of Governments (SCAG), and San Diego's Regional Planning Agency (SANDAG), MTC seeks consultant support to study key policy issues which these companies and trends may present, assess the potential impacts of their activities, and identify appropriate roles for the state's largest Metropolitan Planning Organizations (MPOs).

II. MINIMUM QUALIFICATIONS

SOQs must demonstrate that the firm or team submitting the SOQ ("Proposer") meets the following Minimum Qualification to be eligible for consideration for this project.

1. Proposer has previously completed at least one project that that is the same as or similar to any of the type of work listed in *Appendix A, Preliminary Scope of Work*, within the past five (5) years.

AREAS OF CONSULTANT EXPERIENCE

Specifically, MTC seeks technical guidance and assistance with the following general work items:

- Conducting research and technical and/or policy analysis of new travel options;
- Assessing observed or potential impacts of newly available travel data on planning and policy outcomes;
- Evaluating the potential impact of public policy interventions;
- Assessing travel patterns resulting from new technologies;
- Convening and facilitating thought leaders on the subject;
- Providing project-level technical oversight, guidance, and coordination; and,

- Providing communications and outreach.

III. SCOPE OF WORK, PERIOD OF PERFORMANCE, AND BUDGET

A. Scope of Work

Firm selected for contracts as a result of this RFQ will be expected to perform the work, under the direction of staff from MTC, as outlined in *Appendix A, Preliminary Scope of Work*. All work will be assigned pursuant to MTC-initiated task orders, which will include a specific scope of work based on the preliminary work scope and tasks identified in *Appendix A, Preliminary Scope of Work*.

A sample task order form is attached hereto as part of *Appendix C, MTC Standard Consultant Agreement*, Attachment A-2, *Task Order Form*.

MTC expects to select a panel or “bench” of qualified Consultants that will be eligible to be awarded contracts under this RFQ. The contracts resulting from this RFQ will be for up to an approximate four (4) year period, ending June 30, 2019, or when the project funds are exhausted, with the option at MTC’s discretion to extend in one-year increments for up to a total of two additional years. Selection to be on the bench does not guarantee that a contract will be awarded. MTC reserves the right to award contracts and assign tasks based on the experience of the “bench” consultants/teams and the needs of particular projects.

B. Period of Performance

MTC expects the work awarded pursuant to this RFQ to commence on or about March 1, 2016, and to be completed no later than June 30, 2019. At MTC’s sole option, the bench performance period may be extended for two (2) additional years for work contemplated by *Appendix A, Scope of Work*.

C. Budget

The first contract will be funded with an amount estimated to be approximately fifty thousand dollars (\$50,000), with additional funds anticipated in future years of the project.

IV. PRE-SUBMITTAL CONFERENCE AND REQUESTS FOR CLARIFICATION OR EXCEPTIONS

A pre-submittal conference will be held at 2:00 p.m., on Wednesday, October 21, 2015, at the Joseph P. Bort MetroCenter Building, 101 8th Street, Oakland, in the Claremont Conference Room.

Any addenda will be posted on MTC’s website. All interested firms are responsible for checking the website for any addenda to the RFQ.

Any requests for clarification of or exceptions to RFQ requirements must be received by MTC no later than 5:00 p.m., on Friday, October 23, 2015, to guarantee a response or consideration. MTC reserves the right to reject any SOQ that contains unauthorized conditions or exceptions.

V. CONSULTANT SELECTION TIMETABLE

2:00 p.m., on Wednesday, October 21, 2015	Pre-Submittal Conference, at 101 8 th Street, Oakland, CA 94607, Claremont Conference Room
5:00 p.m., on Friday, October 23, 2015	Closing date/time for receipt of requests for modifications/exceptions
No later than three (3) business days prior to the date SOQs are due.	Deadline for protesting RFQ provisions
4:00 p.m., Friday, November 13, 2015*	Closing date/time for receipt of SOQs
Week of December 1, 2015*	Interviews (if held)
February 10, 2016*	MTC Administration Committee Approval

**Interview, award and approval dates are approximate and are subject to change before or after the closing date of the RFQ.*

VI. SUBMITTAL OF SOQ

- Interested firms must submit an original and three (3) copies, as well as one electronic PDF version, of their SOQ by **4:00 p.m., Friday, November 13, 2015** **Submission of an electronic copy of the SOQ without hard copies will not satisfy the submission requirement. No SOQs submitted solely by email and no faxed SOQs will be considered.**
- SOQs are to be addressed as follows:

Future Mobility Research Program
Attention: Doug Johnson
101 8th Street, 3rd Floor Receptionist
Oakland, CA 94607
- Proposer's name and return address must also appear on the envelope.
- SOQs will be received only at the address shown above and **no later than the date and time indicated**. MTC is not responsible for deliveries delayed for any reason. Any SOQ received after said date and time or at a place other than the stated address cannot be considered and will be returned to the Proposer unopened.
- All SOQs, whether delivered by an employee of the Firm, U.S. Postal Service, courier or package delivery service, must be received and time stamped at the stated address **prior to or**

no later than the time designated. The timestamp located on the 3rd floor at the receptionist desk shall be considered the official timepiece for the purpose of establishing the time of receipt of SOQs

6. Proposer agrees and acknowledges all RFQ specifications, terms and conditions and indicates ability to perform by submission of a SOQ.

If selected, a signed SOQ submitted to MTC in response to this RFQ shall constitute a binding offer from Proposer to contract with MTC according to the terms of the SOQ for the duration of the performance period from [beginning date] to [end date].

7. An SOQ may be withdrawn at any time before the date and time when SOQs are due by submitting a written request for its withdrawal to the MTC Project Manager.
8. This RFQ does not commit MTC to award a contract or to pay any costs incurred by any Proposer in the preparation of a SOQ in response to this RFQ.
9. Only one SOQ will be accepted from any one person, partnership, corporation, or other entity; however, several alternatives may be included in one response.
10. MTC reserves the right to accept or reject all SOQs submitted, waive minor irregularities, request additional information, and negotiate with any or all Proposers.
11. MTC reserves the right in its sole discretion not to enter into any contract as a result of this RFQ.
12. If the selected Proposer for a particular task or aspect of the Project fails to enter into a contract, contract amendment, or task order with MTC in a timely manner as determined by MTC, in accordance with the terms and conditions of this RFQ, MTC reserves the right to enter into a contract, contract amendment, or task order with the next highest scoring Proposer.
13. Online Vendor Registration is required to be eligible for contract award. Proposers should visit <http://procurements.mtc.ca.gov/Vendors/vendor-information.html> to register in the MTC Vendor Database.

VII. FORM OF SOQ

SOQs must be signed in ink and include a statement that the person or persons signing the SOQ is/are authorized to authorize and submit the SOQ on behalf of the Proposer. Page limits, where specified, are for single-sided print. Proposers are encouraged to print double-sided copies to save paper.

SOQ content and completeness are most important. Clarity is essential and will be considered in assessing the Proposer's capabilities.

Proposers must provide the information listed below. Any material deviation from these requirements may be cause for rejection of the SOQ, as determined in MTC's sole discretion.

Each SOQ must include the following:

A. Transmittal Letter

SOQs must include a transmittal letter signed by an official authorized to solicit business and enter into contracts for the firm and containing the name and telephone number of a contact person, if different from the signatory. Indicate whether there are any conflicts of interest, actual or apparent, that would limit the Proposer's ability to provide the requested services and describe the plan for mitigating such conflicts. Acknowledge the receipt of this RFQ and any Addendum to the RFQ. Indicate that the SOQ is a firm offer to enter into a contract to perform work related to this RFQ for a period of 120 days from the due date for SOQs.

B. Title Page

SOQs must include a title page that includes the RFQ subject, the name of the Proposer's firm, local address, telephone number, name of contact person, contact person's email address, and the date.

C. Table of Contents

SOQs must include a table of contents that includes a clear identification of the material by section and page number.

D. Proposer's Qualifications and Experience

Provide a brief summary (narrative) of staff experience relevant to the Minimum Qualifications and any of the Areas of Consultant Experience listed on page 2 of this RFQ (Not to exceed a total of 3 pages).

Provide resumes highlighting relevant experience of the staff expected to work on the Areas of Consultant Experience listed on page 2.

E. Similar Projects

As referenced on page 2, Minimum Qualifications, provide information regarding project experience and qualifications that the Consultant possesses.

Project summaries must include the name of the client, the proposer's role and responsibilities, key staff and their roles and responsibilities, the proposer's contract term and amount, and a contact person (with telephone number and e-mail) who may be contacted as a reference. (Not to exceed a total of 5 pages for this section.)

F. Hourly Rates

Please provide proposer's fully loaded hourly rates and a description of all charges that would be passed on to MTC. For hourly rates, indicate when rates are due to change, any basis for the change, and approximately how much they can be expected to change each year.

G. References

Three references attesting to Proposer's previous experience in performing work substantially similar or related to the services proposed. Please provide the names of current clients, along with the names, email addresses, and telephone numbers of client contact person(s) for each reference (not to exceed 1 page total).

H. California Levine Act Statement

Submit a signed Levine Act statement (*Appendix C*).

I. Insurance Provisions

Submit a signed acknowledgement that the Proposer agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements listed in *Appendix D-1, Insurance Requirements*, within ten (10) days of MTC's notice to firm that it wishes to contract with the firm.

(See Section IX.B of the RFQ for how to request exceptions to the minimum insurance requirements.)

J. Taxpayer Identification Number and Certification

Submit a W-9, Request for Taxpayer Identification Number and Certification (containing original signature) available at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

K. NOT USED

L. NOT USED

M. NOT USED

N. NOT USED

VIII. SOQ EVALUATION

A. Verification of Minimum Qualifications

The MTC Project Manager will review SOQs to ensure that each SOQ meets the Minimum Qualification set out in Section II, Minimum Qualifications of this RFQ. Proposers failing to meet the Minimum Qualifications will not be considered.

B. Review for General Responsiveness

The MTC Project Manager, in consultation with the MTC's Office of General Counsel, will conduct an initial review of the SOQs for general responsiveness and inclusion of the items requested in Section VII, Form of SOQ. Proposers failing to meet the Minimum Qualifications listed in this RFQ, will not be considered responsive. Also, any SOQ that does not include enough information to permit the evaluators to rate the SOQ in any one of the evaluation factors listed below will be considered non-responsive and will not be evaluated. A SOQ that fails to include one or more items requested in Section VII, Form of SOQ may be considered responsive, if evaluation in every criterion is possible. MTC reserves the right to request additional information from responsive Proposers prior to evaluation.

C. Evaluation Panel and Evaluation Criteria

Responsive SOQs will then be evaluated by an evaluation panel of MTC and partner agency staff. The evaluation of the SOQs shall be within the sole judgment and discretion of the evaluation panel.

All contact during the evaluation phase shall be through the MTC Project Manager only. Proposers shall neither contact nor lobby any evaluation panel members during the evaluation process. Any attempt by Proposer to contact and/or influence members of the evaluation panel may result in disqualification of Proposer.

Responsive SOQs shall be evaluated on the basis of the following evaluation factors, with their relative importance indicated by percentages:

1. Proposer and assigned staff expertise and experience in carrying out and completing similar types of projects involving any or all of the Minimum Qualifications or Areas of Consultant Experience requested 40%;
2. Presentation effectiveness, including the abilities to write, illustrate, and present both qualitative and quantitative information in a clear and illustrative manner (oral communication skills will be evaluated if interviews are held) 30%; and
3. Hourly Rates 30%.

D. Proposer Interviews

The evaluation process consists of a two-stage approach including an initial evaluation of the written SOQs to develop a short list of proposers that will continue to the final stage of

interviews. Those proposers with SOQs that score at least 70 points based on the total points available for the evaluation factors listed above will be interviewed. All other Proposers will be eliminated from the process. All Proposers not selected for the short list will be notified; however, the preliminary scores at that time will not be communicated to Proposers and the evaluation record shall remain confidential until the MTC Administration Committee authorizes award.

MTC reserves the right to not convene interviews and to make an award on the basis of written SOQs, alone. SOQs should be submitted on the most favorable terms. References may be contacted at any point in the evaluation process. Further, MTC reserves the right to accept or reject any and all SOQ submitted, to waive minor irregularities in SOQs, and to request additional information from one or more of the Proposers. Any award made will be made to the firms whose SOQs are the most advantageous to MTC, based on the evaluation criteria listed above.

During the evaluation, any potential conflicts of interest (see Section IX, General Conditions, Subarticle F) will be considered. MTC may request additional information from any firm that appears to have an organizational conflict of interest, including its plan to mitigate any such conflicts. MTC will not award a contract to a firm with an actual conflict of interest, or with an apparent conflict of interest that cannot be adequately mitigated, in MTC's sole opinion.

E. Recommendation for Contract Award

The panel will recommend the selected Consultants to the MTC Executive Director, based on evaluation of the written SOQ and oral interviews (if held). The Executive Director will review the recommendation and, if he agrees, he will approve the award or forward the recommendation to the MTC Administration Committee which authorizes award.

F. Assigning Work

Contracts awarded by MTC may include a specific scope of work based on the areas identified in *Appendix A, Preliminary Scope of Work* or be Task Order based. MTC reserves the right in its sole discretion to determine which panel consultant's qualifications, experience, available resources, ability to perform according to the required schedule, and hourly rates best suit each project. MTC reserves the right to issue a mini-Request for Qualifications or mini-Request for Proposal (mini-RFQ or mini-RFP) prior to contract or task order award. A mini-RFQ or mini-RFP is an RFQ/RFP that is sent to any or all firms selected for the Future Mobility Research Program Consultant Bench resultant of this RFQ. The mini-RFQ or mini-RFP award will be made based on the evaluation factors listed in the mini-RFQ or mini-RFP. Selection to be on the Consultant Bench will not necessarily result in award of any contract or task order work.

IX. GENERAL CONDITIONS

A. Award

Selection to the Consultant Bench will be made to the Proposers whose SOQs are most advantageous to MTC based on the evaluation criteria defined in Section VIII, SOQ Evaluation.

Upon notification of selection to the Consultant Bench, the Consultant's SOQ offer will be held firm for the period of performance listed in Subarticle B, Section III, Scope of Work, Period of Performance, and Budget. Selection to be on the Consultant Bench does not guarantee that a contract will be awarded.

If a firm selected for the Consultant Bench fails to enter into a contract, contract amendment, or task order with MTC in a timely manner as determined by MTC, in accordance with the terms and conditions of this RFQ, MTC reserves the right to reject the SOQ of the firm and enter into a contract with another firm on the Consultant Bench.

B. Contract Arrangements

MTC's Standard Consultant Contract is attached as *Appendix D*. If a Proposer wishes to propose a change to any standard MTC contract provision, the provision and the proposed alternative language must be submitted prior to the closing date for receipt of requests for clarifications/exceptions. If no such change is requested, the Proposer will be deemed to accept MTC's standard contract provisions, unless such language is protested in accordance with Section C below.

The selected Consultants will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix D-1*, Insurance Requirements. Proposer agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements in *Appendix D-1*, within ten (10) days of MTC's notice to firm that it wishes to contract with the firm. Requests to change MTC's insurance requirements should be submitted on or prior to the closing date for receipt of requests for clarifications/exceptions. MTC will review the requests and issue an addendum if material changes requested by a prospective Proposer are acceptable. Objections to MTC determinations on requests to change insurance requirements, pursuant to the protest provisions of this RFQ, must be brought to MTC's attention no later than the deadline for protesting RFQ provisions or compliance with all material insurance requirements will be assumed.

The contracts resulting from this RFQ will be task order based, with payment based on MTC's receiving of satisfactory deliverables.

C. Selection Disputes

A Proposer may object to a provision of the RFQ on the grounds that it is arbitrary, biased, or unduly restrictive, or to the selection of a particular Proposer on the grounds that MTC procedures, the provisions of the RFQ or applicable provisions of federal, state or local law have been violated or inaccurately or inappropriately applied by submitting to the Project Manager a written explanation of the basis for the protest:

1. No later than 4:00 p.m. on the third business day prior to the date SOQs are due, for objections to RFQ provisions; or
2. No later than 4:00 p.m. on the third business day after the date the firm is notified that it did not meet the minimum qualifications or was found to be non-responsive; or
3. No later than 4:00 p.m. on the third business day after the date the firm is notified that it was not selected, or if applicable the date the appropriate committee authorizes award, whichever is later, for objections to Proposer selection.

Except with regard to initial determinations of non-responsiveness, the evaluation record shall remain confidential until the MTC Administration Committee authorizes award.

Protests of recommended awards must clearly and specifically describe the basis for the protest in sufficient detail for the MTC review officer to recommend a resolution to the MTC Executive Director.

The MTC Executive Director will respond to the protest in writing, based on the recommendation of a staff review officer. Should a Proposer wish to appeal the decision of the MTC Executive Director, it may file a written appeal with the MTC Administration Committee, no later than 4:00 p.m. on the third business day after receipt of the written response from the MTC Executive Director. The MTC Administration Committee's decision will be the final agency decision.

Authorization to award an agreement to a particular Proposer by MTC shall be deemed conditional until the expiration of the protest period or, if a protest is filed, the issuance of a written response to the protest by the MTC Executive Director or, if the decision of the MTC Executive Director is appealed, the issuance of the MTC Administration Committee's decision

D. Public Records

This RFQ and any material submitted in response to this RFQ are subject to public inspection under the California Public Records Act (Government Code §6250 *et seq.*), unless exempt by law. Other than proprietary information or other information exempt from disclosure by law, the content of SOQs submitted to MTC will be made available for inspection consistent with its policy regarding Public Records Act requests.

If the Proposer believes any SOQ content contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer may request that MTC withhold from disclosure such proprietary materials by marking each page containing proprietary information, including financial information, if any, required to be submitted under Section VII of this RFQ, as confidential and shall include the following notice at the front of its SOQ:

“The data on the following pages of this SOQ, including financial information submitted under Section VII of the RFQ marked along the right margin with a vertical line, contain technical or financial information that constitute trade secrets and/or that, if disclosed, would cause substantial injury to the Proposer's competitive position. The Proposer requests that such data be used for review by MTC only, but understands that exemption from disclosure will be limited by

MTC's obligations under the California Public Records Act. If an agreement is awarded to the Proposer submitting this SOQ, MTC shall have the right to use or disclose the data, unless otherwise provided by law. [List pages]."

Failure to include this notice with relevant page numbers shall render any "confidential/proprietary" markings inadequate. Individual pages shall accordingly not be treated confidentially. **Any language purporting to render the entire SOQ confidential or proprietary will be regarded as ineffective and will be disregarded. In addition, the Proposer may not designate any required SOQ forms or the cost proposal as confidential. Consequently, any language purporting to render any SOQ forms or the cost proposal as confidential or proprietary will be regarded as ineffective and will be disregarded.**

In the event properly marked data is requested pursuant to the California Public Records Act, the Proposer will be advised of the request. If the SOQ requests that MTC withhold such data from disclosure and MTC complies with the Proposer's request, the Proposer shall assume all responsibility for any challenges resulting from the non-disclosure; indemnify and defend MTC and hold it harmless from and against all claims, legal proceedings, and resulting damages and costs (including but not limited to attorneys' fees that may be awarded to the party requesting such Proposer information); and pay any and all costs and expenses relating to the withholding of the Proposer information.

If the Proposer does not mark each page containing proprietary information as confidential, does not include the statement described above at the front of its SOQ, and does not request that MTC withhold information marked as confidential and requested under the California Public Records Act, MTC shall have no obligation to withhold the information from disclosure, and the Proposer shall not have a right to make a claim or maintain any legal action against MTC or its commissioners, officers, employees or agents in connection with such disclosure.

E. Key Personnel

Key Proposer personnel assigned to the project are expected to remain on the project. Any change in key personnel on the proposed project team is subject to prior written approval of MTC. Removal of any key personnel identified in the SOQ without written consent of the MTC Project Manager may be considered a material breach of contract.

F. Conflicts Of Interest

By submitting a SOQ, the Proposer represents and warrants that no commissioner, officer or employee of MTC is in any manner interested directly or indirectly in the SOQ or in the contract that may be made under it or in any profits expected to arise therefrom, as set forth in California Government Code Section 1090.

The Proposer further warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code Sections 1090 *et seq.* or 87100 *et seq.* during the performance of services under any contract resulting from this RFQ and that it will not knowingly employ any person having such an interest. Violation of this provision may result in the contract being deemed void and unenforceable.

Whenever MTC is awarding a contract that involves the rendering of advice, it will consider whether there exists the potential for bias, because of other activities, relationships or contracts of the Proposer, and if so, whether any potential bias can be mitigated acceptably by MTC and the Proposer. After award, the winning Proposer shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under the agreement resulting from this and other MTC solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to MTC; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other project.

Proposer shall not engage the services of any subcontractor or independent contractor on any work related to this RFQ if the subcontractor or independent contractor, or any employee of the subcontractor or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this RFQ.

G. NOT USED

H. NOT USED

I. Web-Based Communication

Proposer agrees to submit all communication and required documentation, including but not limited to invoices, requests for contract modifications, etc. to the MTC Project Manager or his/her designee via a web-based system designated by MTC to which MTC will provide system access.

J. Payment, Sub-Contractor and Prevailing Wage Information

Proposer agrees to submit payment, sub-contractor utilization and if applicable certified payroll information for contracts with prevailing wage requirements via a web-based system designated by MTC to which MTC will provide system access.

APPENDIX A,
PRELIMINARY SCOPE OF WORK

The successful Proposer's preliminary scope of work is listed below. All required services shall be authorized by Task Order, initiated and developed according to the Task Order Process described in Attachment A-1, of *Appendix D, MTC Standard Consultant Contract*. Task Orders shall include, at a minimum, a detailed description of the work to be performed, a completion date for performance, a maximum payment amount, payment terms (deliverables-based or time and materials) and subconsultant participation (if any), in a completed form as shown in Attachment A-2, Task Order Form, Appendix D, MTC Standard Consultant Contract, attached hereto and incorporated herein by this reference.

Funding has been secured for Task 1 below. Additional tasks outlined below the heading **Preliminary List of Future Task Order Projects** are all subject-to future funding availability.

Task 1: *Initial Research Report and Recommendations:*

Task 1.1: Create Advisory Group and Affirm Scope of Services

Deliverable 1.1: Revised scope of work, Advisory Group Roster, and schedule of meetings

Task 1.2: Summarize the emerging transportation companies and their services, as well as observed or estimated travel impacts to date and for the future.

Deliverable 1.2: Research paper with citations, charts, graphics and images outlining the trends in the Bay Area and California to date for various emerging mobility services including bikeshare, rideshare, corporate shuttles, transportation network companies, carsharing, etc. The paper should also outline longer-term changes that semi and fully-automated vehicles (personal and freight uses) may cause.

Task 1.3: Develop a framework for MTC and its partners to proactively engage on emerging transportation technology issues, including potential roles as educator, funder, supporter, implementer, and/or facilitator.

Deliverable 1.3: Draft paper that outlines potential roles that MTC, other MPOs, and other public agencies can take in the area of future mobility. The paper should include a discussion of the public benefit, if any, generated by the various changes in transportation that may or may not call for specific public action to see these benefits realized. In the case that negative impacts are associated with a given change in technology or business model, the paper should discuss various methods for public agencies to address them.

Task 1.4: Attend and present materials to MPO staff and executives quarterly meetings (2) to discuss findings, draft recommendations, and next steps.

Deliverable 1.4: Meeting materials including Deliverables 1.1, 1.2, and 1.3, presentations, and meeting notes from two meetings of MTC, SANDAG, SACOG, and SCAG Executive Directors

and Staff. One meeting will be hosted in Oakland, the second will be hosted by one of the other MPOs.

Task 1.5: Prepare final report for MTC and its partners summarizing recommendations

Deliverable 1.5 A: Based on feedback on Deliverable 1.3, prepare a final report laid out in In-Design or a similar software package. The final report should include an executive summary, graphics, charts, and maps as appropriate. The report should also include a list of “recommended readings” and citations. Depending on budget, MTC may be able to assist with printing a select number of these reports.

Deliverable 1.5 B: Presentation slide deck of no more than 30 slides highlighting the findings, recommendations, and next steps for the work.

Task 1.6: Host expert and industry panel on proposed roles for MPOs and our partners.

Deliverable 1.6: Convene, attend, present at, and staff a convening for Bay Area transportation stakeholders on the findings of the report. This event will be five hours and will be hosted at MTC’s facilities.

Preliminary List of Future Task Order Projects

Future services under the Agreement shall be authorized by Task Order, initiated and developed according to the detailed task order process described in Attachment A-1, Task Order Process, attached hereto and incorporated herein by this reference. Task Orders shall include, at a minimum, a detailed description of the work to be performed, a completion date for performance, a maximum payment amount, payment terms (deliverables-based or time and materials) and subconsultant participation (if any), in a completed form as shown in Attachment A-2, Task Order Form, attached hereto and incorporated herein by this reference.

Examples of some of the services to be performed by CONSULTANT subject to funding availability are:

- 1) Assessment of behavior change impacts on travel due to:
 - a) App-based travel platforms
 - b) Demographic changes
 - c) Propulsion technology changes (e.g., electric vehicles)
 - d) Autonomous vehicles
- 2) Data procurement and processing (e.g. Strava Labs, Clipper, and Airsage) for local and regional travel studies
- 3) Regulatory framework for transportation innovation that could advance strategies deemed in the public’s interest, including City/County/Region/State best practices in response to mobility and transportation changes.
- 4) Impacts to the Port of Oakland and goods movement overall that could result from autonomous trucks
- 5) Fund a Community Liaison to the tech community

For each of these potential projects, the successful team will prepare:

- 1) Research paper summarizing key findings, impacts, and assumptions.
- 2) Identify relevant private, non-governmental organization (NGO), and public agency roles, if any, to accelerate or slow the change.
- 3) Slide deck summarizing the project
- 4) Public panel discussion open to key industry, NGO, and public sector partners

COST AND PRICE ANALYSIS FORM—

NOT USED

APPENDIX C, CALIFORNIA LEVINE ACT STATEMENT

California Government Code § 84308, commonly referred to as the “Levine Act,” precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

MTC’s commissioners include:

Alicia C. Aguirre
Tom Azumbrado
Jason Baker
Tom Bates
David Campos
Dave Cortese

Federal D. Glover
Scott Haggerty
Anne W. Halsted
Steve Kinsey
Sam Liccardo
Mark Luce

Julie Pierce
Libby Schaaf
Bijan Sartipi
James P. Spering
Adrienne J. Tissier
Scott Wiener

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any MTC commissioner in the 12 months preceding the date of the issuance of this request for qualifications?

YES NO

If yes, please identify the commissioner: _____

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any MTC commissioners in the three months following the award of the contract?

YES NO

If yes, please identify the commissioner: _____

Answering yes to either of the two questions above does not preclude MTC from awarding a contract to your firm. It does, however, preclude the identified commissioner(s) from participating in the contract award process for this contract.

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

(TYPE OR WRITE NAME OF COMPANY)

APPENDIX D, MTC STANDARD CONSULTANT CONTRACT

PROFESSIONAL SERVICES AGREEMENT
Between METROPOLITAN TRANSPORTATION COMMISSION
And INSERT NAME OF CONSULTANT
For FUTURE MOBILITY RESEARCH PROGRAM

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is made and entered into as of the 1st day of December, 2015, by and between the Metropolitan Transportation Commission (herein called “MTC”), a regional transportation planning agency established pursuant to California Government Code § 66500, and INSERT NAME OF CONSULTANT, (herein called “CONSULTANT”).

RECITALS

WHEREAS, MTC intends to conduct research on the future mobility program (herein called the “Project”); and

WHEREAS, the services required for the Project cannot be performed satisfactorily by the officers and employees of MTC; and

WHEREAS, the parties hereto now wish to enter into this Agreement pursuant to which CONSULTANT will render professional services in connection with the Project as hereinafter provided;

NOW, THEREFORE, the parties hereto agree as follows:

1. SCOPE OF SERVICES

A general description of the tasks to be required of CONSULTANT is included in this Agreement as Attachment A, Scope of Work, attached hereto and incorporated herein by this reference. All required services shall be authorized by Task Order. All services described in a duly executed Task Order are hereby incorporated into the Agreement upon their execution. All Task Orders shall be developed according to the process established in Attachment A-1, Task Order Process, attached hereto and incorporated herein, and should include, at a minimum, a completed form as shown in Attachment A-2, Task Order Form.

CONSULTANT agrees to perform or secure the performance of all specified services in their entirety with respect to fully executed Task Orders within the Maximum Payment specified in Article 3. Doug Johnson (herein called “MTC Project Manager”) is responsible for communication with CONSULTANT and the administration of this Agreement. MTC’s

Executive Director or designated representative may substitute a new MTC Project Manager by written notice to CONSULTANT.

CONSULTANT's point of contact and the individual authorized to communicate to MTC on behalf of CONSULTANT is INSERT NAME OF CONSULTANT PROJECT MANAGER ("CONSULTANT Project Manager"). A change in the CONSULTANT Project Manager requires MTC's prior written approval.

In the performance of its services, CONSULTANT represents that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services, and CONSULTANT represents that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing.

1.1 PROGRESS REPORTS

CONSULTANT shall provide MTC with progress reports according to the schedule and form approved by the MTC Project Manager.

1.2 SUBMISSION OF CONTRACT DOCUMENTS

To the extent requested by the MTC Project Manager, CONSULTANT shall submit communications and required documentation, including but not limited to invoices, requests for contract modifications, and information on payments received and made to subconsultants, subconsultant utilization, and if applicable, certified payrolls, to the MTC PROJECT MANAGER or his or her designee via a one or more web-based systems designated by MTC to which MTC will provide CONSULTANT with system access. MTC may withhold payment of invoices pending receipt of such communications and required documentation via the applicable web-based system.

2. PERIOD OF PERFORMANCE

CONSULTANT's services hereunder shall commence on or after December 1, 2015, and shall be completed no later than June 30, 2019, unless extended by a duly executed amendment or earlier terminated, as hereinafter provided. CONSULTANT's services shall be performed in accordance with the schedule included in each signed Task Order.

3. COMPENSATION AND METHOD OF PAYMENT

Subject to duly executed amendments, MTC will pay CONSULTANT for its services as described in duly executed Task Orders a total amount, including (as applicable) labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subconsultants' costs (including mark-up), travel, equipment, materials and

supplies, expenses and any fixed fee, not to exceed fifty thousand dollars (\$50,000) (“Maximum Payment”). MTC shall make payments to CONSULTANT in accordance with the provisions described in Attachment C, Compensation and Method of Payment, attached hereto and incorporated herein by this reference.

All invoices shall be submitted electronically via email to MTC at acctpay@mtc.ca.gov or in writing to:

Attention: Accounting Section
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
101 - 8th Street
Oakland, CA 94607-4700

Payment shall be made by MTC within thirty (30) days of receipt of an acceptable invoice, approved by the MTC Project Manager or a designated representative.

4. KEY PERSONNEL

The key personnel to be assigned to this work by CONSULTANT and, if applicable, their hourly rates and the estimated hours to be supplied by each are set forth in Attachment D, Key Personnel Assignments, attached hereto and incorporated herein by this reference. Substitution of any of the personnel named in Attachment D or a decrease in the hours provided to the project by such personnel of more than 10% requires the prior written approval of the MTC Project Manager or a designee. CONSULTANT shall maintain records documenting compliance with this Article, and such records shall be subject to the audit requirements of Article 15. CONSULTANT agrees that all personnel assigned to this work will be professionally qualified for the assignment to be undertaken. MTC reserves the right to direct removal of any individual, including key personnel, assigned to this work.

5. AMENDMENTS

MTC reserves the right to request changes in the services to be performed by CONSULTANT. All such changes shall be incorporated in written amendments that specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the Executive Director or a designated representative and CONSULTANT and specifically identified as amendments to the Agreement. The MTC Project Manager is not a designated representative, for purposes of approving an amendment.

6. TERMINATION

A. Termination for Convenience. MTC may terminate this Agreement for convenience, in whole or in part, at any time by written notice to CONSULTANT. Upon receipt of notice of termination, CONSULTANT shall stop work under this Agreement immediately, to the extent provided in the notice of termination, and shall promptly submit its termination claim to MTC. For terminated deliverables-based Task Orders, CONSULTANT shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination and a reasonable profit not to exceed 1%, plus reasonable termination costs, not to exceed the amount payable for such deliverables. For terminated time-and-materials Task Orders, CONSULTANT shall be paid for hours worked, plus authorized expenses and reasonable termination costs, not to exceed the maximum amount payable under the terminated Task Order. If CONSULTANT has any property in its possession belonging to MTC, CONSULTANT will account for the same, and dispose of it in the manner MTC directs. Except as provided above, MTC shall not in any manner be liable for CONSULTANT's actual or projected lost profits had CONSULTANT completed the services required by this Agreement.

B. Termination for Default. If CONSULTANT does not deliver the work products specified in this Agreement in accordance with the delivery schedule or fails to perform in the manner called for in the Agreement, or if CONSULTANT fails to comply with any other material provision of the Agreement, MTC may terminate this Agreement for default. Termination shall be effected by serving a fifteen (15) day advance written notice of termination on CONSULTANT, setting forth the manner in which CONSULTANT is in default. If CONSULTANT does not cure the breach or describe to MTC's satisfaction a plan for curing the breach within the fifteen (15) day period, MTC may terminate the Agreement for default. In the event of such termination for default, CONSULTANT will be entitled to be reimbursed only for work performed in full compliance with the contract requirements as follows: For terminated deliverables-based Task Orders, CONSULTANT shall be reimbursed for costs incurred for incomplete deliverables up to the time of termination, not to exceed the amount payable for such deliverables. For terminated time-and-materials Task Orders, CONSULTANT shall be paid for hours worked, plus authorized expenses, not to exceed the maximum payable under the terminated Task Order. Such reimbursement will be offset by any costs incurred by MTC to complete work required under the Agreement. In no event shall MTC be required to reimburse CONSULTANT for any costs incurred for work causing or contributing to the default. If CONSULTANT has any property in its possession belonging to MTC, CONSULTANT will account for the same, and dispose of it in the manner MTC directs. MTC shall not in any manner be liable for CONSULTANT's actual or projected lost profits had CONSULTANT completed the services required by this Agreement.

C. If it is determined by MTC that CONSULTANT's failure to perform resulted from unforeseeable causes beyond the control of CONSULTANT, such as a strike, fire, flood, earthquake or other event that is not the fault of, or is beyond the control of CONSULTANT, MTC, after setting up a new delivery or performance schedule, may allow CONSULTANT to continue work, or treat the termination as a termination for convenience.

7. INSURANCE AND FINANCIAL SECURITY REQUIREMENTS

CONSULTANT shall, at its own expense, obtain and maintain in effect at all times for the duration of this Agreement the types of insurance and financial security listed in Attachment E, Insurance and Financial Security (Bond) Provisions, attached hereto and incorporated herein, against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement. All insurance must be placed with insurers with a Best's rating of A-VIII or better.

8. INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor and not an employee or agent of MTC and has no authority to contract or enter into any agreement in the name of MTC. CONSULTANT has, and hereby retains, full control over the employment, direction, compensation and discharge of all persons employed by CONSULTANT who are assisting in the performance of services under this Agreement. CONSULTANT shall be fully responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. CONSULTANT shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

9. INDEMNIFICATION

To the maximum extent permitted by law, CONSULTANT shall indemnify, keep and hold harmless MTC and those entities (if any) identified as additional insureds in Attachment E, Insurance and Financial Security (Bond) Provisions, and their commissioners, directors, officers, agents, and employees ("MTC Indemnified Parties") against any and all demands, claims, suits or actions arising out of any of the following:

A. Any injury or death to persons or property or pecuniary, financial or economic losses that may occur, or that may be alleged to have occurred, caused by any breach of the Agreement or negligent act or omission or willful misconduct of CONSULTANT or its officers, employees, subconsultants or agents or any of them, arising from, under or in connection with this Agreement; or

B. Any allegation that materials or services provided by CONSULTANT under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

CONSULTANT further agrees to defend any and all such claims, actions, suits or other legal proceedings and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered against any of the MTC Indemnified Parties, CONSULTANT shall, at its expense, satisfy and discharge the same.

The provisions set forth in this Article are intended to be applied to the fullest extent allowed under the law and, if any portion of it is found to be void or unenforceable, the remainder is to be severable and enforceable. This indemnification shall survive termination or expiration of this Agreement.

10. DATA TO BE FURNISHED BY MTC

All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials (“MTC Data”) made available to CONSULTANT by MTC for use by CONSULTANT in the performance of its services under this Agreement shall remain the property of MTC and shall be returned to MTC at the completion or termination of this Agreement. No license to such MTC Data, outside of the Scope of Work of the Project, is conferred or implied by CONSULTANT’s use or possession of such MTC Data. Any updates, revisions, additions or enhancements to such MTC Data made by CONSULTANT in the context of the Project shall be the property of MTC and subject to the provisions of Article 11.

11. OWNERSHIP OF WORK PRODUCTS

All drawings, designs, specifications, manuals, reports, studies, surveys, models, software, source code and source code documentation, documentation or system architecture and any other documents, materials, data and products (“Work Products”) prepared or assembled and furnished to MTC by CONSULTANT or its subconsultants pursuant to this Agreement shall be and are the property of MTC. MTC shall be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of CONSULTANT or in the hands of any subconsultant upon completion or termination of the work shall be immediately delivered to MTC. CONSULTANT hereby assigns to MTC ownership of any and all rights, title and interest in and to such Work Products, including ownership of any copyright, patent, trademark, trade secret, or other intellectual property or proprietary rights in the Work Product. CONSULTANT also agrees to execute all papers necessary for MTC to perfect its ownership of the rights in the Work Product. Notwithstanding the above, “Work Products” are not intended

nor shall they be construed to include CONSULTANT'S pre-existing intellectual property secured, developed, written, or produced by CONSULTANT prior to the execution of this Agreement or developed concurrently with this Agreement but not specifically for this Agreement; CONSULTANT shall retain all right, title and interest in any such pre-existing intellectual property.

CONSULTANT shall be responsible for the preservation of any and all such Work Products prior to transmittal to MTC, and CONSULTANT shall replace any such Work Products as are lost, destroyed, or damaged while in its possession without additional cost to MTC.

CONSULTANT represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

12. SUBCONTRACTS

[FOR AGREEMENTS WITH SUBCONSULTANTS AT OUTSET]

A. Subconsultants approved by MTC for subcontract work under this Agreement are listed in Attachment G, Subconsultant List, attached hereto and incorporated herein by this reference. Any subconsultants must be engaged under written contract with CONSULTANT with provisions allowing CONSULTANT to comply with all requirements of this Agreement, including without limitation Article 11, OWNERSHIP OF WORK PRODUCTS. Failure of a subconsultant to provide insurance in accordance with Article 7, INSURANCE REQUIREMENTS, shall be at the risk of CONSULTANT. Any substitution of subconsultants listed in Attachment G must be approved in writing by MTC's Project Manager in advance of assigning work to a substitute subconsultant.

[FOR AGREEMENTS WITH NO SUBCONSULTANTS AT OUTSET]

A. No subconsultants are currently approved by MTC for work under this Agreement. In advance of the assignment of any work to a subconsultant, such subconsultant must be approved in writing by the MTC Project Manager and engaged under written contract with CONSULTANT with provisions allowing CONSULTANT to comply with all requirements of this Agreement, including without limitation Article 11, OWNERSHIP OF WORK PRODUCTS. Failure of a subconsultant to provide insurance in accordance with Article 7, INSURANCE REQUIREMENTS, shall be at the risk of CONSULTANT.

B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between MTC and any subconsultants, and no subcontract shall relieve CONSULTANT of his/her responsibilities and obligations hereunder. CONSULTANT agrees to be as fully

responsible to MTC for the acts and omissions of its subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultants is an independent obligation from MTC's obligation to make payments to CONSULTANT.

C. Applicable provisions of this Agreement shall be included in any subcontract or subconsultant agreement in excess of \$25,000 entered into under of this Agreement.

13. ASSIGNMENT OF AGREEMENT

CONSULTANT shall not assign this Agreement, or any part hereof without prior express written consent of the MTC Project Manager or a designated representative, and any attempt thereat shall be void and unenforceable.

14. RECORDS

CONSULTANT agrees to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. CONSULTANT further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of four (4) years following the fiscal year of last expenditure under the Agreement; or until completion of any litigation, claim or audit, whichever is longer.

15. AUDITS

CONSULTANT shall permit MTC and MTC's authorized representatives to have access to CONSULTANT's books, records, accounts, and any and all work products, materials, and other data relevant to this Agreement, for the purpose of making an audit, examination, excerpt and transcription during the term of this Agreement and for the period specified in Article 14. CONSULTANT shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time.

CONSULTANT further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subconsultant agrees that MTC or any of MTC's duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers, and records of such subconsultant for the term specified above.

et seq., direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. Accordingly, CONSULTANT further covenants that it has made a complete disclosure to MTC of all facts of which CONSULTANT is aware upon due inquiry bearing upon any possible interest, direct or indirect, that it believes any member, officer, agent or employee of MTC (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by MTC.

18.1 ORGANIZATIONAL CONFLICTS OF INTEREST

CONSULTANT shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to MTC; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

CONSULTANT shall not engage the services of any subconsultant or independent contractor on any work related to this Agreement if the subconsultant or independent contractor, or any employee of the subconsultant or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement CONSULTANT becomes aware of an organizational conflict of interest in connection with the work performed hereunder, CONSULTANT shall immediately provide MTC with written notice of the facts and circumstances giving rise to this organizational conflict of interest. CONSULTANT's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, MTC becomes aware of an organizational conflict of interest in connection with CONSULTANT's performance of the work hereunder, MTC shall similarly notify CONSULTANT. In the event a conflict is presented, whether disclosed by CONSULTANT or discovered by MTC, MTC will consider the conflict presented and any alternatives proposed and meet with CONSULTANT to determine an appropriate course of action. MTC's determination as to the manner in which to address the conflict shall be final.

Failure to comply with this section may subject CONSULTANT to damages incurred by MTC in addressing organizational conflicts that arise out of work performed by CONSULTANT, or to termination of this Agreement for breach.

19. LAWS AND REGULATIONS

CONSULTANT shall comply with any and all applicable laws, statutes, ordinances, rules, regulations, and procedural requirements of any national, state, or local government, and of any agency of any such government, including but not limited to MTC, that relate to or in any manner affect the performance of the Agreement. Those laws, statutes, ordinances, rules, regulations and procedural requirements that are imposed on MTC as a recipient of federal or state funds are hereby in turn imposed on CONSULTANT.

20. CLAIMS OR DISPUTES

CONSULTANT shall be solely responsible for providing timely written notice to MTC of any claims for additional compensation and/or time in accordance with the provisions of the Agreement. It is MTC's intent to investigate and attempt to resolve any CONSULTANT claims before CONSULTANT has performed any disputed work. Therefore, CONSULTANT's failure to provide timely notice shall constitute a waiver of CONSULTANT's claims for additional compensation and/or time.

CONSULTANT shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by MTC, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given MTC due written notice of a potential claim. The potential claim shall set forth the reasons for which CONSULTANT believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

Such notice shall be given to MTC prior to the time that CONSULTANT has started performance of the work giving rise to the potential claim for additional compensation.

If there is a dispute over any claim, CONSULTANT shall continue to work during the dispute resolution process in a diligent and timely manner as directed by MTC, and shall be governed by all applicable provisions of the Agreement. CONSULTANT shall maintain cost records of all work that is the basis of any dispute.

If an agreement can be reached that resolves CONSULTANT's claim, the parties will execute an Agreement modification to document the resolution of the claim. If the parties cannot reach an agreement with respect to CONSULTANT's claim, they may choose to pursue dispute resolution pursuant to Article 24, DISPUTE RESOLUTION, or MTC may terminate the Agreement.

21. REMEDIES FOR BREACH

In the event CONSULTANT fails to comply with the requirements of the Agreement in any way, MTC reserves the right to implement administrative remedies that may include, but are not limited to, withholding of progress payments and contract retentions, and termination of the Agreement in whole or in part.

The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by MTC or CONSULTANT shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

22. TEMPORARY SUSPENSION OF WORK

MTC, in its sole discretion, reserves the right to stop or suspend all or any portion of the work for such period as MTC may deem necessary. The suspension may be due to the failure on the part of CONSULTANT to carry out orders given or to perform any provision of the Agreement or to factors that are not the responsibility of CONSULTANT. CONSULTANT shall comply immediately with the written order of MTC to suspend the work wholly or in part. The suspended work shall be resumed when CONSULTANT is provided with written direction from MTC to resume the work.

If the suspension is due to CONSULTANT's failure to perform work or carry out its responsibilities in accordance with this Agreement, or other action or omission on the part of CONSULTANT, all costs shall be at CONSULTANT's expense and no schedule extensions will be provided by MTC.

In the event of a suspension of the work, CONSULTANT shall not be relieved of CONSULTANT's responsibilities under this Agreement, except the obligations to perform the work that MTC has specifically directed CONSULTANT to suspend under this section.

If the suspension is not the responsibility of CONSULTANT, suspension of all or any portion of the work under this Section may entitle CONSULTANT to compensation and/or schedule extensions subject to the Agreement requirements.

23. WARRANTY OF SERVICES

A. In the performance of its services, CONSULTANT represents and warrants that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services, and that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good

standing. In addition, CONSULTANT shall provide such specific warranties as may be set forth in specific Task Orders as agreed upon by the parties.]

B. In the event that any services provided by CONSULTANT hereunder are deficient because of CONSULTANT's or a subconsultant's failure to perform said services in accordance with the warranty standards set forth above, MTC shall report such deficiencies in writing to CONSULTANT within a reasonable time. MTC thereafter shall have:

1. The right to have CONSULTANT re-perform such services at CONSULTANT's expense; or
2. The right to have such services done by others and the costs thereof charged to and collected from CONSULTANT if within 30 days after written notice to CONSULTANT requiring such re-performance, CONSULTANT fails to give satisfactory evidence to MTC that it has undertaken said re-performance; or
3. The right to terminate the Agreement for default.

CONSULTANT shall be responsible for all errors and omissions and is expected to pay for all deficient work as a result of errors and omissions.

24. DISPUTE RESOLUTION

A. Informal Resolution of Disputes. CONSULTANT and MTC shall use good faith efforts to resolve all disputes informally at the project manager level. In the event such efforts are unsuccessful, either party may request that MTC provide a written determination as to the proposed resolution of the dispute. Within twenty-one (21) calendar days of the request, the MTC Project Manager shall provide a written determination as to the dispute, including the basis for his or her decision. Upon CONSULTANT's written acceptance of the MTC Project Manager's determination, the Agreement may be modified and the determination implemented or, failing agreement, MTC may in its sole discretion pay such amounts and/or revise the time for performance in accordance with the MTC Project Manager's determination.

If the MTC Project Manager's determination is not accepted by CONSULTANT, the matter shall promptly be referred to senior executives of the parties having designated authority to settle the dispute. The senior executives will exchange memoranda stating the issues in dispute and their respective positions and then meet for negotiations at a mutually agreed time and place. If the matter has not been resolved within thirty (30) calendar days of commencement of senior management negotiations, the parties may mutually agree to try to settle the dispute by means of alternate dispute resolution methodologies, as set forth below.

B. Controversies Subject to Alternative Dispute Resolution. Any claim or controversy concerning the interpretation, application, or implementation of this Agreement between MTC and CONSULTANT that cannot be resolved through the informal efforts described above, may,

by specific agreement of the parties, be submitted to alternative dispute resolution (that is, mediation or arbitration) with the parameters for such dispute resolution being agreed to by the parties at the time.

C. Other Remedies. If a dispute is not resolved through discussion or the parties do not agree to alternative dispute resolution, either party may pursue available legal remedies in a California State or Federal court of competent jurisdiction. CONSULTANT must file a government claim pursuant to Government Code section 910 *et seq.* in order to initiate a civil action.

D. Pending Resolution. CONSULTANT shall continue to work during the dispute resolution process in a diligent and timely manner as directed by MTC, and shall be governed by all applicable provisions of the Agreement.

E. Cost of Alternative Dispute Resolution Proceedings. Each party shall bear the costs and expenses incurred by it in connection with such alternative dispute resolution processes. The cost of any mediator or independent decision maker shall be shared equally between the parties.

F. Survival of this Article. This Article shall survive completion or termination of this Agreement, but under no circumstances shall either party call for an alternative dispute resolution of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceeding to litigate such claim or dispute under the laws of the State of California.

25. CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of the State of California applicable to agreements made and to be performed within the State.

26. ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover reasonable attorneys' fees, in addition to all court costs.

27. PARTIAL INVALIDITY

If any term or condition of this Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

28. BENEFIT OF AGREEMENT

The Agreement shall bind and benefit the parties hereto and their heirs, successors, and permitted assigns.

29. NO THIRD PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

30. ENTIRE AGREEMENT; MODIFICATION

This Agreement, including any attachments, constitutes the complete agreement between the parties and supersedes any prior written or oral communications. CONSULTANT represents that in entering into the Agreement it has not relied on any previous representations, inducements, or understandings of any kind or nature. This Agreement may be modified or amended only by written instrument signed by both CONSULTANT and MTC. In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

METROPOLITAN TRANSPORTATION
COMMISSION

NAME OF CONSULTANT

Steve Heminger, Executive Director

Insert Appropriate Name, Title

ATTACHMENT A
Scope of Work
Outline of Services

All services under the Agreement shall be authorized by Task Order, initiated and developed according to the detailed task order process described in Attachment A-1, Task Order Process, attached hereto and incorporated herein by this reference. Task Orders shall include, at a minimum, a detailed description of the work to be performed, a completion date for performance, a maximum payment amount, payment terms (deliverables-based or time and materials) and subconsultant participation (if any), in a completed form as shown in Attachment A-2, Task Order Form, attached hereto and incorporated herein by this reference.

Examples of some of the services to be performed by CONSULTANT are:

ATTACHMENT A-1 TASK ORDER PROCESS

Detailed Task Order Process:

Task Orders will be numbered sequentially. The period of performance shall be as set forth in the individual Task Order. The process for developing, signing and tracking task orders is summarized as follows:

Step 1 – The MTC Project Manager (“MTC PM”) prepares a draft Task Order to issue to CONSULTANT. The MTC PM may solicit feedback from CONSULTANT to facilitate drafting the Task Order.

Step 2* – CONSULTANT prepares a proposal in response to the draft Task Order. A draft Task Order, as included in this Agreement as Attachment A-2, Task Order Form, attached hereto and incorporated herein by this reference, shall be provided to CONSULTANT for review and comment.

Step 3* – The MTC PM reviews CONSULTANT’s proposal to determine if it meets the objectives of the draft Task Order and if CONSULTANT’s proposed costs are reasonable. The MTC PM may solicit early feedback from the MTC Director of Planning at this time, if necessary. Any changes to the draft Task Order deemed appropriate by MTC shall be incorporated in a draft Final Task Order.

Step 4* – The MTC PM forwards the draft Final Task Order to the MTC Contract Administrator for review and approval. Once approved, the MTC PM forwards two copies of the Task Order to the MTC Director of Planning, for review and approval. The MTC Director of Planning signs both copies of a Final Task Order to signify approval and returns them to the MTC PM.

Step 5 – The MTC PM sends both copies of the signed Final Task Order to CONSULTANT, who signs both copies and returns one to the MTC PM.

Step 6 – The MTC PM sends one copy of the fully executed Task Order to the MTC or MTC Task Lead who initiates work, and sends another copy to MTC Finance to encumber funds against the Task Order. The MTC PM keeps the original fully-executed Task Order for the official project record.

Step 7 – Any services added to the Agreement by a Task Order shall be subject to all applicable conditions of the Agreement. Revisions to Task Orders shall require written approval by both the MTC Director of Planning and CONSULTANT. Revisions to Task Orders shall require written approval by both the MTC Director of Planning and CONSULTANT.

Step 8 – The MTC PM is responsible for overseeing the successful conclusion of the Task Order, and will manage the progress of the work, track invoices against the Task Order budget, and track milestone completion against the Task Order schedule.

Step 9 – Once the MTC PM determines the Task Order is complete, the MTC PM will send written notification to CONSULTANT that the Task Order is complete and that all associated invoices are due to MTC within 30 days. Any balance of budget is made available to spend on future task orders at the MTC PM’s discretion.

Step 10 – The MTC PM will annually assess the need for a Contract audit.

**The MTC Project Manager may revise the Task Order and/or CONSULTANT may be asked to revise the proposal based on feedback received during Steps 2 through 4.*

ATTACHMENT A-2
Task Order Form

1. Task Order No. (include FY)	
2. Title of Task:	
3. MTC Task Lead (if different from MTC Project Manager):	
4. Description of work:	<i>Summarize key task expectations. For more information, see attached <u>Task Order Budget and Schedule and Detailed Description of Work (attached)</u>.</i>
5. Original Maximum Payment:	
6. Amended Maximum Payment:	<i>Include each amendment to maximum payment, by amendment number, for particular fiscal year.</i>
7. Completion Date:	Date Schedule attached.
8. Payment terms:	<i>Check the one that applies (see below for more information):</i> <input type="checkbox"/> Time and Materials <input type="checkbox"/> Deliverables

9. Payment Terms [*complete A for Task Orders including one or more deliverables-based payments or B for Time and Materials Task Orders.*]

A. Deliverables-based.

	<u>Deliverable</u>	<i>Total Cost*</i>
1.		\$1
2.		\$1
3.		\$1
4.		\$1
5.		\$1
6.		\$1
7.		\$1
	Total:	\$7.00

***Due upon satisfactory completion as determined by the MTC Project Manager.**

B. Time and Materials

Specify hourly rate for applicable personnel and include estimate of expenses.

	<u>Personnel/Expense</u>	<u>Duties</u>	<u>Rate</u>	<u>Est. Hours</u>	<u>Total Cost</u>
1.			\$		\$1
2.			\$		\$1
3.			\$		\$1
4.			\$		\$1
5.			\$		\$1
Total:					\$5.00

<u>Activity</u>	<u>Lead</u>	<u>Estimated Amount Budgeted</u>
		\$1
		\$1
		\$1
		\$1
		\$1
		\$1
TOTAL MAXIMUM PAYMENT		\$6.00

METROPOLITAN TRANSPORTATION
COMMISSION

CONSULTANT

Insert name and title of section director
Date: _____

Insert name and title of authorized individual
Date: _____

Task Order Schedule

<u>Deliverable/Milestone</u>		<u>Due Date</u>
		Date

Detailed Description of Work

Task Order #: Title

1. Description of subtask 1.
Deliverable – deliverable name
2. Description of subtask 2.
Deliverable – deliverable name
3. Description of subtask 3.
Deliverable – deliverable name
4. Etc.

ATTACHMENT B
Project Schedule

CONSULTANT's services shall be performed in accordance with the schedule included in each duly executed Task Order.

ATTACHMENT C
Compensation and Method of Payment

TASK ORDERS

A. Compensation. CONSULTANT shall be compensated for its work as specified in signed Task Orders. All Task Orders shall be developed according to the process established in Attachment A-1, Task Order Process, attached hereto and incorporated herein, and should include, at a minimum, a completed form as shown in Attachment A-2, Task Order Form. Payment terms may be based on acceptance of agreed-upon deliverables or upon time and materials reimbursement, depending on the requirements of each Task Order. For time and materials-based payment of Task Orders, labor rates in Attachment D, Key Personnel Assignments, shall apply. The hourly rates in Attachment D include all applicable surcharges such as taxes, insurance and fringe benefits as well as indirect costs, overhead and profit allowance, equipment, materials and supplies. Said hourly rates shall remain in effect for the term of the Agreement, unless MTC's prior written authorization is obtained for any changes. In no event shall the total compensation to be paid CONSULTANT under the Agreement exceed the Maximum Payment specified in Article 3 of the Agreement.

B. Expenses. For time and materials Task Orders, MTC will reimburse CONSULTANT for all expenses deemed reasonable and necessary by MTC incurred by CONSULTANT in the performance of this Agreement. Such reimbursement shall include travel and personal expenses incurred by employees or agents of all CONSULTANTS in accordance with 48 Code of Federal Regulations Part 31 or Office of Management and Budget Circular A-122, as applicable.

C. Method of Payment. CONSULTANT shall submit invoices for services rendered no more frequently than on a monthly basis. Invoices shall identify work for which payment is requested by Task Order number (including fiscal year). All invoices will be dated, numbered in serial order, and signed by CONSULTANT.

For Task Orders authorizing payment on the basis of satisfactory deliverables, CONSULTANT shall specify each deliverable for which payment is requested, the amount requested, and the total amount paid to date under the Task Order.

For Task Orders authorizing time and materials payment, CONSULTANT shall submit invoices for services rendered on a monthly basis, covering fees and expenses for a single calendar month. Each invoice shall specify the work performed, hours worked, and amount due

(by personnel), authorized expenses (with receipts for such expenses), the total amount claimed under the invoice and the amount paid to date under the Task Order.

ATTACHMENT D
Key Personnel Assignments

	<u>Name</u>	<u>Rate/hour</u>	<u>Est. hours</u>	<u>Task Description</u>
1.		\$xx		
2.				
3.				
4.				
5.				
6.				
7.				
8.				

ATTACHMENT E

Insurance and Financial Security (Bond) Provisions

Property insurance is required for all contracts.

1. INSURANCE

A. Minimum Coverages. The insurance requirements specified in this section shall cover CONSULTANT's own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that CONSULTANT authorizes to work under this Agreement (hereinafter referred to as "Agents.") CONSULTANT shall, at its own expense, obtain and maintain in effect at all times during the life of this Agreement the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement.

CONSULTANT is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover such risks. To the extent that an Agent does not procure and maintain such insurance coverage, CONSULTANT shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling CONSULTANT's indemnity obligation as to itself or any of its Agents in the absence of coverage.

In the event CONSULTANT or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that CONSULTANT's insurance be primary without right of contribution from MTC. Prior to beginning work under this contract, CONSULTANT shall provide MTC with satisfactory evidence of compliance with the insurance requirements of this section.

1. Workers' Compensation Insurance with Statutory limits, and Employer's Liability Insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONSULTANT's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of MTC. Such Workers' Compensation & Employer's Liability may be waived, if and only for as long as CONSULTANT is a sole proprietor or a corporation with stock 100% owned by officers with no employees.

2. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of MTC.

MTC and those entities listed in Part 3 of this Attachment E (if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.

3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by CONSULTANT and CONSULTANT's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.

4. Umbrella Insurance in the amount of \$1,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.

5. Errors and Omissions Professional Liability Insurance for errors and omissions and the resulting damages, including, but not limited to, economic loss to MTC and having minimum limits of \$1,000,000 per claim.

The policy shall provide coverage for all work performed by CONSULTANT and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of CONSULTANT. No contract or agreement between CONSULTANT and any subcontractor/consultant shall relieve CONSULTANT of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by CONSULTANT and any subcontractor/consultant working on behalf of CONSULTANT on the project.

6. Property Insurance. Property Insurance covering CONSULTANT'S own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed on behalf of MTC (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of MTC.

B. Acceptable Insurers. All policies will be issued by insurers acceptable to MTC, generally with a Best's Rating of A-VIII or better.

C. Self-Insurance. CONSULTANT's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to MTC.

D. Deductibles and Retentions. CONSULTANT shall be responsible for payment of any deductible or retention on CONSULTANT's policies without right of contribution from MTC. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that MTC seeks coverage as an additional insured under any CONSULTANT insurance policy that contains a deductible or self-insured retention, CONSULTANT shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of CONSULTANT, subconsultant, subcontractor, or any of their employees, officers or directors, even if CONSULTANT or subconsultant is not a named defendant in the lawsuit.

E. Claims Made Coverage. If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, CONSULTANT shall:

- (1) Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;
- (2) Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and
- (3) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, CONSULTANT shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.

F. Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of CONSULTANT's personnel, subconsultants, subcontractors, and equipment have been removed from MTC's property, and the work or services have been formally accepted. CONSULTANT must notify MTC if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

G. Certificates of Insurance. Prior to commencement of any work hereunder, CONSULTANT shall deliver to MTC Certificates of Insurance verifying the aforementioned

coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

H. Disclaimer. The foregoing requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant hereto, including, but not limited to, liability assumed pursuant to Article 9 of this Agreement.

2. ADDITIONAL INSUREDS

The following entities are to be named as Additional Insureds under applicable sections of this Attachment E and as MTC Indemnified Parties, pursuant to Article 9 of the Agreement.

NOT APPLICABLE

ATTACHMENT G
Subconsultant List

	<u>Name/Address of Subconsultant</u>	<u>Amount of Subcontract</u>	<u>Description of Work</u>
1.			
2.			
3.			
4.			
5.			
6.			

APPENDIX D-1, INSURANCE REQUIREMENTS

Minimum Insurance Coverages. Consultant shall, at its own expense, obtain and maintain in effect at all times the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under its Agreement with MTC, placed with insurers with a Best’s rating of A-VIII or better.

<p>Yes (√)</p>	<p>Please certify by checking the box below that required coverages will be provided within ten (10) days of MTC’s notice to firm that it wishes to contract with the firm.</p>
<p>___</p>	<p><u>Workers' Compensation Insurance</u> with Statutory limits, and <u>Employer’s Liability Insurance</u> with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONSULTANT’s employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of MTC. Such <u>Workers Compensation & Employer’s Liability</u> may be waived, if and only for as long as CONSULTANT is a sole proprietor or a corporation with stock 100% owned by officers with no employees.</p>
<p>___</p>	<p><u>Commercial General Liability Insurance</u> for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT’s officers, agents, and employees and with limits of liability that shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of MTC.</p> <p>MTC and _____, and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT’s operations.</p>
<p>___</p>	<p><u>Business Automobile Insurance</u> for all automobiles owned (if any), used or maintained by CONSULTANT and CONSULTANT’s officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability that shall not be less than \$1,000,000 combined single limit per accident.</p>
<p>___</p>	<p><u>Umbrella Insurance</u> in the amount of \$1,000,000 providing excess limits over Employer’s Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.</p>
<p>___</p>	<p><u>Errors and Omissions Professional Liability Insurance</u> for errors and omissions and the resulting damages, including, but not limited to, economic loss to MTC and having minimum limits of \$1,000,000 per claim.</p> <p>The policy shall provide coverage for all work performed by CONSULTANT and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the CONSULTANT. No contract or agreement between CONSULTANT and any subcontractor/consultant shall relieve CONSULTANT of the</p>

responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by CONSULTANT and any subcontractor/consultant working on behalf of CONSULTANT on the project.

Property Insurance. Property Insurance covering CONSULTANT'S own business personal property and equipment to be used in performance of its Agreement with MTC, materials or property to be purchased and/or installed on behalf of MTC (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of MTC.

Consultant's obligation to provide the insurance described herein may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to MTC.

Consultant shall be responsible for payment of any deductible or retention on Consultant's policies without right of contribution from MTC. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

In the event that MTC seeks coverage as an additional insured under any Consultant insurance policy that contains a deductible or self-insured retention, Consultant shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of Consultant, subconsultant, subcontractor, or any of their employees, officers or directors, even if Consultant or subconsultant is not a named defendant in the lawsuit.

If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, Consultant shall:

1. Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of its Agreement with MTC or the beginning of any work under such Agreement;
2. Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and
3. If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, Consultant shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.

All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of Consultant's personnel, subcontractors, and equipment have been removed from MTC's property, and the work or services have been formally accepted.

Consultant must notify MTC if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of its Agreement with MTC.

Prior to commencement of any work hereunder, Consultant shall deliver to MTC Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all

provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant hereto, including, but not limited to, liability assumed pursuant to the Indemnification section of its Agreement with MTC.

By signing below you acknowledge and agree to provide the required certificate of insurance providing verification of the minimum insurance requirements listed above within ten (10) days of MTC's notice to firm that it wishes to contract with the firm.

Representative Name and Title	
Name of Authorizing Official	
Authorized Signature	
Date	

NOTE: If you were unable to check "Yes" for any of the required minimum insurance coverages listed above, a request for exception to the appropriate insurance requirement(s) must be brought to MTC's attention no later than closing date/time for receipt of requests for modifications/exceptions. If such modifications/exceptions are not brought to MTC's attention consistent with the provisions of this RFQ, compliance with the insurance requirements will be assumed.