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Deputy Executive Director, Policy

Andrew B. Fremier
Deputy Executive Director, Operations

October 27, 2011

REQUEST FOR QUALIFICATIONS Professional Auditing Services

Dear Auditing Firm:

The Metropolitan Transportation Commission (MTC) invites your firm to submit a Statement of Qualifications (SOQ) to provide professional auditing services to perform annual fiscal audits of MTC, Service Authority for Freeways and Expressways (MTC SAFE), Bay Area Toll Authority (BATA), Bay Area Infrastructure Financing Authority (BAIFA), and Bay Area Headquarters Authority (BAHA) for the fiscal years ending June 30, 2012, 2013, 2014 and 2015. The initial term of the resulting contract is for four (4) years; however, MTC may elect to extend the resulting contract for two (2) consecutive one-year options for a total up to six (6) years.

This letter, together with its appendices comprises the Request for Qualifications (RFQ) for the above-described project. Responses to this RFQ should be submitted in accordance with the instructions stated herein.

Any addenda to this RFQ that may be issued by MTC will be posted at <http://www.mtc.ca.gov/jobs/contracts/>. It is the proposer's responsibility to check for addenda to this RFQ and comply with new or revised requirements that may be stated therein.

I. Statement of Qualification (SOQ) Due Date

Interested firms must submit one (1) original and seven (7) hardcopies of their Statement for Qualifications (SOQ) by **4:00 p.m. PST on December 6, 2011. SOQs received after that date and time will not be considered.** A submitted SOQ shall be considered a firm offer to enter into a contract for a period of one hundred eighty (180) days from RFQ closing date.

II. MTC Contact

SOQs and all inquiries relating to this RFQ should be submitted to the address shown below. For telephone inquiries, call (510) 817-5856. E-mail inquiries may be directed to: sbode@mtc.ca.gov.

Suzanne Bode, Project Manager
MTC
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700
Fax: (510) 817-5848

III. Background

MTC is the transportation planning, coordinating and financing agency for the nine-county San Francisco Bay Area established pursuant to California Government Code Sections 66500 *et seq.* MTC administers federal funds, including, but not limited to the Surface Transportation Program (STP) and the Congestion Mitigation and Air Quality Improvement Program (CMAQ).

MTC SAFE, established pursuant to California Streets and Highways Code Sections 2250 *et seq.*, in partnership with California Highway Patrol (CHP) and California Department of Transportation (Caltrans), oversee the installation and operation of call boxes along Bay Area freeways and administers a roving tow truck service to quickly clear incidents from the region's most congested roadways.

BATA is a public agency created by Senate Bill 226 effective January 1, 1998. Senate Bill 226 amended Streets and Highway Code Section 30950 *et seq.* and transferred to BATA certain duties and responsibilities from the California Transportation Commission (CTC) and State of California Department of Transportation (Caltrans) for the disposition of toll revenues collected from toll bridges owned and operated by Caltrans in the San Francisco Bay Area. These responsibilities include administration of the Regional Measure 1 (RM1) capital improvement program approved by the voters in 1988. In March 2004, the Bay Area voters approved Regional Measure 2 (RM 2) increasing the tolls by one dollar on all seven Caltrans toll bridges effective July 1, 2004. BATA controls the RM2 allocations for various capital and operating funds for congestion relief programs.

On July 18, 2005, the California State Legislature approved Assembly Bill (AB) 144 transferring toll bridge administration responsibilities from Caltrans to BATA. The legislation also consolidated the seismic retrofit dollar previously administered by Caltrans along with all other toll bridge revenues under BATA's administration. AB 144 created the Toll Bridge Project Oversight Committee consisting of member from Caltrans, BATA and CTC to provide oversight for the Benicia-Martinez Bridge project and the state toll bridge Seismic Retrofit Program.

BAIFA is a public entity created under and pursuant to the Joint Powers Act consisting of Section 6500 through 6599.2 of the California Government Code. The purpose of BAIFA is to exercise the joint powers common to MTC and BATA and the powers separately conferred by law upon the BAIFA to plan capital projects and obtain funding in forms of grants, contributions, appropriations, loan and other assistance from the United States and State of California and apply funds received to pay debt service on bonds issued by the BAIFA to finance or refinance public capital improvements projects.

BAHA is public entity created under and pursuant to the Joint Powers Act consisting of Section 6500 through 6599.2 of the California Government Code. BAHA is created to exercise the joint powers common to MTC and BATA and the power separately conferred by law upon the BAHA for the purpose of planning, acquiring, and developing office space and facilities and undertaking related activities as described in Sections 6508 and 6588 of the Act.

IV. Terms of Engagement

The contract resulting from this RFQ will have a four (4) year initial term agreement. MTC may extend the contract for two (2) one-year options for a total up to six (6) years. Continuation is

subject to the annual review and recommendation, the satisfactory negotiation of terms, as well as the concurrence of the Commission and the annual appropriation of funds.

V. Proposers' Conference and Request for Exceptions

MTC will hold a Proposer's Conference on **Friday, November 4, 2011 at 9:00 AM PST** at the Joseph P. Bort MetroCenter Building, 101 8th Street, Oakland, CA in Claremont conference room.

Any requests for clarification, or questions regarding RFQ requirements, or requests for exceptions to or modifications of RFQ provisions must be received by MTC no later than **4:00 p.m. PST, Wednesday, November 9, 2011** to guarantee response or consideration. Proposers are required to submit such requests on the form provided in *Appendix G, Requests for Exceptions or Modifications*.

Any addenda released for this RFQ and responses to questions shall be published on MTC's website at <http://www.mtc.ca.gov/jobs/contracts/>. No e-mail transmissions of any addenda will be provided. The Proposer is responsible to check the website for any addenda and responses to questions released.

VI. Minimum Qualifications

To be considered for this project, Audit firm must certify in its SOQ the following Minimum Qualifications:

- Independence: The firm must provide an affirmative statement that it is independent of the MTC, MTC SAFE, BATA, BAIFA, and BAHA as defined by generally accepted auditing standards and the standards applicable to financial audits as contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.
- License to Practice in the State of California: An affirmative statement is required attesting that the firm and all assigned key professional staff are properly registered and licensed to practice in the State of California.
- Experience: An affirmative statement is required indicating the firm's experience conducting audits of compliance in accordance with generally accepted auditing standards; the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.
- In addition, the firm must have experience with at least six (6) clients with annual operating budgets of at least one hundred million dollars (\$100,000,000), for whom it has provided similar annual audit services to those covered by this RFQ, at least one of whom must be a transportation agency. Firm must also have experience with federal and state grants, toll revenue, auditing and financial reporting of revenue bonds, and derivative reporting.
- Schedule: The firm must provide an affirmative statement that it will be able to devote the necessary resources to complete the work described in *Appendix A, Scope of Work* in accordance with *Appendix B, Project Schedule*.
- The Proposer must have a local office with staffing for the audit within the nine-county San Francisco Bay Area.

VII. Scope of Work and Budget

The description of required services for the Professional Auditing Services project is outlined in *Appendix A, Scope of Work* to this RFQ. The selected Auditor will take primary direction from the Project Manager. All work described in *Appendix A, Scope of Work* must be completed according to *Appendix B, Project Schedule*.

No formal budget has been established for this project. The project budget will be determined based on the costs detail provided by the selected proposer.

VIII. Personally Identifiable Information

The selected Auditor agrees to comply with the special provisions related to the access and protection of personally identifiable information set forth in *Appendix E, Special Conditions for Third Party Contracts - PII*.

IX. Form of Statement of Qualifications (SOQ)

Sections that should be included in SOQ are described below. Proposers are encouraged to print double-sided copies to save paper.

A. General Requirements

1. A transmittal letter signed by an official authorized to solicit business and enter into contracts for the firm. The transmittal letter should include the name and telephone number of a contact person. The letter should indicate that the SOQ is a firm offer to enter into a contract to perform work related to this RFQ for a period of one hundred eighty (180) days from SOQ submission.
2. Affirmative statement attesting to the fact that firm meets all the Minimum Qualifications listed in Section VI.

B. Firm Qualifications and Experience

1. A statement of the firm's history, the number of regular professional employees, the size of the firm's governmental audit staff, and the location of the office from which the work of this engagement is to be performed.
2. A description of the firm's audit policy.
3. A description of the firm's staff audit stability, rotation and training policies.
4. A description of the firm's client policy including the application of SAS 115 standards.
5. A list of six (6) clients with a minimum annual operating budget of one hundred million dollars (\$100,000,000) for which it has provided similar annual auditing services to those covered by this RFQ. At least one audit client of the six must be a transportation agency.
6. Expertise in the following areas is essential, required, and will be considered in the evaluation of SOQs. Please describe in detail:
 - Relevant experience performing compliance audits as required by the U.S. Office of Management (OMB) Circular A-133 *Compliance Supplement, Federal Acquisition Regulation*, 49 CFR Part 18, and any other relevant federal standards.

- Experience with provisions of the Transportation Development Act, including Public Utilities Code Section 99245 as enacted and amended by statute.
 - Experience in reviewing for compliance with bond documents and debt covenants as well as evaluating swap calculation.
7. Expertise in the following areas is value-added and will be considered in the evaluation process:
- Experience performing SAS 70 audits of third-party providers and the type(s) of SAS 70 reports
 - Experience with agreed upon procedure engagements including reviews of project close-out audits, contract compliance, and review of business and IT controls.
 - Other value-added areas/ experience the firm brings to the engagement.
8. A description of the range of activities performed by the local office, e.g., audit, accounting, tax service and/or management consulting service, should be provided.
9. A copy of a report on its most recent external quality control review (peer review), with a statement whether that quality control review includes a review of specific government engagements.
10. Describe two examples of difficult issues that the firm has encountered recently and the solutions that resolved these issues.
11. Describe any situation for which the firm has recently withdrawn from an audit engagement.

C. Staffing and Personnel

1. Provide a detailed statement of the qualifications and relevant experience of the team members that demonstrates that the firm possesses the Minimum Qualifications described in Section VI. in this RFQ. This section should include the number and nature of the professional staff to be employed in this engagement on a full-time basis, and the number and nature of other staff to be employed on this project on a full-time or part-time basis.

The resumes of the firm's principals and individuals likely to work on projects in the areas covered by this RFQ should be attached as an exhibit. If the proposer is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium should be separately identified, and the firm that is to serve as the principal auditor should be noted.

2. Provide a detailed work plan for the work described in *Appendix A, Scope of Work*, by task and key personnel. Show the total estimated person hours and personnel needed to complete each task for all four years of the project. Complete *Appendix C, Estimate of Audit/Production Hours* with staff hours and personnel levels.
3. Indicate how the quality and consistency of staff over the term of the agreement will be assured. (Engagement partners, managers, other supervisory staff and specialist may be changed if those personnel leave the firm, are promoted or are assigned to another office. These personnel may also be changed for other reasons with prior written permission of MTC. However in either case, the MTC retains the right to approve or reject replacements.)

4. Provide information on the circumstances and status of any disciplinary action taken or pending against any member working on the engagement audit.

D. Levine Act Statement

A signed California Levine Act statement (*Appendix D*).

E. Cost

In a SEPARATE SEALED ENVELOPE, provide a description of the firm's hourly rates. Rates shall be fully loaded and include direct and indirect costs. (Hourly rates will not be considered by the panel to develop the ranking. See Evaluation Factors below. After ranking, cost will be reviewed relative to contract negotiations.)

X. Evaluation Factors

The Project Manager, in consultation with Finance Section management staff and MTC Office of General Counsel, will conduct an initial review of the SOQs. SOQs failing to meet the Minimum Qualifications set out in *Section VI.*, Minimum Qualifications, will not be considered responsive and will not be evaluated. 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 shall be considered non-responsive and will not be evaluated. A SOQ that fails to include one or more items requested in Section IX, Form of Statement of Qualifications, may be considered complete and generally responsive, if evaluation in every criterion is possible. An evaluation panel comprised of the Project Manager and other MTC staff will evaluate the responsive SOQs.

Responsive SOQs will be evaluated based on the following evaluation criteria, in descending order of relative importance:

- Experience and qualifications of firm and assigned staff;
- Comprehensiveness and adequacy of detailed work plan;
- Reasonableness of task hours;
- Timetable for meeting deadlines; and
- Value-added expertise and experience.

Following the initial evaluation, the evaluation panel may elect to recommend award or to develop "short lists" of firms to be considered for the selection. Oral interviews will be held with short-listed firms. The short-listed firms will then be ranked and the rankings will be forwarded to the MTC Executive Director. If the Executive Director agrees with the panel's recommended ranking, the evaluation panel will enter into negotiations with the top-ranked firm. MTC reserves the right to negotiate relative to hourly rates and payment terms. If hourly rates and payment terms cannot be satisfactorily negotiated with the top-ranked firm, negotiations will be terminated, and staff will enter into negotiations with the second-ranked firm, and so on until hourly rates and payment terms are acceptable. MTC reserves the right in its sole discretion to decide not to enter into a contract with any firm as a result of this RFQ, the right to accept or reject any and all proposals submitted, to adjust project timetable, to waive minor irregularities in proposals, and to request additional information from the proposers.

XI. Selection Timetable

9:00 a.m., November 4, 2011	Proposer Conference at 101 8 th Street, Oakland, California, Claremont Conference Room
4:00 p.m., November 9, 2011	Closing Date for Request for Clarifications/ Exceptions
No later than three (3) working days prior to the date SOQs are due	Closing Date for Objections to RFQ Provisions
4:00 p.m., December 6, 2011	Closing Date and Time for Receipt of SOQs
Week of December 12, 2011	Interviews (if held)
Wednesday, January 11, 2012	Administration Committee Approval
Monday, January 30, 2012 (approximate)	Execution of Contract

XII. Selection Disputes

A firm may object to a provision of the RFQ on the grounds that it is arbitrary, biased or discriminatory, or to the selection of a particular Auditor 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 MTC Project Manager a written explanation of the basis for the protest:

1. No later than three (3) working days prior to the date SOQs are due, for objections to RFQ provisions; or
2. No later than three (3) working days after the date the firm is notified that it did not meet the Minimum Qualification or was found to be non-responsive; or
3. No later than three (3) working days after the date on which the contract is authorized by the MTC Administration Committee or the date the firm is notified that it was not selected, whichever is later, for objections to consultant selection.

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

Protests must clearly and specifically describe the basis for the protest in sufficient detail for the MTC review officer to recommend a resolution to the Executive Director. The MTC Executive Director will respond to the protest in writing, based on the recommendation of a staff review officer. 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.

Authorization to award a contract to a particular firm by MTC's Administration Committee 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.

Should the protesting proposer wish to appeal the decision of the MTC Executive Director, it may file a written appeal with the MTC Administration Committee, no less than three (3) working days after receipt of the written response from the Executive Director. The Administration Committee's decision will be the final agency decision.

XIII. General Conditions

MTC will not reimburse any firm for costs related to preparing and submitting a SOQ.

Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*), unless exempt. Any language purporting to render the entire proposal confidential or proprietary will be disregarded.

A synopsis of MTC standard contract provisions is enclosed for your reference as *Appendix F*. If a Consultant 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 listed above. If no such change is requested, the Auditor will be deemed to accept MTC's standard contract provisions, unless such language is protested in accordance with the procedures in Section XII, Selection Disputes, of this RFQ.

The selected Auditor will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix F-1*. Auditor agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements listed in *Appendix F-1, Insurance Requirements*, within five (5) days of MTC's notice to firm that it is the successful proposer. Requests to change MTC's insurance requirements should be submitted on or prior to the closing date for receipt of requests for clarifications/exceptions listed above. 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 must be brought to MTC's attention no later than the date for protesting RFQ provisions listed above. If such objections are not brought to MTC's attention consistent with the protest provisions of this RFQ, compliance with all material insurance requirements will be assumed.

XIV. Authority to Commit MTC

The Executive Director will recommend an Auditor for Professional Auditing Services to the MTC Administration Committee, which will commit MTC to the expenditure of funds in connection with the RFQ.

Thank you for your interest.

Very truly yours,



Ann Flemer

Deputy Executive Director, Policy

APPENDIX A SCOPE OF WORK

Task 1. Entrance Conference/Pre-Closing Audit Work

The selected Auditor will meet with MTC staff to discuss prior audit problems, changes and any interim work to be performed prior to closing. Additionally, the parties will establish the overall liaison for the audit and make arrangements for workspace and other needs of the Auditor (see *Task 3* below).

Pre-closing work will commence at the discretion of the Auditor, but not earlier than May 1st. MTC staff completes its first closing mid-August, with a second closing done no later than the first week in September.

Task 2. Detailed Audit Plan

MTC staff will prepare trial balances, supporting schedules, account analyses and other selected data and have all records ready for audit by third week of August. The preparation of confirmations will be the responsibility of MTC.

The Auditor will provide MTC, by the fourth week of June, both a draft detailed audit plan and a list of any additional schedules or confirmations to be prepared by the MTC staff. MTC will provide comments to the Auditor on the first week of July and a final detailed audit plan will be submitted on the second week of July.

<i>Deliverable #1:</i>	Detailed Audit Plan (Draft and Final)
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Task 3. On-Site Audit Work

MTC Responsibilities

The appropriate MTC staff will be available during the audit to assist the firm by providing information, documentation and explanations. In addition, clerical support will be made available to the Auditor for the preparation of routine letters and memoranda.

MTC will provide the Auditor with reasonable work space, desks and chairs. The Auditor will also be provided access to a telephone, photocopying and fax machines subject to certain limitations to be determined at a future date.

Sub-Task 3.1 Fair Presentation of MTC Financial Statements Report

The Auditor will prepare a report on the fair presentation of the basic financial statements in conformity with generally accepted accounting principles in accordance with Government Auditing Standards, issued by the Comptroller General of the United States. MTC's Comprehensive

Annual Financial Report (CAFR) will be prepared in compliance with GASB 34. The Auditor will render its Auditors' report on the basic financial statements which will include both Government-Wide Financial Statements and Fund Financial Statements. The Auditor will also apply limited audit procedures to Management's Discussion and Analysis (MD&A) and required supplementary information pertaining to the General Fund and each major fund of MTC.

The Auditor will audit for compliance with laws, regulations, contracts and grants applicable to the Transportation Development Act (TDA). This audit should include an opinion on compliance with specific requirements applicable to the TDA including Public Utilities Code Section 99245 as enacted and amended by statute and all allocations instructions and resolutions of the MTC as required by Section 6666 of the California Code of Regulations.

Sub-Task 3.2 Report on Internal Control Structure (Statement of Auditing Standard 115)

The Auditor will prepare a report based on the Auditor's understanding of the control structure and assessment of control risk, which would include a separate analysis of the internal control structure used in the administering of federal financial assistance programs, and an electronic data processing review of MTC's in-house accounting system.

Sub-Task 3.3 Report on Compliance with Applicable Laws and Regulations (Single Audit)

The Auditor will perform a single audit on the expenditures of federal grants in accordance with OMB Circular A-133 and render the appropriate audit reports on Internal Control over Financial Reporting based upon the audit of MTC's financial statements in accordance with Government Auditing Standards and the appropriate reports on compliance with requirement applicable to each major program, internal control over compliance and on the schedule of expenditures of federal award in accordance with OMB Circular A-133. The single audit report will include appropriate schedule of expenditures of federal awards, footnotes, findings and questioned costs, including reportable conditions and material weaknesses, and follow up on prior audit findings where required.

Sub-Task 3.4 Report on Bay Area Infrastructure Financing Authority

The Auditor will provide an opinion and prepare a separate report on the fair presentation of BAIFA financial statements in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board.

Task 4. Draft Financial Statements

The Auditor will prepare a draft of the financial statements, notes and all required supplementary schedules according to the Project Schedule listed in Appendix B.

The Auditor will prepare a draft report on BAIFA financial statements, notes and all required supplementary schedules according to the Project Schedule listed in Appendix B.

The schedule of federal awards as well as reports on internal control structure and compliance (management letter), are to be issued as part of the comprehensive annual financial report.

The designated MTC staff will complete their review of the report as expeditiously as possible.

During the period following submission of the draft, the Auditor will be available for any meetings that may be necessary to discuss audit reports. At a minimum, conferences with MTC staff and Commissioners will be held on dates agreed upon by MTC Project Manager and Auditor.

Once all issues are resolved, the final report will be delivered as indicated below.

<i>Deliverable #2</i>	Draft of Financials & the Single Audit (MTC, MTC SAFE, BATA, BAIFA and BAHA)
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Task 5. Draft Management Comment Letters

The Auditor will prepare a draft management comment letters for review by MTC, MTC SAFE, BATA, BAIFA and BAHA)

<i>Deliverable #3</i>	Draft and Final Management Comment Letters (MTC, MTC SAFE, BATA, BAIFA and BAHA)
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Task 6. Exit Conference

The Auditor will meet with MTC staff and Audit Committee to summarize the results of the on-site work and to review significant findings. In addition, the Auditor will discuss the draft audit with executive staff and answer questions.

Task 7. Final Copies of Audit Report

Deliverable #4 Final Copies of Audit Report

Seventy-five (75) bound copies each of the Required Communications, Single Audit, and BAIFA stand-alone audit should be delivered to the MTC Project Manager no later than the first day of October.

In addition to the designated number of bound copies of the reports, one (1) camera ready copy of each report is required.

Task 8. *Formal Presentation of Audit Report*

The Auditor will be required to make a formal presentation of audit reports to the MTC Administration Committee at its scheduled meeting on the second Wednesday of October.

**APPENDIX B
PROJECT SCHEDULE**

Task	Deliverable/ Description of Work	<u>Completion Date</u>
1.	Entrance Conference and Pre-Closing Work	Last week of May
2.	<i>Deliverable #1</i> - Detailed Audit Plan (Draft and Final)	First and Second week of July
3.	On-Site Audit work to begin	Third week of August
4.	<i>Deliverable #2</i> - Draft Financial Statements, Notes, and all required Supplementary Schedules	Second week of September
5.	<i>Deliverable #3</i> - Draft Management Comment Letters and Final Review of Drafts with MTC Project Manager	Second and Third week of September
6.	Exit Conference	Fourth week of September
7.	<i>Deliverable #4</i> - Final Copies of Audit Reports delivered for Administration Committee Mailing	First day of October
8.	Formal Presentation of Audit Report to Administration Committee	Second week of October

APPENDIX D 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:

Tom Azumbrado	Mark Green	Kevin Mullin
Tom Bates	Scott Haggerty	Bijan Sartipi
David Campos	Anne W. Halsted	James P. Spering
Dave Cortese	Steve Kinsey	Adrienne J. Tissier
Bill Dodd	Sam Liccardo	Amy Rein Worth
Dorene M. Giacomini	Jake Mackenzie	Scott Weiner
Federal D. Glover		

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 E

Special Conditions for Third Party Contracts - PII

AUDITOR will have access to personally identifiable information (“PII”) in connection with the performance of this Agreement. PII is any information that is collected or maintained by MTC, MTC SAFE, BATA, BAIFA and BAHA or AUDITOR that identifies or describes a person or can be directly linked to a specific individual, including that individual’s account. Examples of PII include, but are not limited to, name, address, phone or fax number, signature, account number, vehicle license number. The following special conditions related to the confidentiality and use of PII apply to this Agreement.

1. Right to Audit:

AUDITOR shall permit MTC, MTC SAFE, BATA, BAIFA and BAHA and their authorized representatives to audit and inspect: (i) AUDITOR’s facilities where PII is stored or maintained; (ii) any computerized systems used to share, disseminate or otherwise exchange PII; and (iii) AUDITOR’s security practices and procedures, data protection, business continuity and recovery facilities, resources, plans and procedures. The audit and inspection rights hereunder shall be for the purpose of verifying AUDITOR’s compliance with this Agreement, and all applicable laws.

2. General Confidentiality of Data:

All PII made available to or independently obtained by AUDITOR in connection with this Agreement shall be protected by AUDITOR from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to MTC, MTC SAFE, BATA, BAIFA and BAHA. This includes, but is not limited to, the secure transport, transmission and storage of data used or acquired in the performance of this Agreement.

AUDITOR agrees to properly secure and maintain any computer systems (hardware and software applications) that it will use in the performance of this Agreement. This includes ensuring all security patches, upgrades, and anti-virus updates are applied as appropriate to secure PII, which may be used, transmitted, or stored on such systems in the performance of this Agreement.

AUDITOR agrees to retain PII for no longer than the time-frame specified by MTC, MTC SAFE, BATA, BAIFA and BAHA. At the conclusion of this retention period, AUDITOR agrees to use Department of Defense (“DoD”) approved software to wipe any disks containing PII. Hard drives and computers shall be reformatted and reimaged in an equivalently secure fashion. AUDITOR agrees to destroy hard-copy documents containing PII by means of a cross-cut shredding machine.

3. Compliance with Statutes and Regulations:

AUDITOR agrees to comply with the information handling and confidentiality requirements outlined in the California Information Practices Act (Civil Code sections 1798 *et seq.* and SB 1268, as codified in Streets and Highways Code Section 31490). In addition, AUDITOR warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and orders of the United States, the State of California and MTC, MTC SAFE, BATA, BAIFA and BAHA relating to information handling and confidentiality of data and agrees to indemnify MTC, MTC SAFE, BATA, BAIFA, and BAHA against any loss, cost, damage or liability by reason of AUDITOR's violation of this provision.

4. Auditor Guarantees:

AUDITOR shall not, except as authorized or required by his or her duties by law, reveal or divulge to any person or entity any PII that becomes known to him or her during the term of this Agreement.

AUDITOR shall keep all PII entrusted to him or her completely secret and shall not use or attempt to use any such information in any manner which may injure or cause loss, either directly or indirectly, to MTC, MTC SAFE, BATA, BAIFA and BAHA.

AUDITOR shall comply, and shall cause its employees, representatives, agents and subcontractors to comply, with such directions as MTC, MTC SAFE, BATA, BAIFA and BAHA may make to ensure the safeguarding or confidentiality of all its resources.

If requested by MTC, MTC SAFE, BATA, BAIFA or BAHA, AUDITOR shall sign an information security and confidentiality agreement provided by MTC, MTC SAFE, BATA, BAIFA and BAHA and attest that its employees, representatives, agents, and subcontractors involved in the performance of this Agreement shall be bound by terms of a confidentiality agreement with AUDITOR substantially the same in its terms.

5. Notice of Security Breach:

AUDITOR shall immediately notify MTC, MTC SAFE, BATA, BAIFA and BAHA when it discovers that there may have been a breach in security which has or may have resulted in compromise to PII. For purposes of this section, immediately is defined as within two hours of discovery. The MTC, MTC SAFE, BATA, BAIFA and BAHA contact for such notification is as follows:

PRIVACY OFFICER
(510) 817-5700
privacyofficer@mtc.ca.gov

APPENDIX F

SYNOPSIS OF PROVISIONS IN MTC'S STANDARD CONSULTANT AGREEMENT

The selected Auditor will be required to sign MTC's standard consultant agreement, a copy of which standard agreement may be obtained from the Project Manager for this solicitation. In order to provide bidders with an understanding of some of MTC's standard contract provisions, the following is a synopsis of the major requirements in our standard agreement for professional services. **THE ACTUAL LANGUAGE OF THE STANDARD CONSULTANT AGREEMENT SUPERSEDES THIS SYNOPSIS.**

Termination: MTC may, at any time, terminate the Agreement upon written notice to Auditor. Upon termination, MTC will reimburse the Auditor for its costs for incomplete deliverables up to the date of termination. Upon payment, MTC will be under no further obligation to the Auditor. If the Auditor fails to perform as specified in the agreement, MTC may terminate the agreement for default by written notice following a period of cure, and the Auditor is then entitled only to compensation for costs incurred for work products acceptable to MTC, less the costs to MTC of rebidding.

Insurance Requirement: See *Appendix F-I, Insurance Requirements*, attached hereto.

Independent Contractor: Auditor is an independent contractor and has no authority to contract or enter into any other agreement in the name of MTC. Auditor shall be fully responsible for all matters relating to payment of its employees including compliance with taxes.

Indemnification: Auditor agrees to defend, indemnify and hold MTC harmless from all claims, damages, liability, and expenses resulting from any negligent or otherwise wrongful act or omission of Auditor in connection with the agreement. Auditor agrees to defend any and all claims, lawsuits or other legal proceedings brought against MTC arising out of such negligent or wrongful acts or omissions. The Auditor shall pay the full cost of the defense and any resulting judgments.

Data 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 the Auditor by MTC for use by the Auditor 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 the Auditor's use or possession of such MTC Data. Any updates, revisions, additions or enhancements to such MTC Data made by the Auditor in the context of the Project shall be the property of MTC.

Ownership of Work Product: All data, reports, surveys, studies, drawings, software (object or source code), electronic databases, and any other information, documents or materials ("Work Product") written or produced by the Auditor under this Agreement and provided to MTC as a deliverable shall be the property of MTC. Auditor will be required to assign all rights in copyright to such Work Product to MTC.

Personnel and Level of Effort: Personnel assigned to this Project and the estimated number of hours to be supplied by each will be specified in an attachment to the Agreement. No

substitution of personnel or substantial decrease of hours will be allowed without prior written approval of MTC.

Subcontracts: No subcontracting of any or all of the services to be provided by Auditor shall be allowed without prior written approval of MTC. MTC is under no obligation to any subcontractors.

Auditor's Records: Auditor shall keep complete and accurate books, records, accounts and any and all work products, materials, and other data relevant to its performance under this Agreement. All such records shall be available to MTC for inspection and auditing purposes. The records shall be retained by Auditor for a period of not less than four (4) years following the fiscal year of the last expenditure under this Agreement.

Prohibited Interest: No member, officer or employee of MTC can have any interest in this agreement or its proceeds and Auditor may not have any interest which conflicts with its performance under this Agreement.

Governing Law: The Agreement shall be governed by the laws of the State of California.

**APPENDIX F-1
INSURANCE REQUIREMENTS**

Minimum Insurance Coverages. AUDITOR 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 this Agreement, placed with insurers with a Best's rating of A-X or better.

<p>Yes (√)</p>	<p>Please certify by checking the boxes at left that required coverages will be provided within five (5) days of MTC's notice to firm that it is the successful proposer.</p>
<p>—</p>	<p><u>Workers' Compensation Insurance</u> in the amount required by the applicable laws, and Employer's Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per occurrence, and any and all other coverage of AUDITOR's employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation endorsement in favor of MTC. Such Workers Compensation & Employers Liability may be waived, if and only for as long as AUDITOR is a sole proprietor with no employees.</p>
<p>—</p>	<p><u>Commercial General Liability Insurance</u> for Bodily Injury and Property Damage liability, covering the operations of AUDITOR and AUDITOR'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. Expense for Indemnitee's defense costs shall be outside of policy limits and such policy shall be issued on a Duty to Defend Primary Occurrence Form.</p> <p>MTC, MTC SAFE, BATA, BAIFA and BAHA and their directors, commissioners, officers, representatives, agents and employees are to be named as additional insureds. Such insurance as afforded by this endorsement shall be primary as respects any claims, losses or liability arising directly or indirectly from AUDITOR's operations.</p>
<p>—</p>	<p><u>Business Automobile Insurance</u> for all automobiles owned, used or maintained by AUDITOR and AUDITOR's officers, agents and employees, including but not limited to owned, leased, non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence.</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.</p>
<p>—</p>	<p><u>Errors and Omissions Professional Liability Insurance</u> (if applicable) in an amount no less than \$1,000,000. If such policy is written on a "Claims-Made" (rather than an "occurrence") basis, AUDITOR agrees to maintain continuous coverage in effect from the date of the commencement of services to at least three (3) years beyond the termination or completion of services or until expiration of any applicable statute of limitations, whichever is longer. The policy shall provide coverage for all work performed by the AUDITOR and any work performed or</p>

	<p>conducted by any subcontractor/consultant working for or performing services on behalf of the AUDITOR. No contract or agreement between the AUDITOR and any subcontractor shall relieve the AUDITOR of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by the AUDITOR and any subcontractor working on behalf of the AUDITOR on the project.</p>
—	<p><u>Property Insurance</u> covering AUDITOR'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), debris removal, and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" ("All Risk") 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. If such insurance coverage has a deductible, the AUDITOR shall also be liable for the deductible.</p>

Deductibles: Any deductibles or self-insurance retentions over \$100,000 are subject to the approval of MTC.

Notice of Termination: All AUDITOR's policies shall provide that the insurance carrier shall give written notice to MTC at least 60 days prior to cancellation, non-renewal or material change of coverage in the policy or policies, and shall provide notice of such change to MTC and any other additional insured.

Additional Provisions: Each policy or policies of insurance described in Commercial General Liability Insurance, above shall contain the following provisions: Inclusion of MTC, MTC SAFE, BATA, BAIFA and BAHA, their directors, Commissioners, officers, representatives, agents and employees, as additional insured's with respect to work or operations in connection with this Agreement. Endorsement providing that such insurance is primary insurance and no insurance of MTC SAFE, BATA, BAIFA and BAHA will be called on to contribute to a loss.

Certificates of Insurance: Promptly on execution of this Agreement and prior to commencement of any work hereunder, AUDITOR shall deliver to MTC Certificates of Insurance verifying the aforementioned coverage's. 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. AUDITOR agrees, upon written request by MTC, to furnish copies of such policies or endorsements required under the Agreement prior to the Effective Date of the Agreement.

Disclaimer: The foregoing requirements as to the types of limits of insurance coverage to be maintained by AUDITOR are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by AUDITOR pursuant hereto, including, but not limited to, liability assumed pursuant to Indemnification, listed in *Appendix F*.

Subcontractor's Insurance: AUDITOR shall require each of its subcontractors to provide the aforementioned coverages, unless such coverages are waived or reduced in writing by the MTC Project Manager.

By signing below, you acknowledge and agree to provide the required certificate of insurance providing verification of the minimum insurance requirements listed above within five (5) days of MTC's notice to firm that it is the successful proposer.

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 the date for protesting RFQ provisions. If such objections are not brought to MTC's attention consistent with the protest provisions of this RFQ, compliance with the insurance requirements will be assumed.

APPENDIX G
REQUESTS FOR EXCEPTIONS OR MODIFICATIONS

RFQ Section	<u>Relevant Provision</u>	<i>Requested Action</i>
	1.	
	2.	
	3.	
	4.	
	5.	
	6.	
	7.	
	8.	
	9.	
	10.	