



**METROPOLITAN
TRANSPORTATION
COMMISSION**

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**January 6, 2016
INDUSTRY REVIEW DRAFT
Regional Carpool Program**

The Metropolitan Transportation Commission (MTC) plans to issue a Request for Proposal (RFP) in early 2016 for the Regional Carpool Program.

MTC is soliciting industry feedback on the draft RFP prior to issuing the final RFP. This letter, together with the RFP and its attachments, comprises the Draft RFP for an industry review for this project. The Draft RFP and supporting documentation for this project are available for download on the MTC website at <http://procurements.mtc.ca.gov/>.

Your decision to participate or not participate in this industry review process with not impact (positively or negatively) MTC's consideration of any proposal you may submit in response to the final RFP.

Feedback

Proposers are encouraged to ask questions and provide feedback about all aspects of the draft RFP. MTC is specifically interested in the following topic areas:

- Ideas for changes to the Scope of Work that would result in more carpool trips or make this procurement opportunity more interesting to your firm;
- Whether the Scope of Work is achievable given the budget;
- Whether the Scope of Work is achievable by your type of firm, and if not, why;
- Whether any exceptions or modifications to the insurance requirements will be requested.
- Whether your firm would submit a proposal, and if not, why, including an explanation of what your firm's core business is;
- Whether the period of performance and/or transition period pose barriers to submitting a bid and why and any suggestions related to the period of performance
- What additional supporting documents are needed to better help your firm understand the program history, how tasks have historically been accomplished, and expectations going forward; and
- Ideas to better leverage program funding.

It is preferred that potential proposers schedule a one-on-one meeting with MTC staff at 101 Eighth Street, Oakland, CA to be held January 25, 2016 through January 27, 2016. These meetings are intended to provide informal discussions between

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

the proposers and MTC. Information shared during one-on-one meetings shall not bind MTC in any manner. Official minutes of the meetings will not be taken or distributed. The one-on-one meeting may be held via teleconference if requested and arranged by the potential proposer.

To request a one-on-one meeting, proposers must email the MTC Project Manager, Barbara Laurenson, at blaure@mtc.ca.gov no later than January 19, 2016 at 4:00 p.m. Please reference "Regional Carpool Program RFP Proposer Meeting" in the subject line of the email. Meetings will take place January 25 – January 27. Notice of the scheduled meeting date and time will be provided by MTC no later than January 22, 2016.

Alternatively, potential proposers may submit their feedback in writing by Friday, January 29, 2016 to:

Barbara Laurenson, Project Manager
Metropolitan Transportation Commission
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700
E-mail: blaure@mtc.ca.gov

Any written materials submitted in response to this request for industry feedback may be subject to public inspection under the California Public Records Act (Government Code Section 6250 et seq).

MTC may elect to revise the Draft RFP prior to issuing the Final RFP based on the written responses and one-on-one discussions.

Draft Industry Review Timeline

January 6, 2016	Draft RFP published
January 19, 2016	Closing date to request one-on-one meeting
January 22, 2016	Notice of scheduled date and time for one-on-one meetings
January 25 –27, 2016	Proposer one-on-one meetings
January 29, 2016	Written responses due

General Conditions

MTC will not reimburse any individual or firm for costs related to participating in the one-on-one meetings or preparing a written response. Please do not submit proposals at this time.

Thank you for your participation in this industry review process.

Sincerely,



Steve Heminger
Executive Director

SH: BL

INDUSTRY REVIEW DRAFT

REQUEST FOR PROPOSAL

of the

METROPOLITAN TRANSPORTATION COMMISSION

for the

REGIONAL CARPOOL PROGRAM

January 6, 2016

Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, California 94607-4700

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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. Over the years, MTC has expanded to include new roles including operations with a goal of making better use of the existing regional transportation system through projects like the Regional Carpool Program.

B. *Project Description*

Background

For almost 20 years MTC has managed a “Regional Rideshare Program” to facilitate the formation and maintenance of carpools and vanpools, and to encourage employers to implement vehicle trip reduction strategies. Going forward, MTC is focusing program efforts toward the formation and maintenance of carpools and vanpools, with lessened focus on employer outreach strategies.

MTC will enter into separate contracts, one for Regional Carpool Program services procured through this RFP, and one or more for Regional Vanpool Program services that will be procured through a separate RFP. Both the carpool and vanpool programs will be marketed to travelers under the 511 SF Bay Traveler Information Program as the “Shared Commute” program (See 511.org). In an effort to avoid conflicts of interest, the proposer awarded a contract under this Regional Carpool Program RFP will be restricted from submitting a bid for the Regional Vanpool Program RFP.

Regional Carpool Contract Goals & Objectives

The objectives of the Regional Carpool contract that will result from this RFP are to:

- Increase vehicle occupancy to reduce vehicle miles traveled and greenhouse gases;
- Form and maintain carpools and experiment with different strategies to do so;
- Integrate carpool tools and information into the 511 NextGen Traveler Information Program;
- Support the vanpool fleet in the region as it grows via MTC’s Vanpool Program, which will be delivered via separate contract;
- Operate and maintain a government-provided on-line carpool matching tool until it is feasible to rely on private-sector carpool matching Apps (see *Role of Shared Mobility in the Regional Carpool Program Scope of Work* below);
- Support the success of private-sector carpool matching Apps and facilitate a transition from government-provided matching tools to relying solely on private-sector tools;
- Provide tools and information that can be used by employers, or by other agencies conducting employer outreach. to reduce vehicle trips, particularly by increasing carpooling and vanpooling;
- Use social media and direct-to-commuter marketing strategies to target carpool promotion in corridors and neighborhoods with good carpool potential and among markets most likely to carpool;
- Use incentives or rewards/gamification to support ongoing carpooling, provide mechanisms for trip tracking;
- Work collaboratively with other agencies and leverage joint efforts; and
- Measure outcomes.

Role of Shared Mobility in the Regional Carpool Program Scope of Work

MTC's Regional Rideshare Program hosts an online carpool matching tool called the "511 Ridematching System" (511 RMS). The tool provides people the opportunity to register to find carpool partners. The tool is not mobilized, nor does it provide matches in real-time. More information about the functionality of the 511 RMS can be found in the supporting procurement documents available at <http://procurements.mtc.ca.gov/> and listed in *Appendix C, Procurement Supporting Documents*.

In the last few years, private-sector companies have started offering mobilized Apps to facilitate carpool matching in real-time and for future trips. MTC is interested in supporting and leveraging private-sector opportunities, such that MTC would not have to provide its own carpool matching system. The proposer awarded a contract under this RFP would continue to be responsible for encouraging carpool formation, but instead of relying on a government-provided tool for matching, the contractor would rely on one or more private-sector Apps. See <http://procurements.mtc.ca.gov/> for additional supporting documentation.

Appendix A, Scope of Work, Task I describes how the Regional Carpool Program's roles and responsibilities related to the provision of a carpool matching tool could change as private-sector efforts mature, technology evolves and the market reacts.

Section III.A, *Budget* describes the budget implications if private sector carpool matching Apps provide viable options to hosting, operating and maintaining a government-provided carpool matching system.

Role of Vanpooling in the Regional Carpool Program Scope of Work

As stated above, MTC will also enter into one or more separate contracts for a Regional Vanpool Program that will offset the cost of vanpooling in exchange for tracking and reporting vanpool passenger miles to the Federal Transit Administration. The Vanpool Program is expected to start during the second year of the Regional Carpool Contract.

The Regional Carpool Contractor will be responsible for supporting vanpooling in the region before and after the Vanpool Program begins. *Appendix A, Scope of Work*, Task IV describes these responsibilities and Attachment A-2 to *Appendix A, Scope of Work*, describes how support function responsibilities will be divided between the Carpool Program and the Vanpool Program over the course of the contracts. In addition, *Appendix A, Scope of Work*, Task X gives MTC the option to add responsibilities to the Carpool Program to help administer the Vanpool Program at the start of FY 2017-18. Funding to support this task would come either from funds added to the contract or by modifying other tasks.

Role of Employers in the Regional Carpool Program Scope of Work

Comprehensive employer-based trip reduction outreach is not included in *Appendix A, Scope of Work* at this time. MTC believes that:

- Employer outreach is best delivered locally because strategies can be tailored to the employment base and the local transportation environment;
- Success is often labor intensive and difficult to sustain once staff move on to work with other employers;
- Employers most committed to trip reduction do not rely on MTC services, as they have their own resources;
- Outreach staff expend a great deal of effort and resources to attract employer attention often without results; and

- Carpooling is a challenge for employers to promote and incentivize given difficulty monitoring it, its labor-intensive nature, its fluidity, and the inability to provide incentives without tax implications or benefits.

It is still possible, however, that employer events could continue to be part of an outreach strategy focused on carpooling and vanpooling. MTC has a database of about 2,000 employers that have been active with the Regional Rideshare Program as well as access to the Commuter Benefits Database of about 10,000 employers. A proposer to this RFP might include some limited employer outreach or communication as part of its approach to accomplishing *Appendix A, Scope of Work*.

More information about MTC's decision not to include comprehensive employer outreach in *Appendix A, Scope of Work* is provided in "Employer Outreach Strategy Supporting Documentation" found at procurements.mtc.ca.gov.

MTC recognizes, however, that educating and encouraging employers to implement comprehensive trip reduction strategies has been a backbone of the Regional Rideshare Program since the early 1990s. As such *Appendix A, Scope of Work*, Task X gives MTC the option to add Employer Outreach to the Carpool Program if MTC determines that the work is necessary and funds become available to support it.

C. Resources

Documents to help Proposers understand the anticipated function of the Regional Carpool Program are available on the MTC website at <http://procurements.mtc.ca.gov/>. A list of the supporting documents can be found in *Appendix C, Procurement Supporting Documents*.

II. PROPOSER MINIMUM QUALIFICATIONS

There are no minimum qualifications required for this RFP.

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

A. Scope of Work

The scope of work for the project is provided in *Appendix A, Scope of Work*. The firm selected to enter into a contract ("Consultant") will be expected to perform all work and analysis necessary to complete the scope of work.

B. Period of Performance

MTC expects work to commence on or about January 1, 2017, and to be completed no later than June 30, 2020. All years are dependent on availability of funding and approval of future budgets.

C. Budget

MTC plans to spend approximately six million one hundred fifty thousand dollars (\$6,150,000) on the Carpool Program through June 30, 2020 (of which a minimum of five hundred fifty thousand dollars (\$340,000) is to be used as a direct cost for carpool incentives), per the following annual budgets and subject to approval in MTC's and the Bay Area Toll Authority's annual operating budgets. Depending on how carpool incentives are awarded to carpoolers, they may be administered directly by MTC as opposed

to through the Carpool Program contractor. Additional funding may be available if additional tasks are added to the Scope of Work, per *Appendix A, Scope of Work*, Task X.

Cost	Base Contract Year				Total
	FY16/17	FY17/18	FY18/19	FY19/20	
Contractor	\$800,000	\$1,640,000	\$1,670,000	\$1,700,000	\$5,810,000
Carpool Incentives	\$40,000	\$100,000	\$100,000	\$100,000	\$340,000
Total	\$840,000	\$1,740,000	\$1,770,000	\$1,800,000	\$6,150,000

As explained in Section I.B, *Project Description*, the duties described in *Appendix A, Scope of Work*, Task I, Provide a Ridematching Tool(s) may terminate prior to the end of the contract. If the duties terminate, MTC would either:

- a) Allocate the budget identified to Task I to other tasks in the Scope of Work, or
- b) Amend the contract to reduce the contract budget by the value of Task I. Half of the contract budget savings for the contract base period would be provided to the contractor. Annual payment would be made at the time the monthly invoice reflects the reduction in project costs resulting from the removal of Task I and again at the beginning of each fiscal remaining in the base contract period of performance.
- c)

IV. PROPOSERS’ CONFERENCE AND REQUESTS FOR CLARIFICATION OR EXCEPTIONS

A Proposers’ Conference will be held at 2:00 p.m. on March, 31, 2016 at 375 Beale Street, San Francisco, in the Claremont Conference Room.

Any addenda will be posted on MTC’s website. All Proposers are responsible for checking the website for any addenda to the bid documents.

Any requests for clarification of or exceptions to RFP requirements must be received by MTC no later than 4:00 p.m. on April, 21, 2016, to guarantee a response or consideration. MTC reserves the right to reject any proposal that contains unauthorized conditions or exceptions.

V. Consultant Selection Timetable

2:00 p.m., on March, 31, 2016	Proposers’ Conference, at 375 Beale Street, San Francisco, CA Claremont Conference Room
4:00 p.m., on April, 21, 2016	Closing date/time for receipt of requests for modifications/exceptions
No later than three (3) business days prior to the date proposals are due.	Deadline for protesting RFP provisions
4:00 p.m., June 9, 2016*	Closing date/time for receipt of proposals
Week of July 11, 2016*	Interviews/Discussions (if held)
September 15, 2016*	Date for receipt of Best and Final Offers (if required)
November 2016*	MTC Operations Committee Approval

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

VI. SUBMITTAL OF PROPOSALS

1. Interested firms must submit one (1) original and six (6) copies, as well as one (1) electronic PDF version, of their proposal by **4:00 p.m. on Thursday, June 9, 2016. Submission of an electronic copy of the proposal without hard copies will not satisfy the submission requirement. No proposals submitted solely by email and no faxed proposals will be considered.**
2. Proposals are to be addressed as follows:
Metropolitan Transportation Commission
Attention: Barbara Laurenson
375 Beale Street
San Francisco, CA 94105
3. Proposer's name and return address must also appear on the envelope.
4. Proposals 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 proposals 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.
5. All proposals, whether delivered by an employee of the Proposer, 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 proposals
6. Proposer agrees and acknowledges all RFP specifications, terms and conditions and indicates ability to perform by submission of a proposal.
7. A signed proposal submitted to MTC in response to this RFP shall constitute a binding offer from Proposer to contract with MTC according to the terms of the proposal for a period of one hundred eighty (180) days after the proposals are due to MTC.
8. A proposal may be withdrawn at any time before the date and time when proposals are due by submitting a written request for its withdrawal to the MTC Project Manager.
9. This RFP does not commit MTC to award a contract or to pay any costs incurred by any Proposer in the preparation of a proposal in response to this RFP.
10. Only one proposal will be accepted from any one person, partnership, corporation, or other entity; however, several alternatives may be included in one response.
11. MTC reserves the right to accept or reject all proposals submitted, waive minor irregularities, request additional information, or revisions to offers, and negotiate with any or all Proposers.

12. MTC reserves the right in its sole discretion not to enter into any contract as a result of this RFP.
13. If the selected Proposer fails to enter into a contract with MTC in a timely manner as determined by MTC, in accordance with the terms and conditions of this RFP, MTC reserves the right to reject the proposal and enter into a contract with the next highest scoring Proposer.
14. 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.
15. The System for Award Management (SAM) is the Official U.S. Government system that consolidated the capabilities of Central Contractor Registration / Federal Agency Registration (CCR/FedReg), Online Representations and Certifications Application (ORCA), and Excluded Parties List System (EPLS). Firms submitting proposals for contracts with federal funds must register on the SAM website at <https://www.sam.gov/portal/SAM/##11> prior to proposal submission.

VII. FORM OF PROPOSAL

Proposals must be signed in ink and include a statement that the person or persons signing the proposal is/are authorized to authorize and submit the proposal 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.

Proposal 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 proposal, as determined in MTC's sole discretion.

Each proposal must include the following and not exceed 35 pages for items A thru F, not including resumes:

A. Transmittal Letter

Proposals 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 RFP and any Addendum to the RFP. Indicate that the proposal is a firm offer to enter into a contract to perform work related to this RFP for a period of 180 days from the due date for proposals.

B. Title Page

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

C. Table of Contents

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

D. Overview and Summary

This section should clearly convey the Proposer's understanding of the nature of the work, the project's purpose, and the general approach to be taken, and identify any specific considerations or assumptions made.

E. Work Plan

This section should present a work plan for the tasks described in *Appendix A, Scope of Work* (except for Task X, New Responsibilities). The proposed work plan should:

1. Discuss how the Proposer will conduct the identified task and accomplish deliverables, and propose a schedule as appropriate. The proposal should discuss the tasks in sufficient detail to demonstrate a clear understanding of the project and component tasks. The proposal may include additional tasks or sub-tasks the Proposer believes necessary to accomplish the project goals. MTC is interested in proposers' ideas for leveraging new technology to accomplish the tasks, including emergency response.
2. Provide a staffing plan describing staff roles and responsibilities and how they align with the tasks in *Appendix A, Scope of Work*, including subconsultants. For example, subtasks under Tasks I and III (Ridematching Service and website, respectively) each have technical, creative and customer service aspects. How would the tasks align with different program positions? Provide an organizational chart that shows reporting and communication relationships between MTC, Proposer staff, and subcontractors, if any.
3. Describe your approach to managing resources and maintaining quality results, including how the work of subconsultants will be supervised to maintain quality results.
4. Identify and explain any problem areas and/or potential obstacles (such as maintaining schedule, budget overruns, feasibility, etc.) to successful completion of the Scope of Work, attached as *Appendix A*. Discuss methods, formal and informal, that you will use to track and resolve these problems/obstacles during the project.

F. Qualifications and References

1. Describe the proposed team's qualifications critical to the successful completion of *Attachment A, Scope of Work* (except for Task X, New Responsibilities). Identify the personnel, including subcontractors' personnel, whose expertise or experience addresses each of the specified needs. Include the name of the agency for whom the work was performed, year performed, name of the contact person and their telephone number. Provide at least two qualifications and references for the prime contractor and one for each subconsultant.

2. Identify key personnel (including subcontractor personnel) and briefly discuss individual qualifications to perform each task. Each key personnel resume should not exceed two pages.
3. Describe your knowledge of the carpool environment, including challenges, partner relationships, ridematching technology, and opportunities. Discuss where you see carpooling heading in the next few years.
4. Provide at least one sample of a campaign developed to promote carpooling or behavior change. To the extent possible, the sample should describe outreach strategies employed, the promotional concept (e.g., incentives offered, contest used, etc.), artwork, media buy, social media strategies used, outcomes, budget and lessons learned. The samples must have been prepared by key members of the Proposer's team and should identify the authors. Only one copy of each sample is required, and the samples will be returned after proposal evaluation, upon request. The samples may be considered in evaluating firm and staff expertise and experience, and written presentation effectiveness.
5. Provide a summary of all contracts your firm (including subcontractors) has held with MTC, MTC SAFE, BATA, BAIFA or BAHA in the past three years, including a brief description of the scope of work, the contract amount, and date of execution.

G. Cost Proposal

Based on the tasks and staffing plan described in response to E.1 and E.2, listed above, provide a breakdown of the expected expenditures of funds for each task contained in *Appendix A, Scope of Work* (except for Task X, New Responsibilities). The budget should include, but is not limited to, a task budget and a line item budget with billing rates for each year. The budget in any given year cannot exceed the annual budget shown in III.C, Budget. If the budget for any year is not fully assigned to tasks, the balance may be applied to future, but not prior, years. For budgeting purposes, assume that Task I will continue thru the four-year base period.

1. The task budget should be set forth on the Task Budget by Year Form attached in *Appendix B, Budget Formats* to this RFP and present a breakdown of hours and expenses by task in each year of the project. It should identify or refer to key personnel or job descriptions in relation to each task to provide a full explanation of the resources committed to the project. The Task Budget by Year Form should be completed in the electronic format available at <http://procurements.mtc.ca.gov/>.
2. A line item budget should be submitted for each year of the project. The line item budget should present a breakdown of costs by cost categories, including billing rates for key personnel and job classifications. The line item budget should be set forth on the Cost and Price Analysis Form attached in *Appendix B, Budget Formats* to this RFP. A line item budget should also be submitted for proposed sub-consultants with contracts estimated to exceed \$25,000. The Cost and Price Analysis Form should be completed in the electronic format available at <http://procurements.mtc.ca.gov/>.
3. Please include information (date and outcome) on the Proposer's most recent pre-award audit, if applicable.

Historical information about program expenditures by task is provided at <http://procurements.mtc.ca.gov/>. Note that these expenditures reflect a scope of work that is not identical to *Appendix A, Scope of Work*. The historical expenditures are annotated to facilitate cross-referencing between scopes of work.

H. California Levine Act Statement

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

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 E-1, Insurance Requirements*, within ten (10) days of MTC's notice to firm that it is the successful Proposer.

(See Section IX.B of the RFP 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. Federal Requirements

Submit all completed federal-required certifications in *Appendix G, Federal Requirements*, related to lobbying, debarment, and Disadvantaged Business Enterprise (DBE) subcontractor information (*Appendices F-1, F-2, F-3, F-4, and F-5*.)

Firms submitting proposals for contracts with federal funds must submit a verification of its SAM registration.

L. Iran Contracting Act

Pursuant to California Public Contracts Code Sections 2200 *et seq.*, (AB 1650, Iran Contracting Act of 2010) Proposers for contracts equal to or in excess of one million dollars (\$1,000,000) must certify, at the time of proposal submission that Proposer is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5, as applicable. Submit a signed Iran Contracting Act Document (*Appendix F*).

M. Financial Responsibility

In a separate sealed envelope: Provide a copy of Proposer's most recent annual and past quarterly financial filing. The statements will not be considered part of the proposal for purposes of the California Public Records Act and will be reviewed to determine responsibility only. All financial statements will be returned to the Proposer prior to Consultant selection.

VIII. PROPOSAL EVALUATION

A. *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 proposals for general responsiveness and inclusion of the items requested in Section VII, Form of Proposal. Proposers failing to satisfy the federal Disadvantaged Business Enterprise (DBE) requirements will not be considered responsive. Also, any proposal that does not include enough information to permit the evaluators to rate the proposal in any one of the evaluation factors listed below will be considered non-responsive and will not be evaluated. A proposal that fails to include one or more items requested in Section VII, Form of Proposal 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 proposals will then be evaluated by an evaluation panel of MTC and stakeholder agency staff. The evaluation of the proposals 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 proposals shall be evaluated on the basis of the following evaluation factors, with their relative importance indicated by percentages:

1. Approach: Work Plan, Schedule and Project Staffing (30%)
 - a. Specificity, appropriateness, clarity, logic, thoroughness, and risk of the proposer's approach, including schedule, to carry out the tasks listed in *Appendix A, Scope of Work*.
 - b. Ability of the work plan and schedule to accomplish program goals and objectives identified in Section I.B, Project Description.
 - c. Logic, risk and appropriateness of the proposed team structure and location of staff to accomplish the tasks listed in *Appendix A, Scope of Work*.

2. Team & Key Personnel Experience, Qualifications and Past Performance (30%)
 - a. Qualifications and experience for the lead firm, Project Manager, key project staff and subcontractors (firms and personnel) in tasks similar to the Scope of Work of this RFP and covering the required skill sets needed to accomplish the project's goals and objectives, including, but not limited to, marketing and promotions, behavior change strategy development and implementation, carpool-specific promotions/strategies, strategic planning, ridematching systems, and evaluation methods.
 - b. Knowledge of and experience for the lead firm, Project Manager, key project staff and subcontractors in the carpool environment and coordinating with other agencies (public and private) specifically involved in carpool promotion/advocacy.

- c. References for the lead firm, subcontractors, and key project staff for projects of similar size and either similar scope or having transferable experience and using transferable skills and knowledge, and, preferably with public agencies.

3. Resource Allocation, Availability & Cost Effectiveness (20%)

- a. Assignment of personnel to project tasks.
- b. Appropriateness of labor hour distribution among tasks.
- c. Availability of local key personnel to support this project, such as overlapping skills of project team members or the ability of the prime firm to minimize staff turn-over.
- d. Appropriateness of allocation of non-labor resources.
- e. Appropriateness of hourly rates and their impact on proposed number of labor hours.
- f. Overhead rates and fees, included the fixed fee.

4. Cost (10%)

Each cost proposal will be weighted relative to the lowest cost proposal submitted in response to this RFP. For example:

<u>Proposer</u>	<u>Proposed Cost</u>	<u>Calculation of Points</u>	<u>Points Assigned</u>
<u>Proposer A</u>	<u>\$10,000,000</u>	<u>Full 15 percentage points</u>	<u>15</u>
<u>Proposer B</u>	<u>\$10,300,000</u>	<u>\$10M divided by Proposer B cost, multiplied by 15</u>	<u>14.56</u>
<u>Proposer C</u>	<u>\$10,600,000</u>	<u>\$10M divided by Proposer C cost, multiplied by 15</u>	<u>14.15</u>

5. Communication (10%)

- a. Ability to write and present information clearly, as evidenced by proposal
- b. Ability to develop a behavior change promotional campaign as evidenced by the campaign sample and elsewhere in the proposal, or through interviews or discussions.
- c. Ability to speak and present effectively (as demonstrated in interviews or discussions).

D. Proposer Discussions

Following the initial evaluation, the evaluation panel may elect to recommend award to a particular Proposer (with or without interviews), or to enter into discussions with a “short list” of Proposers, consisting of those Proposers reasonably likely, in the opinion of the panel, to be awarded the contract.

The purpose of discussions with a Proposer on the “short list” will be to identify to that Proposer’s specific deficiencies and weaknesses in its proposal and to provide the Proposer with the opportunity to consider possible approaches to alleviating or eliminating them. These deficiencies or weaknesses may include such things as technical issues, management approach, cost, or team composition. Discussions may take place through written correspondence and/or during face-to-face interviews. The Proposer’s

project manager, as well as other key personnel identified by the evaluation panel, will be expected to participate in any discussions. A Proposer on the “short list” invited to participate in discussions will be expected to provide a presentation limited to 20 minutes consisting of an overview of its approach to the Project in addition to answering questions about the proposal from the evaluation panel.

E. Request for Best and Final Offer

Following discussions, if held, Proposers on the “short list” will be given the opportunity to revise their written proposals to address the concerns raised during discussions through issuance by MTC of a Request for Best and Final Offer (BAFO). Following receipt of the BAFOs, the evaluation panel will evaluate the BAFOs against the evaluation criteria.

MTC reserves the right not to convene oral interviews or discussions, and to make an award on the basis of initial proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and a technical viewpoint. References may be contacted at any point in the evaluation process.

The panel will recommend a Proposer to the MTC Executive Director, based on their evaluation of the written proposals or BAFOs and oral interviews or discussions (if held). The Executive Director will review the recommendation and, if he agrees, he will approve the award or forward the recommendation to the appropriate MTC Committee for approval (if required).

IX. GENERAL CONDITIONS

A. Award

Any award made will be to the Proposer whose proposal is most advantageous to MTC based on the evaluation criteria defined in Section VIII. If the selected firm fails to enter into a contract with MTC in a timely manner as determined by MTC, in accordance with the terms and conditions of this RFP, MTC reserves the right to reject the proposal of the selected firm and enter into a contract with the next highest scoring firm.

B. Contract Arrangements

MTC Standard Consultant Contract is attached as *Appendix E*. 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 Consultant will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix E-1, Insurance Requirements*. Proposer agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements in *Appendix E-1*, within ten (10) business days of MTC’s notice 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. 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 RFP must be brought to MTC's attention no later than the deadline for protesting RFP provisions or compliance with all material insurance requirements will be assumed.

The contract resulting from this RFP will be cost reimbursement with ceiling.

C. Selection Disputes

A Proposer may object to a provision of the RFP 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 RFP 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 proposals are due, for objections to RFP 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 on which 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 Operations 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 Operations 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 Operations 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 Operations Committee's decision.

D. Public Records

This RFP and any material submitted in response to this RFP 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 proposals submitted to MTC will be made available for inspection consistent with its policy regarding Public Records Act requests.

If the Proposer believes any proposal 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 RFP, as confidential and shall include the following notice at the front of its proposal:

“The data on the following pages of this proposal, including financial information submitted under Section VII of the RFP 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 proposal, 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 proposal confidential or proprietary will be regarded as ineffective and will be disregarded. In addition, the Proposer may not designate any required proposal forms or the cost proposal as confidential. Consequently, any language purporting to render any proposal 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 proposal 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 proposal, 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 proposal without written consent of the MTC Project Manager may be considered a material breach of contract.

F. Conflicts Of Interest

By submitting a proposal, the Proposer represents and warrants that no commissioner, officer or employee of MTC is in any manner interested directly or indirectly in the proposal 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 RFP 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 RFP 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 RFP.

G. Personally Identifiable Information

Proposer agrees to comply with the special provisions related to the access and protection of personally identifiable information set forth in Attachment F, Special Conditions Relating to Personally Identifiable Information of Appendix E, MTC Standard Consultant Contract.

H. Pre-Award Audit

Federally funded contracts may require a pre-award audit. The pre-award audit examines the Proposer's accounting, estimating, administrative systems, proposed costs, financial condition, and the proposed contract language.

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, SCOPE OF WORK

I. Provide a RideMatching Tool(s)

- A. Operate, maintain and securely host the 511 RMS, described in Section I.B per the “Ridematching Standard Operating Procedures”¹ or a replacement system that provides online carpool matching available to users without smart phones until:
 - Private sector carpool matching tools prove to be viable replacements as determined by MTC (See Scope of Work Attachment A-1); or
 - The end of the contract,
Whichever comes first.
- B. Enter and maintain the data in the 511 RMS or a proposed replacement system per the “Ridematching Standard Operating Procedures” to ensure optimal matching and customer satisfaction. This includes manual record entry as needed, record updates and classification, data integrity efforts, and record removal to ensure compliance with the privacy policy.
- C. Stay informed of industry-wide experience and trends with ridematching systems, including private sector apps.
- D. Propose and implement new features and functionalities for the 511 RMS (or its replacement) as needed to position the 511 RMS (or its replacement) to best complement private sector apps. A list of enhancements that have been added to the 511 RMS in the last three years is provided in RFP supporting materials.
- E. Produce database record reports and statistics per the “Ridematching Standard Operating Procedures.”
- F. Work with MTC’s private sector ridematching app partners (including Vanpool Program vendors, if applicable) to leverage data and matching capabilities across matching tools, including developing, implementing and maintaining features and tools to:
 1. share data (e.g., APIs),
 2. manage shared data,
 3. present data from multiple sources, and
 4. encourage customer use of multiple databases or to encourage seamlessness between databases.
- G. Participate in (or support MTC’s participation in) regional/national efforts to develop carpool matching data sharing standards.
- H. Gather data from MTC’s private sector ridematching app partners for reporting purposes to ensure that Regional Carpool’s efforts can be documented regardless of database ownership.
- I. Review and update Scope of Work Attachment A-1 to refine guidance about when and how to rely solely on private sector ridematching tools or when and how to replace the existing system with another proprietary tool. Provide advice to MTC on this manner.
- J. Coordinate with other 511 contractors to integrate carpool matching into 511 traveler information (e.g., trip planning tools and other web presentation opportunities).
- K. Coordinate with other Congestion Management Agencies or counties as needed to integrate carpool matching into traveler information tools developed by partner agencies.

¹ The SOPs are available in the procurement support documents provided at <http://procurements.mtc.ca.gov/>. Task VI.C requires that SOPs be updated. It is expected that if a replacement system is proposed, the SOPs would be updated to reflect the needs of the replacement system. Thus, each time the phrase “per the Ridematching Standard Operating Procedures” is used, it is recognized that these SOPs may be changed over time and/or different for a different system.

DELIVERABLES

Task	Deliverable	Frequency/Duration/Completion
I.A	RMS that functions per the Standard Operating Procedures	Ongoing. January 1, 2017 until private sector ridematching tools prove to be viable replacements as determined by MTC or the end of the contract; whichever comes first.
I.B	Database reports and statistics provided per Standard Operating Procedures	Monthly until private sector ridematching tools prove to be viable replacements to a 511 RMS or the end of the contract; whichever comes first.
I.C	Summation of state of industry memo	Two times per fiscal year.
I.D	1) Enhancements list 2) Enhancement implementation plans	1) Maintain on an ongoing basis 2) Annually in April for the coming fiscal year
I.E	Data statistics provided via monthly progress report/report cards (see Task VII.B).	Monthly
I.F	1. Data statistics provided via monthly progress report/report cards (see Task VII.B). 2. Web tools to leverage private sector partnerships, including plans, budgets, tools and documentation.	1. Monthly 2. Up to three development efforts over five years
I.G	Data and input as needed by MTC staff. Potential participation in meetings.	Ongoing
I.H	Data statistics provided via monthly progress report/report cards (see Task VII.B).	Monthly
I.I	1. Updates provided via project update meetings. 2. RMS Strategy Recommendations memo	1. Ongoing 2x/month 2. 12/31/17
I.J	Integration of carpooling mode into 511 traveler information	Ongoing
I.K	Integration of carpooling into traveler information services provided by CMAs and counties.	Ongoing as needed

II. Carpool Outreach and Promotion

- A. Develop an annual draft and final carpool outreach and promotional plan² that defines the strategies that will be implemented in the coming year to increase the number of people registered with ridematching services (e.g., the 511 RMS **and/or** private-sector ridematching applications) and increase the number of carpooling or vanpooling trips. Strategies could include:
1. One-on-one in-person customer outreach (e.g., employer and other events)
 2. Impersonal direct contact (e.g., door hangers)
 3. Information/Awareness by Mass Media (billboard; advertising)
 4. Partnerships (e.g., with other agencies promoting TDM, with private sector apps, with vendors, sponsorship opportunities, etc.)
 5. Promotional campaigns
 6. Ridematching database leveraging/mining
 7. Social/digital media
 8. Rotating focus on one or more carpool or express lane facilities each year depending on opportunities
- B. Implement strategies per approved plans, including:
1. Developing work plans, budgets, art work, media authorizations, etc.
 2. Coordinating with partners as needed,
 3. Defining goals, measurements and targets to determine the success of any campaigns or significant marketing strategies,
 4. Strategy execution, and
 5. Strategy summation, including participation and outcomes.
- C. Leverage and coordinate with the outreach and promotional efforts of other agencies (e.g., Bay Area Air Quality Management District, County Congestion Management Agencies, etc.) and programs (e.g., 511, FasTrak[®], Express Lanes) to promote carpool database registration and carpooling, as well as these agencies' use of carpool matching databases (e.g., the 511 database, proprietary databases and/or carpool matching apps).
- D. Develop and implement strategies/messages to encourage carpooling through social media. Coordinate with the 511 social media identity, the MTC identity and the FasTrak[®] identity.
- E. Develop and implement strategies and tools to encourage database registrants to form carpools or vanpools and take trips, such as:
1. Mining the database for outreach and matching purposes;
 2. Placement calls to database membership;
 3. Gamification;
 4. Trip tracking;
 5. Ability to provide cash award;
 6. other related tasks as necessary
- F. Respond to media inquiries as needed, coordinating with MTC public information.

² See <http://procurements.mtc.ca.gov/> for reference documents: FY15-16 Rideshare Marketing Plan and "Private-Sector Applications Cross-Promotional Strategies."

DELIVERABLES

Task/Subtask	Deliverable	Frequency
II.A	Annual Carpool Outreach and Promotional Plan – draft and final	Final due annually by April 30 th of each year. (First year plan would be due within 2 months of contract execution)
II.B	Implementation of strategies (TBD) in the approved plan.	Ongoing throughout the year
II.C	Meetings as needed; strategy summaries as needed.	Ongoing throughout the year
II.D	Participation in the MTC Social Media collaboration group Social media activity log provided via monthly reporting (see Task VII.B.)	Ongoing throughout the year and updated monthly in the monthly progress report
II.E	Activity reported via monthly progress report (Task VII.B)	Monthly
II.F	Media quotes and appearances as needed	As needed

III. Present Carpooling, Vanpooling and Employer Transportation Demand Management (TDM) Information on 511.org

- A. Coordinate with the 511 website services contractor and/or work through a Content Management System to present carpooling, vanpooling and employer TDM “self-help tools” on 511.org and maintain updated, fresh, and interesting content.³
- B. Maintain the data and any necessary programming tools⁴ necessary to present carpool and vanpool information and services on 511, including:
 - 1. Carpool calculator,
 - 2. Park ‘n Ride lot data,
 - 3. HOV/Express Lane hours of operation and occupancy requirements
 - 4. HOV tolls
 - 5. Parking permits,
 - 6. Casual carpool meeting locations, and
 - 7. Other future presentation needs
- C. Work with regional partners (e.g., CMAs, Air District) that encourage and support carpooling and vanpooling to include their information on 511 and to encourage them to promote Regional Carpool and vanpool information on their websites.
- D. Work with MTC’s private sector ridematching app partners and the 511 website services contractor to present/market ridematching opportunities and tools on 511.org
- E. Update and maintain employer TDM how-to kits, guidance documents, case studies, etc. in order to provide employer self-help tools on 511.org. Gather content from regional partners to present

³ See 511.org for reference materials.

⁴ See <http://procurements.mtc.ca.gov/> for reference materials.

in the employer TDM section of 511.⁵ Coordinate with the 511 website services contractor for 511.org website updates.

- F. Work collaboratively with the Vanpool Program vendors to present the Vanpool Program and available vans via 511.org once the Vanpool Program is implemented. This will require new website content and design. Coordinate with the 511 website services contractor for 511.org website updates.

DELIVERABLES

Task/Subtask	Deliverable	Frequency
III.A	Carpool and vanpool information on 511 website	Ongoing
III.B	Carpool and vanpool information on 511 website	Ongoing
III.C	Carpool and vanpool information on 511 website and partners' websites	Ongoing
III.D	Carpool and vanpool information on 511 website	Ongoing
III.E	Employer TDM section on 511 website with up-to-date content	Ongoing
III.F	Up to date Vanpool Program information on 511 website	Ongoing

IV. Vanpool Services

- A. Provide vanpool support services and customer service described in Attachment A-2.
- B. Coordinate with vanpool vendors to maintain a regional vanpool database and provide data to support Task VII.⁶
- C. Ensure vanpool opportunities are publicized through 511, either through the RMS or other web pages. Coordinate with the 511 website services contractor for 511.org website updates.
- D. Encourage owner-operated vanpools to transition to leasing vans and become part of the Vanpool Program.
- E. Support MTC's development of the Vanpool Program, including maintaining an understanding of the private-sector market related to vanpools and micro-transit. Assist MTC with implementation and on-going administration of the Vanpool Program (See also Task X.A).

⁵ See 511.org for reference materials.

⁶ See <http://procurements.mtc.ca.gov/> for reference materials. Once the VSP begins, the vendor(s) under contract will be required to provide data to the Regional Carpool Contractor.

DELIVERABLES

Task/Subtask	Deliverable	Frequency
IV.A	Vanpool statistics ⁷ (See Task VII), Emails, support or other communication to vanpool drivers	Monthly
IV.B	Vanpool fleet report (presented via monthly progress report; See Task VII)	Monthly
IV.C	Up to date 511 web pages	As needed
IV.D	Vanpool database report (presented via monthly progress report; See Task VII)	Monthly
IV.E	Meeting and supporting materials as requested by MTC	As needed during FY17

V. Other Support Activities

- A. Support other jurisdictions’ efforts to promote carpooling and vanpooling that align with the goals of this contract on a case-by-case basis as approved by MTC, such as:
 1. Promote new or existing Park ‘n Ride lots;
 2. Promote free carpool parking or preferential carpool parking;
 3. Support Carpool to BART parking program;
 4. Other related tasks as necessary.
- B. Respond to Regional Carpool/vanpool calls in real-time during regular business hours or return messages within 24 hours when calls cannot be answered in real-time. Provide scripted information about carpooling and vanpooling for the 511 phone service.
- C. Respond to comments and questions received via 511.org that are related to carpooling and vanpooling.⁸
- D. Attend the quarterly TDM Working Group meeting held at MTC. Prepare items for review and discussion at the TDM Working Group as requested by MTC (e.g, summaries of deliverables, proposals, project updates)

DELIVERABLES

Task/Subtask	Deliverable	Frequency
V.A	1. Monthly statistics provided through monthly report card and/or progress report (See Task VII) 2. Coordination meetings with jurisdictions	1. Monthly 2. As needed
V.B	Monthly statistics (See Task VII)	Monthly
V.C	Comment responses provided via email to 511 contractor responsible for website comments	Ongoing
V.D	Meeting attendance, Project updates, Presentations as requested by MTC	Quarterly Quarterly As needed; no more than

⁷ See <http://procurements.mtc.ca.gov/> for reference materials.

⁸ On average, 511 forwards about 10 to 15 comments per month to the Regional Carpool team for responses.

		quarterly
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VI. Program Administration

- A. Update the annual project budget by task prior to the start of each fiscal year (July 1) to reflect any changes to program spending plans.
- B. Prepare and submit monthly invoices electronically and in hard-copy and via eBuilder⁹ within 30 days of the end of the billable month, including.
 - Annual budget by task,
 - Hours and dollars billed (by employee) for the current month by task,
 - Dollar amount invoiced to date by task including labor and direct expenses,
 - Remaining budget by task, and
 - DBE utilization.
- C. Maintain a set of Standard Operating Procedures for the following functions:
 - Information Technology - Ridematching System and Website
 - Vanpool Support
 - Program Evaluation
 - Operations
 - Commuter Services

DELIVERABLES

Task/Subtask	Deliverable	Frequency
VI.A	Draft and Final Annual Implementation Plan	Annually by April 30th
VI.B	Monthly invoices in electronic, hard-copy and eBuilder formats	Monthly; within 30 days of the end of the billable month
VI.C	Standard Operating Prodecures	Updated annually by April 30th

VII. Program Evaluation

- A. Implement program evaluation methodologies as described in the Program Evaluation SOP, or propose new ones, to calculate and report program outcomes on a monthly basis.
- B. Submit monthly progress reports and report cards to MTC along with the monthly invoice using the format(s) shown in the Evaluation & Reporting Activities SOP.
- C. Implement strategies necessary to calculate performance (e.g., annual clients-placed survey, vanpool database analysis, analysis of private-sector partner data).
- D. Provide quarterly reports and update the format at needed
- E. Provide MTC with necessary calculations for TFCA (Transportation Fund for Clean Air) reporting and grant application until the grant that funds FY16-17 is closed.¹⁰ As needed, coordinate with program partners (e.g., private sector app providers) and other contractors (e.g., vanpool vendors) to gather and process data needed for calculations.
- F. Develop new and/or revise existing evaluation methodologies to reflect changes in the Regional Carpool Program strategy, technology, responsibilities, funding sources, etc.

⁹ See <http://procurements.mtc.ca.gov/> for more information about eBuilder format.

¹⁰ TFCA funds will be used to support this contract through June 30, 2017. TFCA reporting requirements are expected to conclude during FY18-19.

- G. Participate in a performance audit of the program up to two times during the contract period, if requested by MTC.

DELIVERABLES

Task/Subtask	Deliverable	Frequency
VII.A	Calculate progress and report in the Monthly Report Card and Progress Report	Monthly; submitted with monthly invoice
VII.B	Calculate progress and report in the Monthly Report Card and Progress Report	Monthly; submitted with monthly invoice
VII.C	Surveys and other tools	Per the Evaluation and Reporting SOP
VII.D	Quarterly reports	Quarterly
VII.E	Data, analysis & documentation per TFCA	Quarterly during FY17
VII.F	Performance measures	Include in Evaluation & Reporting SOP
VII.G	Documentation requested by MTC to support a Performance Audit	Up to 2 times in 5 Years

VIII. Respond to Incidents

- A. In the event of a major disruption to the regional transportation network, MTC may direct the CONSULTANT to extend its telephone service hours, provide additional levels of information to the public, coordinate additional parking and shuttle operations, coordinate carpool app response, etc. CONSULTANT shall not perform these services without prior approval from the MTC Project Manager.

DELIVERABLES

Task/Subtask	Deliverable	Frequency
VIII.A	Emergency response support	As needed

IX. Consultant Transition

Perform the following tasks at the start and/or end of the contract period(s).

- A. Develop a draft and final transition plan within one month of contract execution to transition program services from the former consultant, if applicable.
- B. Implement the transition plan and complete transition within one two months of contract execution, if applicable.**
- C. At the end of the contract period, work cooperatively with the next consultant to transition program services between consultants over a one- to three-month period.
- D. Provide technical documentation and other program information requested by MTC to develop future procurements and transition services.

DELIVERABLES

Task/Subtask	Deliverable	Frequency
IX.A	Transition plan	Within one month of contract execution.
IX.B	Transition meetings	Ongoing during transition period
IX.C	Transition meetings	Ongoing during transition period
IX.D	Technical documentation	Developed and maintained throughout contract period

X. Additional Potential Responsibilities

MTC may add responsibilities to this contract, including but not limited to the tasks described below. More detailed task descriptions would be developed, and the contract budget revised, via contract amendment.

- A. Administer or support the administration of the Vanpool Program. Work under this task would not begin until after June 30, 2017. Funding to support this task would come either from funds added to the contract or by swapping out other tasks. The task would include coordination with the vanpool vendors to ensure that statistics for National Transit Database (NTD) reporting are submitted on time and in the proper format as well as other tasks as determined by MTC.
- B. Support the Commuter Benefits Program starting January 1, 2017 thru the end of the contract. The support function will be refined based on the needs of the re-authorization legislation and available budget, and could include:
 - 1. Answer employer phone and email inquiries about the program
 - 2. Update the CBP database to address any program changes or additional requirements of the re-authorization legislation
 - 3. Maintain employer records in the CBP database
 - 4. Run reports and mine data from the CBP database
 - 5. Develop new CBP website content to address any program changes or additional requirements of the re-authorization legislation
 - 6. Update CBP-related website content as needed
 - 7. Employer mailings and e-mailings
 - 8. Development of a web tutorial or other support materials
- C. Coordinate with the 511 website services contractor for 511.org website updates. Educate employers about and encourage them to implement comprehensive trip reduction strategies. These responsibilities could be added for employers in one or more counties if MTC determines that the work is necessary and funds become available to support it.
- D. If MTC decides to replace the existing RMS with another proprietary enterprise system (instead of relying on private sector tools), lead the procurement effort to do so, including developing functional requirements, writing the procurement, and evaluating submittals. Enter into contract with the selected vendor and transition to new system or update current system, as applicable
- E. Through the course of Task II.C, which requires the Contractor to leverage and coordinate outreach and promotional efforts with other agencies and programs, such as Express Lanes, MTC anticipates that the Contractor will implement enhanced promotional efforts at the time that new express lanes open. In addition, it is possible that MTC may implement a more consistent carpool

incentive related for express lane travelers. MTC may task this Contractor with the administration of such an incentive that would be funded with Express Lane revenues or additional funds added to this contract.

ATTACHMENT A-1, CONDITIONS FOR REPLACING THE 511 RIDEMATCHING SYSTEM (RMS) WITH PRIVATE SECTOR RIDEMATCHING TOOLS

Task I.A requires Contractor to operate, maintain and host the 511 online ridematching system (RMS) per the “Ridematching Standard Operating Procedures” until:

- Private sector ridematching tools prove to be viable replacements as determined by MTC (See Scope of Work Attachment A-1);
- It is replaced with a new system approved by MTC; or
- The end of the contract,
Whichever comes first.

Some preliminary thinking about the types of decision-making criteria that would inform when private sector ridematching tools are viable replacements for the RMS include:

- Has one or more of the private partners gained a “critical mass” to provide a viable ridesharing option for mid to long-distance commuting (e.g., 10 + miles) in the Bay Area? For example:
 - How ubiquitous are apps throughout the nine Bay Area counties? Are they serving congested corridors? Are they serving less urban counties? (Note that this might be accomplished by one or more apps.)
 - The collective total of carpool matching app downloads over a one year period is 75,000 or another number determined by future critical thinking.
 - The collective total of carpool trips¹¹ taken via carpool matching app reaches 150,000 at least three consecutive months or another number determined by future critical thinking.
- Does one or more of the private partners show a long-term commitment to stay in this marketplace?
- Is the online, traditional ridematching technology, like that hosted by MTC, still relevant in the marketplace?
- Does MTC have the funding/interest in continuing to operate the RMS?
- Will there be significant gaps in service, or lack of access to service, geographically (e.g., rural) or functionally (e.g., for those without smart phones), if the RMS is turned off?

Data is supposed to be available from private sector app providers as part of MTC’s partnership agreements.

¹¹ One trip includes driver and at least one rider.

ATTACHMENT A-2, TASK IV.D VANPOOL SUPPORT TASKS

The Regional Carpool Contractor’s responsibility for vanpool support will evolve over the course of the contract as MTC enters into one or more separate contracts to run a Vanpool Program. The Carpool contractor’s responsibilities are identified in the shaded columns below both pre and post launch of the Vanpool Program.

Activity	Before Vanpool Program		After Vanpool Program	
	<u>Regional Carpool</u>	<u>Vanpool Vendor(s)</u>	<u>Regional Carpool</u>	<u>Vanpool Vendor(s)</u>
Vanpool Lead Generation	Yes	Y: Vendor Vans	Yes	Y: Vendor Vans
Vanpool Formation Support	Y: Owner-operated vans	Y: Vendor Vans	Y: Owner-operated vans ¹²	Y: Vendor Vans
Provide New Vanpool Start-up Incentives	All vans	No	No	No
Manage Vanpool Non-Revenue FasTrak Transponders	All vans	No	Y: Owner-operated vans	Y: Vendor Vans
Provide Empty Seat Subsidies	All vans	No	No	No
Support calls to drivers	All vans	No	Y: Owner-operated vans	Y: Vendor vans
Verify vanpool parking permit eligibility (currently done for Oakland and SF)	All vans	No	Y: All vans	No
Promotion/Education via 511 website	All vans	No	All vans	No
Administer the TAM Incentive	All vans	No	No	No
Vanpool Cost Off-Set	No	No	No	Vendor vans
Vanpool data collection	No	No	No	Vendor vans
NTD reporting	No	No	No	Vendor vans
NTD Audit	No	No	No	Vendor vans

¹² Encourage those interested in forming an owner-operated van to use the VSP instead.

Summary Table	Annual Team Cost						
	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21	FY21-22	Total
I. Provide Ridematching Tools							
II. Carpool Outreach & Promotion							
III. 511.org							
IV . Vanpool Services							
V. Other Support Activities							
VI. Program Administration							
VII. Program Evaluation							
VIII. Respond to Incidents							
IX. Transition							
Total							

Cost and Price Analysis Form¹³

Using the excel format available at <http://procurements.mtc.ca.gov/>, complete one Cost and Price Analysis Form for all 6-year project costs and one for each fiscal year; seven (7) forms in total.

COST AND PRICE ANALYSIS - RESEARCH AND DEVELOPMENT CONTRACTS				
This form is to be used in lieu of FAA Form 3515 as provided under FAPR 2-16.260-2, it will be executed and submitted with proposals in response to "Requests for Proposals", for procurement of research and development services. If your cost accounting system does not permit analysis of costs as required, contact the purchasing office for further instructions.			PURCHASE REQUEST NUMBER	
NAME AND ADDRESS OF OFFERER		TITLE OF PROJECT		
DETAIL DESCRIPTION		ESTIMATED HOURS	RATE/HOUR	TOTAL ESTIMATED COST (Dollars)
1. DIRECT LABOR (Specify)				
TOTAL DIRECT LABOR				
2. BURDEN (Overhead-specify) Dept. or Cost Center		Burden Rate	X BASE	BURDEN (\$)
TOTAL BURDEN				
3. DIRECT MATERIAL				
TOTAL MATERIAL				
4. SPECIAL TESTING (Including field work at Government installations)				
TOTAL SPECIAL TESTING				
5. SPECIAL EQUIPMENT (If direct charge - specify in Exhibit B on reverse)				
6. TRAVEL (If direct charge)				
a. TRANSPORTATION				
b. PER DIEM OR SUBSISTENCE				
TOTAL TRAVEL				
7. CONSULTANTS (Identify - purpose - rate)				
TOTAL CONSULTANTS				
8. SUBCONTRACTORS (Specify in Exhibit A on reverse)				
9. OTHER DIRECT COSTS (Specify in Exhibit B on reverse - explain royalty costs, if any)				
10. TOTAL DIRECT COST AND BURDEN				
11. GENERAL AND ADMINISTRATIVE EXPENSE (Rate % of item nos.)				
12. TOTAL ESTIMATED COST				
13. FIXED FEE OR PROFIT (State basis for amount in proposal)				
14. TOTAL ESTIMATED COST AND FIXED FEE OR PROFIT				

¹³ This document is available as an Excel spreadsheet by email upon request to Project Manager.

15. OVERHEAD RATE AND GENERAL AND ADMINISTRATIVE RATE INFORMATION			
A. GOVERNMENT AUDIT PERFORMED	DATE OF AUDIT	ACCOUNTING PERIOD COVERED	
B. NAME AND ADDRESS OF GOVERNMENT AGENCY MAKING AUDIT	C. DO YOUR CONTRACTS PROVIDE NEGOTIATED OVERHEAD RATES? () NO () YES <i>(IF YES, NAME AGENCY NEGOTIATING RATES)</i>		
D. (If no Government rates have been established, furnish the following information)			
DEPARTMENT OR COST CENTER	RATE	TOTAL INDIRECT EXPENSE POOL	BASE FOR TOTAL
16. EXHIBIT A - SUBCONTRACT COSTS (If more space needed, use blank sheets, identify item number)			
NAME AND ADDRESS OF SUBCONTRACTOR(S)	SUBCONTRACTED WORK	SUBCONTRACT	
		TYPE	AMOUNT
TOTAL			
17. EXHIBIT B - OTHER DIRECT COSTS (If more space needed, use blank sheets, identify item number)			
TOTAL			
CERTIFICATE			
<p>The labor rates and the overhead costs are current and other estimated costs have been determined by generally accepted accounting principles. Bidder represents: (a) that he__has, __has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the bidder) to solicit or secure his contract, and (b) that he__has, __has not, paid or agreed to pay to any company or person (other than a full-time bona fide employee working solely for the bidder) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer.</p> <p><i>For interpretation of the representation including the term "bona fide employee," see Code of Federal Regulations, Title 44, Part 150.</i></p>			
NO. OF CONTRACTOR EMPLOYEES: <input type="checkbox"/> 500 AND UNDER <input type="checkbox"/> OVER 500 <input type="checkbox"/> OVER 750 <input type="checkbox"/> OVER 1,000		STATE INCORPORATED IN: 	
DATE 	SIGNATURE AND TITLE OF AUTHORIZED REPRESENTATIVE OF CONTRACTOR 		

APPENDIX C, PROCUREMENT SUPPORTING DOCUMENTS

The following documents are available at <http://procurements.mtc.ca.gov/> to help proposers understand the Scope of Work and Rideshare Program history. Notes in parentheses indicate where the reference document is mentioned in the RFP. Not all documents are specifically mentioned in the RFP; they are provided as more general background information.

NOTE FOR INDUSTRY REVIEW DRAFT: SUPPORTING DOCUMENTS WILL BE POSTED ONLINE AS THEY BECOME AVAILABLE.

- Rideshare Strategy Presentation (*I.B Project Description*)
- Employer Outreach background (*I.B Project Description and Appendix A, Scope of Work, Task II*)
- Private Sector App Request for Partnership (*I.B Project Description and Appendix A, Scope of Work, Task I.A*)
- Gamification/trip tracking strategy (*I.B Project Description and Appendix A, Scope of Work, Task II*)
- Carpool Well strategy (*I.B Project Description and Appendix A, Scope of Work, Task I.A*)
- 511 Next Gen Strategy (*I.B Project Description and Appendix A, Scope of Work, Task I.A and Task III*)
- Historical Average Annual Rideshare Program Budget by Activity (*VII.G Form of Proposal, Cost Proposal*)
- Rideshare Marketing Plan FY15-16 (*Appendix A, Scope of Work, Task II.A*)
- Strategies for Cross-Promotion of Private Sector Carpooling Applications (*Appendix A, Scope of Work, Tasks I.A and II.A*)
- List of 511 contractors; organization chart (*Appendix A, Scope of Work, Task III.A*)
- List of the 511 rideshare tools/content and the web tools needed to provide them (*Appendix A, Scope of Work, Task III.C*)
- Employer self-help tools (on rideshare.511.org) (*Appendix A, Scope of Work, Task III.F*)
- Case studies (*Appendix A, Scope of Work, Task III.F*) (on rideshare.511.org)
- Videos (*Appendix A, Scope of Work, Task III.F*) (on rideshare.511.org)
- Existing vanpool database (*Appendix A, Scope of Work, Task IV*)
- eBuilder explanation/documentation (*Appendix A, Scope of Work, Task VI.B*)
- Rideshare Program SOPs (*Note that these SOPs are for the July 1, 2010 to June 30, 2016 SOW, which is not identical to the SOW in this RFP and therefore contain information that may not be applicable to the work required under the next contract.*) (*Appendix A, Scope of Work, Task VI.D*)
 - IT SOP
 - Vanpool SOP
 - Operations SOP
 - Communications SOP
 - Commuter Services SOP
 - Evaluation SOP
- June 2015 Monthly Report Card (*Appendix A, Scope of Work, Task VII*)
- June 2015 Progress Report (*Appendix A, Scope of Work, Task VII*)
 - Stats about vanpool support calls and services currently provided to vanpools (*Appendix A, Scope of Work, Task IV*)
 - Vanpool statistics currently reported (*Appendix A, Scope of Work, Task IV, deliverables*)
 - RMS Statistics (*Appendix A, Scope of Work, Task I.A*)
- Client Survey (*Appendix A, Scope of Work, Task VII*)

- Client Survey Report (*Appendix A, Scope of Work, Task VII*)
- Calculation Methodology (*Appendix A, Scope of Work, Task VII*)
- Quarterly Report (*Appendix A, Scope of Work, Task VII*)
- FY15 TFCA Final Report (*Appendix A, Scope of Work, Task VII*)

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:

Alicia C. Aguirre	Federal D. Glover	Julie Pierce
Tom Azumbrado	Scott Haggerty	Libby Schaaf
Jason Baker	Anne W. Halsted	Bijan Sartipi
Tom Bates	Steve Kinsey	James P. Spering
David Campos	Sam Liccardo	Adrienne J. Tissier
Dave Cortese	Mark Luce	Scott Wiener
Dorene M. Giacomini	Jake Mackenzie	Amy Rein Worth

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, MTC STANDARD CONSULTANT CONTRACT

||
PROFESSIONAL SERVICES AGREEMENT
Between METROPOLITAN TRANSPORTATION COMMISSION

And INSERT NAME OF CONSULTANT
For REGIONAL CARPOOL PROGRAM

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is made and entered into as of the xx day of Month, 20___, 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”) a **PICK ONE OF THE FOLLOWING:** partnership, _____[state of incorporation] corporation/nonprofit corporation/joint venture organized under the laws of the State of _____.

RECITALS

WHEREAS, MTC intends to manage a regional rideshare program to facilitate the formation and maintenance of carpools and vanpools, and to encourage employers to implement vehicle trip reduction strategies (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, MTC has obtained federal funds from the United States Department of Transportation (“U.S. DOT”) to assist in financing the Project, and the federally-required clauses in Attachment H, Federally-Required Clauses, attached hereto and incorporated herein, apply to the Project; 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

CONSULTANT’s services are described in Attachment A, Scope of Work, attached hereto and incorporated herein by this reference. CONSULTANT agrees to perform or secure the performance of all specified services within the maximum payment specified in Article 3, subject to the prior written approval of a work plan by Barbara Laursen, (herein called “MTC Project Manager”). The 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’s 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.

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 monthly 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 January 1, 2017, and shall be completed no later than June 30, 2020, 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 Attachment B, Project Schedule, attached hereto and incorporated herein by this reference.

3. COMPENSATION AND METHOD OF PAYMENT

Subject to duly executed amendments, MTC will pay CONSULTANT for its services as described in Attachment A, Scope of Work, 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 nine million, seven hundred and fifty thousand dollars (\$9,750,000) (“Maximum Payment”). Annual budgets shall be established by MTC and in accordance with Attachment C. All future budgets beyond FY 2017-2018, as well as authority to rebudget unspent prior year funds, shall be at the discretion of MTC and subject to inclusion and approval of the annual agency budget by the MTC Commission. CONSULTANT will be reimbursed by MTC for actual costs incurred for authorized and satisfactorily completed work and services rendered under this Agreement, plus a fixed fee, as provided in Attachment C.

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. CONSULTANT shall be reimbursed its costs and a pro rata share of its profit on work performed up to the time of termination, plus reasonable termination costs, not to exceed the Maximum Payment set forth in Article 3 . 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: CONSULTANT shall be reimbursed its costs on work performed up to the time of termination, not to exceed the Maximum Payment set forth in Article 3 of the Agreement. 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 policies will be issued by insurers acceptable to MTC, generally with a Best's Rating of A- or better with a Financial Size Category of 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.

10.1 PERSONALLY IDENTIFIABLE INFORMATION

CONSULTANT agrees to comply with the special provisions related to the access and protection of personally identifiable information set forth in Attachment F, Special Conditions Regarding Personally Identifiable Information, attached hereto and incorporated herein by this reference.

10.2 NONDISCLOSURE OF CONFIDENTIAL INFORMATION

MTC may be required to make available to CONSULTANT certain confidential, non-public or proprietary information (“Confidential Information”) for purposes of carrying out the Project. Confidential Information may be tangible, intangible, visual, oral, written, and/or electronic information, present or future, and includes: (i) proprietary information learned through inspection of drawings, specifications or equipment; (ii) descriptions of proprietary processes, designs, functionality or know-how; (iii) proprietary software, programming data, code or information; and (iv) other information disclosed in writing and marked as “Confidential” or with a similar notice. As between MTC and CONSULTANT, Confidential Information shall remain the sole and exclusive property of MTC, and no license or other rights to Confidential Information or any works deriving from Confidential Information is granted or implied hereby. Confidential Information does not include information that: a) is now or subsequently becomes generally available to the public through no fault of CONSULTANT; b) CONSULTANT can demonstrate to have had rightfully in its possession prior to disclosure by MTC or its contractors, vendors or licensors; c) CONSULTANT rightfully obtains from a third party who has the right to transfer or disclose it; or (d) is required to be disclosed by law or applicable legal process.

CONSULTANT agrees to take all necessary and reasonable precautions to maintain the confidentiality of Confidential Information and agrees not to use, copy, distribute or disclose such Confidential Information except for the business purpose underlying this Agreement, except as authorized

in writing by MTC. CONSULTANT further agrees to disclose Confidential Information only to its directors, officers, employees and consultants who need to know such information, and who have agreed to be bound by the terms and conditions of this Agreement. Promptly upon the request of MTC, at any time and for any reason, CONSULTANT shall destroy or return to MTC, at MTC's option, all documents, computer files and other tangible materials that contain Confidential Information. These obligations survive the termination of this Agreement, unless otherwise agreed in writing by MTC.

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.

FHWA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: (a) the copyright in any work developed under this Agreement; and (b) any rights of copyright to which MTC or CONSULTANT purchases ownership under this Agreement.

11.1 IDENTIFICATION OF DOCUMENTS

All reports and other documents completed as part of this Agreement shall carry the following notation on the front cover or title page:

“The preparation of this report has been financed in part by grants from the Federal Highway Administration, U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation.”

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 three (3) years following final payment to CONSULTANT or 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. Any conflicting language regarding retention of records contained in Attachment H, Federally-Required Clauses, shall supersede this Article. Copies of CONSULTANT's audits, if any, performed during the course of Project development and at Project completion shall be forwarded to MTC no later than one hundred eighty (180) days after fiscal year end close.

15. AUDITS

CONSULTANT shall permit MTC the U.S. DOT, FHWA, and the Comptroller General of the United States, and the California Department of Transportation (Caltrans), and their 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, the U.S. DOT, FHWA, and Caltrans, the Comptroller General of the United States, or any of their 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.

Any conflicting language regarding audits contained in Attachment H, Federally-Required Clauses, shall supersede this Article.

15.1 INTERIM AND CLOSE-OUT AUDITS

MTC shall conduct one interim audit of CONSULTANT's costs under the Agreement, at the end of FY 2018-19, and one close-out audit, at the end of FY 2021-22. CONSULTANT shall submit a reconciliation invoice for any changes in project costs within 60 days after June 30 of each fiscal year. Audit shall be initiated by the MTC Project Manager within thirty days after of the close of fiscal years 2018-19 and 2021-22. MTC will provide the reconciliation invoices to the auditors to be used as a basis for the audits. MTC will provide CONSULTANT with a copy of the draft audit findings, and CONSULTANT may initiate discussions with MTC if it disagrees with any of the findings within 60 days of receipt of findings. Following issuance by MTC of the audit, CONSULTANT may invoice MTC and MTC shall pay CONSULTANT, upon receipt of such invoice, all or a portion of the reconciliation amount and the retention accrued through the end of the audited period, not required to cover ineligible costs, provided that Contractor has submitted and MTC has approved all Work Products for the Project required under the Agreement for the audited period, including DBE Utilization Reports required by Article 2.

Notwithstanding anything to the contrary in this Agreement, MTC may, upon application by CONSULTANT, reduce any amount held in retention pursuant to Attachment C, Subsection E by any amount required to be released to Subcontractors who have completed their work on the Project, pursuant to Article 12.E.

16. NOTICES

Except for invoices submitted by CONSULTANT pursuant to Article 3, all notices or other communications to either party by the other shall be deemed given when made in writing and delivered, mailed, emailed, or faxed to such party at their respective addresses as follows:

To MTC:	Attention: Barbara Laurenson Metropolitan Transportation Commission 101 - 8th Street Oakland, CA 94607-4700 Email: blaurenson@mtc.ca.gov Fax: (510)817-5848
To CONSULTANT:	Attention: Insert Name of Appropriate Person Consultant's name Consultant's address Consultant's address Email: X Fax: X

17. SOLICITATION OF CONTRACT

CONSULTANT warrants that it has not employed or retained any company or persons, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person other than bona fide employees working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, MTC shall have the right to terminate the Agreement without liability or, at its discretion, the right to deduct from CONSULTANT's maximum payment the full amount of such fee, commission, percentage, brokerage fee, gift or contingent consideration.

18. PROHIBITED INTERESTS

CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree or have the potential of conflicting with the performance of services required under the Agreement or the impartial rendering of assistance or advice to MTC. CONSULTANT further covenants that in the performance of the Agreement no person having any such interest shall be employed.

No member, officer, employee or agent of MTC, during his/her tenure shall have any prohibited interest as defined by California Government Code Sections 1090, *et seq.* and 87100 *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. Attachment H, Federally-Required Clauses, and its parts are attached hereto and incorporated herein by this reference.

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.

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

The services to be performed by CONSULTANT shall consist of services requested by the Project Manager or a designated representative including, but not limited to, the following:

- 1.
 - 2.
- ETC.

ATTACHMENT B

Project Schedule

Task #	Work to be Performed/Deliverables (#)	Completion Date

ATTACHMENT C
Compensation and Method of Payment
COST PLUS FIXED FEE

A. Compensation. CONSULTANT shall be compensated for its work on a cost plus fixed fee basis in general conformance with the Cost and Price Analysis submitted with CONSULTANT'S proposal, attached hereto as Attachment C-1, Cost and Price Analysis to Attachment C, Compensation and Method of Payment, and incorporated herein by this reference, and within the Maximum Payment set forth in Article 3 of the Agreement. CONSULTANT will be reimbursed by MTC for actual costs incurred for authorized and satisfactorily completed work and services rendered under this Agreement, plus a fixed fee, as provided below. 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. Costs. Subject to the aforesaid maximum, the estimated cost for the performance of the work under this Agreement is _____dollars (\$___). Allowability of costs for shall be determined in accordance with 48 Code of Federal Regulations Part 31, or Office of Management and Budget Circular A-122, as applicable. CONSULTANT shall use actual labor rates and a fixed overhead rate of insert rate of Direct Labor and Fringe Benefits. The services and costs of subconsultants, if any, shall be paid by CONSULTANT and MTC shall have no obligation, financial or otherwise, to CONSULTANT's subconsultants. Subconsultants' overhead rates shall be as specified in Attachment C-1, Cost and Price Analysis. CONSULTANT shall not be permitted to charge a mark up of subconsultants' costs unless agreed in writing by the MTC Project Manager.

C. Fixed Fee Payment. The fixed fee for work performed under this contract is _____dollars (\$___).

(1) The fixed fee is included in the Maximum Payment set forth in Article 3. It is understood and agreed that the fixed fee sum is a fixed amount that cannot be exceeded because of any differences between estimated and actual costs of performing the work required by this Agreement, and in no event shall the total of payments to CONSULTANT exceed the Maximum Payment set forth in Article 3, except by duly executed amendment.

(2) The fixed fee will be prorated and paid monthly in proportion to the percentage of work required under this Agreement that is satisfactorily completed as determined by MTC.

D. Monthly Payment. CONSULTANT shall be paid by MTC on a monthly basis. CONSULTANT shall submit an invoice to MTC within thirty (30) days after the end of each month for which payment is sought covering work and services completed to the end of such month, not covered by previously submitted invoices. Invoices shall include an estimate of the percentage of work completed and shall

identify the work for which payment is being requested, showing: (1) costs attributable to direct labor, including current and cumulative hours worked by key personnel (for support personnel, classifications may be shown in place of names) itemized by work task, if appropriate, with billing rates; (2) all other direct and indirect costs for which reimbursement is being requested; (3) items (1) and (2) for subconsultants; (4) the payable portion of the fixed fee sum; and (5) the amounts previously invoiced, the amount currently due, and the total amount paid or due, including this invoice. CONSULTANT shall also attach to each invoice such receipts or other information as may reasonably be required by MTC. Invoices will be dated, numbered in serial order, and signed by CONSULTANT. If applicable, CONSULTANT's final invoice must include the certification that all Personally Identifiable Information (PII) has been destroyed in accordance with Attachment F, Special Conditions Relating to Personally Identifiable Information.

E. Withheld Amounts and Final Payment. MTC shall withhold, as a retainage, 5% of the value of each payment due hereunder until all services required under this Agreement have been completed and accepted by MTC. Final payment of any balance due CONSULTANT, including any amounts withheld, will be made promptly after satisfactory completion of the work under this Agreement, and after receipt and written acceptance by MTC of the reports and working papers that are required to be furnished under this Agreement, and after any post audit of contract costs that may be conducted by MTC.

CONSULTANT acknowledges that certain costs may be disallowed as a result of such a post audit.

F. Letter of Credit. In lieu of retention as required in subsection F above, CONSULTANT may provide MTC with five separate letters of credit, each in the amount of five percent (5%) of the maximum payments specified in Article 3 of this Agreement. The first letter of credit for fiscal year 2017-18 shall be provided prior to MTC's execution of this Agreement. Subsequent letters of credit shall be provided at least thirty days prior to the start of each fiscal year. The letter of credit shall be issued by a United States banking institution that has a long term unsecured rating of at least "AA" and that is acceptable to MTC's Treasurer and Chief Financial Officer. The letter of credit shall be clean, unconditional, irrevocable and evergreen. The beneficiary of the letter of credit shall be the Metropolitan Transportation Commission.

Each letter of credit shall be established to guarantee CONSULTANT's performance during each fiscal year or period for each fiscal year or specified period of the contract. Each annual letter of credit shall not expire until MTC determines, through the audit process, that there are no additional funds owed MTC for the corresponding fiscal year(s) and releases the funds. CONSULTANT shall at its own expense obtain a new letter of credit for each fiscal year, no later than June 1 of each year, by paying any premiums, performing any other obligations and satisfying any conditions required by the bank for obtaining an additional/new letter of credit. The letter of credit must be replaced at least 30 days prior to expiration or MTC will present the letter of credit to the bank for payment.

If any notice is delivered to MTC signifying the letter of credit is to be cancelled or terminated for any reason prior to MTC releasing the funds, no later than thirty (30) days before the letter of credit

expires, MTC shall demand the full amount from the providing financial institution unless CONSULTANT delivers to MTC a substitute letter of credit that complies with the requirements set forth above. Any substitute letter of credit shall take effect no later than the date prior to termination of the expiring letter of credit. CONSULTANT'S duty to maintain such a letter of credit shall continue until it satisfies all its obligations under this Agreement for the corresponding fiscal year or specified period, as specified by MTC. If CONSULTANT fails to submit a qualifying substitute letter of credit as indicated above, MTC shall draw upon the existing letter of credit in full.

MTC may draw on the letter of credit in full or in part at any time prior to the close of business on the expiration date for any reason. MTC may make an unlimited number of draws on the letter of credit. MTC may draw on the letter of credit by presenting to the bank a sight draft executed by the Chief Financial Officer of MTC. Said sight draft form shall be approved by MTC's Chief Financial Officer. There shall be no other conditions to drawing on the letter of credit. MTC shall give notice to CONSULTANT of any draw on the letter of credit. Said notice shall be accomplished in writing.

The letter of credit shall provide that the bank will honor each draft drawn under and in compliance with the terms of the letter of credit if duly presented at its offices before the close of business on the expiration date. The bank will pay the amount specified on the sight draft immediately upon due presentation thereof, by cashier's check payable to MTC.

G. Increases in Hourly Rates for Years Two through Five - Increases in the hourly staff rates set forth in Attachment C-1, Cost & Price Analysis, FY 2017-18 beyond June 30, 2017 (for Years Two through Five of the Agreement) may not exceed such rates increased by the annual rate of inflation as defined in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for San Francisco-Oakland-San Jose, CA, except as mutually agreed by the parties as shown in Attachment C-1, Cost & Price Analyses.

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

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 premises and operations, and products and completed 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, a products/completed operations aggregate liability limit 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.

Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.

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 for ongoing and completed operations. Such insurance shall be primary and non-contributory, 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 \$4,000,000 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 \$2,000,000 per claim. Such policy shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage.

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- or better with a Financial Size Category of 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. FINANCIAL SECURITY (BONDS)

NONE

3. 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.

Metropolitan Transportation Commission (MTC), Federal Highway Administration (FHWA), Bay Area Air Quality Management District (“BAAQMD”), California Department of Transportation (“Caltrans”) and their Commissioners, directors, officers, representatives, agents, employees and successors-in-interest.

ATTACHMENT F
Special Conditions Relating to Personally Identifiable Information

CONSULTANT will have access to personally identifiable information (“PII”) in connection with the performance of the Agreement. PII is any information that is collected or maintained by MTC or CONSULTANT that identifies or describes a person or can be directly linked to a specific individual, including that individual’s account. Examples of PII include name, address, email address, phone or fax number, signature, date of birth, or credit card information, bank account number, or travel pattern data. The following special conditions related to the confidentiality and use of PII apply to this Agreement:

1. Right to Audit

CONSULTANT shall permit MTC, the US DOT, FHWA, the Comptroller General of the United States, and its/or the State of California, and their authorized representatives to audit and inspect: (i) CONSULTANT’s facilities where PII is stored or maintained; (ii) any computerized systems used to share, disseminate or otherwise exchange PII; and (iii) CONSULTANT’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 CONSULTANT’s compliance with this Agreement, and all applicable laws.

2. General Confidentiality of Data

All PII made available to or independently obtained by CONSULTANT in connection with this Agreement or any other financial, statistical, technical or other data and information related to the 511 program that are designated confidential by MTC and made available to CONSULTANT in order to carry out this contract, (“Confidential Information”) shall be protected by CONSULTANT from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to MTC. This includes, but is not limited to, the secure transport, transmission and storage of PII used or acquired in the performance of this Agreement.

CONSULTANT agrees to properly secure and maintain any computer systems (hardware and software applications) or electronic media 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, including Confidential Information, which may be used, transmitted, or stored on such systems in the performance of this Agreement.

CONSULTANT is prohibited from storing PII on portable media including, but not limited to, laptops, thumbdrives, disks and so forth.

Notwithstanding anything to the contrary in Article 14. Records, of this Agreement, CONSULTANT agrees to retain PII for no longer than four years and six months from the date that the registered user removes him/herself from the system or is automatically (based on inactivity) or manually (at the registered user’s request or other reason) removed from the system. At the conclusion of this retention period, CONSULTANT agrees to use Department of Defense (“DoD”) approved methods to permanently remove PII from any files. Discarded PII will be unavailable and unrecoverable following the purge on any storage media including, but not limited to, magnetic disk, optical disk, and memory chips (“Storage Media”). CONSULTANT agrees to destroy hard-copy documents containing PII by means of a cross-

cut shredding machine. CONSULTANT also agrees to use DoD approved methods to sanitize any Storage Media prior to discarding or when useful life has ended, whichever comes first. At the conclusion of the performance period of this Agreement, CONSULTANT shall submit a certification to the MTC Project Manager as follows: “All PII whether in electronic or hard-copy format, has been destroyed in accordance with the requirements contained in Section 2. General Confidentiality of Data of Attachment F, Special Conditions Relating to Personally Identifiable Information.” These requirements shall survive termination or expiration of this Agreement.

3. Compliance with Statutes and Regulations

CONSULTANT agrees to comply with the information handling and confidentiality requirements outlined in the California Information Practices Act (Civil Code sections 1798 *et seq.*) In addition, CONSULTANT 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 relating to the handling and confidentiality of PII, including the terms and conditions contained in this Attachment F, Special Conditions Relating to Personally Identifiable Information and agrees to indemnify MTC against any loss, cost, damage or liability by reason of CONSULTANT’s violation of this provision.

4. Subconsultants

MTC’s approval in writing is required prior to any disclosure by CONSULTANT of PII to a subconsultant or prior to any work being done by a subconsultant that entails receipt of PII. Once approved, CONSULTANT agrees to require such subconsultant to sign an agreement in substantially identical terms as this attachment, binding the subconsultant to comply with its provisions.

5. Consultant Guarantees

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

CONSULTANT shall keep all PII entrusted to it completely secret and shall not use or attempt to use any such information in any manner that may injure or cause loss, either directly or indirectly, to MTC.

CONSULTANT shall comply, and shall cause its employees, representatives, agents, subconsultants and subcontractors to comply, with such directions as MTC may make to promote the safeguarding or confidentiality of all its resources.

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

6. Notice of Security Breach

CONSULTANT shall immediately notify MTC when it discovers that there may have been a breach in security that 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 contact for such notification is as follows:

Privacy Officer
privacyofficer@mtc.ca.gov
(510) 817-5700

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.			

LIST "None" ABOVE IF NO SUBCONTRACTORS ARE BEING USED.

ATTACHMENT H

Federally Required Clauses

1. EQUAL EMPLOYMENT OPPORTUNITY

In accordance with Title VI of the Civil Rights Act, as amended (42 U.S.C. § 2000d); Section 303 of the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6102); Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132); and 49 U.S.C. § 5332 for FTA-funded projects CONSULTANT agrees that it will not, on the grounds of race, religious creed, color, national origin, age, physical disability, sex, discriminate or permit discrimination against any employee or applicant for employment.

2. DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

A. CONSULTANT or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of United States Department of Transportation-assisted contracts. Failure by CONSULTANT to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as MTC deems appropriate.

B. This Agreement is subject to 49 CFR, Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.” Proposers who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

C. The DBE goal for this Agreement is ____ percent (___%). CONSULTANT must meet the DBE goal by committing DBE participation or document a good faith effort to meet the goal. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

D. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. CONSULTANT shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by CONSULTANT to carry out these requirements is a material breach of this Agreement that may result in the termination of this Agreement or such other remedy as the local agency deems appropriate.

E. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.2.1. Performance of DBE Consultant and other DBE Subconsultants/Suppliers

- A. A DBE performs a commercially useful function when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing; and other relevant factors.
- B. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- C. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

2.2. Prompt Payment of Funds Withheld to Subconsultants

- A. In the event that MTC withholds a portion of the payment from CONSULTANT as retainage, CONSULTANT, or subconsultant (if applicable), shall return all monies withheld in retention from a subconsultant within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime contractors and subconsultants.
- B. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

2.3. DBE Records

- A. CONSULTANT shall maintain records of materials purchased and/or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or

vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime CONSULTANTs shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

B. A report on the Monthly Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontracts in the form set forth in Attachment H-3, attached hereto and incorporated herein, must be included with all invoices. MTC may withhold payment pending receipt of such report.

C. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form attached as Attachment H-4, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subcontractors," CEM-2402F (Exhibit 17-F, Chapter 17, of the LAPM), attached hereto and incorporated herein by this reference, certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the MTC Project Manager with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in 25% of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors" is submitted to the Contract Manager.

2.4. DBE Certification and Decertification Status

If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to the Agency's Contract Manager within 30 days.

3. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

CONSULTANT agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and the regulations of the Department of Transportation issued thereunder (49 CFR Part 21).

4. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

CONSULTANT agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

5. STATE ENERGY CONSERVATION PLAN

CONSULTANT shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321).

6. ALLOWABILITY OF COSTS

CONSULTANT shall comply with the cost principles (as applicable) in Office of Management and Budget (OMB) Circulars A-87, or A-122 or 48 Code of Federal Regulations Chapter 1 Part 31, or 49 Code of Federal Regulations Part 18.

7. RELEASE OF FUNDS WITHHELD FROM SUBCONSULTANTS

CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by MTC.

8. LICENSE FOR FEDERAL GOVERNMENT PURPOSES

FTA/FHWA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes: (a) the copyright in any work developed under this Agreement; and (b) any rights of copyright to which MTC or CONSULTANT purchases ownership under this Agreement.

9. IDENTIFICATION OF DOCUMENTS

All reports and other documents completed as part of this Agreement shall carry the following notation on the front cover or title page:

"The preparation of this report has been financed in part by grants from the: Federal Highway Administration, U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation."

10. 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 three (3) years from submission of final expenditure report; 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. Copies of CONSULTANT's audits, if any, performed during the course of Project development and at Project completion shall be forwarded to MTC no later than one hundred eighty (180) days after fiscal year end close.

11. AUDITS

CONSULTANT further agrees to include in all its subcontracts hereunder a provision to the effect that the subconsultant agrees that MTC, or any of its 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. The term "subcontract" as used in this clause excludes agreements not exceeding \$25,000.

CONSULTANT agrees to grant MTC, the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their authorized representatives 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. If, as a result of any audit, it is determined by the auditor that reimbursement of any costs including profit or fee under this Agreement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, CONSULTANT agrees to reimburse MTC for those costs within sixty (60) days of written notification by MTC.

CONSULTANT further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subconsultant agrees that MTC the U.S. DOT, FTA or FHWA, as applicable, the Comptroller General of the United States, the State of California, and their 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.

12. FLY AMERICA REQUIREMENTS.

CONSULTANT agrees to comply with 49 U.S.C. 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301 - 10, which provide that recipients and subrecipients of Federal funds and their consultants are required to use U.S. flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property to the extent such service is available, unless travel by foreign air carrier is a matter of necessity as defined by the Fly America Act. CONSULTANT shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements, if used. CONSULTANT agrees to include the requirements of this Section in all subcontracts that may involve international air transportation.

13. ENERGY CONSERVATION.

CONSULTANT agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Federal Energy Policy and Conservation Act, 49 U.S.C. §§ 6321 *et seq.*

14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS.

- A. CONSULTANT acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, CONSULTANT certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, CONSULTANT further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on CONSULTANT to the extent the Federal Government deems appropriate.
- B. CONSULTANT also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on CONSULTANT, to the extent the Federal Government deems appropriate.
- C. CONSULTANT agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor/subconsultant who will be subject to the provisions.

15. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

MTC and CONSULTANT acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of this Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to MTC, CONSULTANT or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from this Agreement.

16. DEBARMENT

CONSULTANT certifies that neither it, nor any of its participants, principals or subconsultants is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 2 CFR Parts 180 and 1200, by any Federal agency or department.

17. CLEAN AIR AND WATER POLLUTION ACTS

CONSULTANT agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7501 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

18. LOBBYING

CONSULTANT agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 United States Code §1352 and 49 C.F.R. Part 20.

ATTACHMENT H-1
EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE:

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section			11. TOTAL CLAIMED DBE PARTICIPATION %
17. Local Agency Contract Number: _____			
18. Federal-Aid Project Number: _____			
19. Proposed Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. 20. Local Agency Representative's Signature _____ 21. Date _____ 22. Local Agency Representative's Name _____ 23. Phone _____ 24. Local Agency Representative's Title _____			IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. 12. Preparer's Signature _____ 13. Date _____ 14. Preparer's Name _____ 15. Phone _____ 16. Preparer's Title _____

DISTRIBUTION: Original – Included with consultant’s proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT

CONSULTANT SECTION

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
 - 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
 - 3. Project Location** - Enter the project location as it appears on the project advertisement.
 - 4. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
 - 5. Consultant's Name** - Enter the consultant's firm name.
 - 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
 - 7. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
 - 8. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
 - 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
 - 10. DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
 - 11. Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
 - 12. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm
must sign their name.
 - 13. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
 - 14. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
 - 15. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
 - 16. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form. LOCAL AGENCY SECTION
 - 17. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
 - 18. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
 - 19. Proposed Contract Execution Date** - Enter the proposed contract execution date.
 - 20. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
 - 21. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
 - 22. Local Agency Representative's Name** - Enter the name of the Local Agency
-

Representative certifying the consultant's DBE commitment form.

23. Phone - Enter the area code and phone number of the person signing the consultant's DBE commitment form.

24. Local Agency Representative Title - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.



ATTACHMENT H-2

EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE: 7. Total Contract Award Amount: _____
 8. Total Dollar Amount for **ALL** Subconsultants: _____ 9. Total Number of **ALL** Subconsultants: _____

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Local Agency to Complete this Section		14. TOTAL CLAIMED DBE PARTICIPATION	\$
20. Local Agency Contract Number: _____			%
21. Federal-Aid Project Number: _____			
22. Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.	
23. Local Agency Representative's Signature _____		15. Preparer's Signature _____	
24. Date _____		16. Date _____	
25. Local Agency Representative's Name _____		17. Preparer's Name _____	
26. Phone _____		18. Phone _____	
27. Local Agency Representative's Title _____		19. Preparer's Title _____	

DISTRIBUTION: 1. Original – Local Agency
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654- 3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENT
CONSULTANT SECTION

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Location** - Enter the project location as it appears on the project advertisement.
- 4. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
- 8. Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 9. Total number of ALL subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 10. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 12. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 13. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 14. Total Claimed DBE Participation** - \$: Enter the total dollar amounts entered in the "DBE Dollar Amount" column. %: Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 15. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 16. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 17. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 18. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 19. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 22. Contract Execution Date** - Enter the date the contract was executed.
- 23. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 26. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 27. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

ATTACHMENT H-3

Monthly Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontracts Form

Project Name			Agency	Contract Term:	NTE Amount:	Federal Aid #:
Prime Contractor	Contract Name	Address	City, State, Zip Code	Email	Phone	Fax

Item #	Description of Work Performed and Material Provided	Company Name, Business Address, Contact Name and Information	DBE Certification Number	Contract Payments		Date Work Completed	Date of Payment	Year to Date Payments
				Non-DBE	DBE			
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
				\$1	\$1			\$1
Original DBE Commitment			Total:	\$8.00	\$8.00			

BA-Black American NA-Native American
 APA-Asian Pacific American W-Women

ATTACHMENT H-4, Final Report-Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontracts Form
EXHIBIT 17-F FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS

1. Local Agency Contract Number		2. Federal-Aid Project Number		3. Local Agency			4. Contract Completion Date	
5. Contractor/Consultant			6. Business Address				7. Final Contract Amount	
8. Contract Item Number	9. Description of Work, Service, or Materials Supplied	10. Company Name and Business Address	11. DBE Certification Number	12. Contract Payments		13. Date Work Completed	14. Date of Final Payment	
				Non-DBE	DBE			
15. ORIGINAL DBE COMMITMENT AMOUNT \$ _____				16. TOTAL				

List all first-tier subcontractors/subconsultants and DBEs regardless of tier whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at the time of award, provide comments on an additional page. List actual amount paid to each entity. If no subcontractors/subconsultants were used on the contract, indicate on the form.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT

17. Contractor/Consultant Representative's Signature		18. Contractor/Consultant Representative's Name		19. Phone		20. Date	
I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED							
21. Local Agency Representative's Signature		22. Local Agency Representative's Name		23. Phone		24. Date	

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

ADA NOTICE: For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS

- 1. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 2. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 3. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 4. Contract Completion Date** - Enter the date the contract was completed.
- 5. Contractor/Consultant** - Enter the contractor/consultant's firm name.
- 6. Business Address** - Enter the contractor/consultant's business address.
- 7. Final Contract Amount** - Enter the total final amount for the contract.
- 8. Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
- 9. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials provided. Indicate all work to be performed by DBEs including work performed by the prime contractor/consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 10. Company Name and Business Address** - Enter the name, address, and phone number of all subcontracted contractors/consultants. Also, enter the prime contractor/consultant's name and phone number, if the prime is a DBE.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. Leave blank if subcontractor is not a DBE.
- 12. Contract Payments** - Enter the subcontracted dollar amount of the work performed or service provided. Include the prime contractor/consultant if the prime is a DBE. The Non-DBE column is used to enter the dollar value of work performed by firms that are not certified DBE or for work after a DBE becomes decertified.
- 13. Date Work Completed** - Enter the date the subcontractor/subconsultant's item work was completed.
- 14. Date of Final Payment** - Enter the date when the prime contractor/consultant made the final payment to the subcontractor/subconsultant for the portion of work listed as being completed.
- 15. Original DBE Commitment Amount** - Enter the "Total Claimed DBE Participation Dollars" from Exhibits 15-G or 10-O2 for the contract.
- 16. Total** - Enter the sum of the "Contract Payments" Non-DBE and DBE columns.
- 17. Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
- 18. Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
- 19. Phone** - Enter the area code and telephone number of the person signing the form.
- 20. Date** - Enter the date the form is signed by the contractor's preparer.
- 21. Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
- 23. Phone** - Enter the area code and telephone number of the person signing the form.
- 24. Date** - Enter the date the form is signed by the Local Agency Representative.

ATTACHMENT I

Not used

ATTACHMENT J

Not Used

NOTE: LEAVE THIS LINE HERE. IT'S PART OF THE AUTO-TOC.

APPENDIX E-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.

Yes (√)	Please certify by checking the box below that required coverages will be provided within ten (10) business days of MTC's notice to firm that it wishes to contract with the firm.
—	<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. Should any bridge work require coverage for the United States Longshore Harbor Workers Act, CONSULTANT agrees to furnish proof of insurance, if required.</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, Federal Highway Administration (FHWA), Bay Area Air Quality Management District (BAAQMD), California Department of Transportation (Caltrans), 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><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><u>Umbrella Insurance</u> in the amount of \$4,000,000 providing excess limits over <u>Employer's Liability, Automobile Liability, and Commercial General Liability Insurance</u>. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.</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 \$2,000,000 per claim. Such policy shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage.</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 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.</p>
—	<p><u>Property Insurance.</u> 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.</p>
—	<p>CONSULTANT's Business Automobile Liability coverage shall also be extended to cover pollution liability during loading; unloading and while in transit including, but not limited to, the perils of collision and upset. Coverage may be provided by endorsement to the general liability and automobile policies or by a separate policy.</p> <p>Such policy shall contain a Waiver of Subrogation in favor of MTC.</p> <p>MTC, Federal Highway Administration (FHWA), Bay Area Air Quality Management District (BAAQMD), California Department of Transportation (Caltrans), 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>

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) business 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 RFP, compliance with the insurance requirements will be assumed.

APPENDIX F – IRAN CONTRACTING ACT OF 2010
(Public Contract Code Section 2200 et seq.)

Prior to bidding on, submitting a proposal or executing a contract or renewal for a Metropolitan Transportation Commission (MTC) contract for goods or services of \$1,000,000 or more, a Proposer must either: a) certify it is not on the current list of persons engaged in investment activities in Iran created by the California Department of General Services (“DGS”) pursuant to Public Contract Code section 2203(b) and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS; or b) demonstrate it has been exempted from the certification requirement for that solicitation or contract pursuant to Public Contract Code section 2203(c) or (d).

To comply with this requirement, please insert your Proposer or financial institution name and Federal ID Number (if available) and complete one of the options below. Please note: California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Public Contract Code section 2205.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

<i>Proposer Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in</i>

OPTION #2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a Proposer/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services.

If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Proposer Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or N/A)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

APPENDIX G, FEDERAL REQUIREMENTS

Federally-required contract provisions are listed below and in *Appendix E*, MTC's Standard Consultant Agreement, in Attachment H and its subparts. In addition, the federal requirements in this *Appendix G* shall apply to any contract resulting from this RFP.

Effective July, 2012, the California Department of Transportation (Caltrans) requires recipients of DOT grant funds through Caltrans to impose the following DBE utilization requirements on its consultants and contractors. Consultant's DBE participation on its Agreement with MTC will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

MTC has established Disadvantaged Business Enterprise (DBE) goal of [TO BE DETERMINED] % for any contract entered into as a result of this procurement.

1. TERMS AS USED IN THIS DOCUMENT

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

2. AUTHORITY AND RESPONSIBILITY

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

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, *Appendix G-3*, "Local Agency Consultant DBE Commitment" form and *Appendix G-4*, "Local Agency Consultant DBE Information" form shall be included in the procurement document. In order for a Proposer to be considered responsible and responsive, the Proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the Proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal, and all DBE participation shall be collected and reported.

Appendix G-3, “Local Agency Consultant DBE Commitment” form and Appendix G-4, “Local Agency Consultant DBE Information” form shall be included with the procurement document. The purpose of the forms is to collect data required under 49 CFR 26. These forms collect all DBE participation. Even if no DBE participation will be reported, the successful Proposer must execute and return the forms.

4. DBE PARTICIPATION GENERAL INFORMATION

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

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE Proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 1. The Proposer is a DBE and will meet the goal by performing work with its own forces.
 2. The Proposer will meet the goal through work performed by DBE subcontractors, suppliers or trucking companies.
 3. The Proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The Proposer shall list only one subcontractor for each portion of work as defined in its proposal and all DBE subcontractors should be listed in the bid/cost proposal list of subcontractors.
- G. A prime contractor who is a certified DBE is eligible to claim all of the work in the Agreement toward the DBE participation except that portion of the work to be performed by non-DBE subcontractors.

5. RESOURCES

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

- Follow instructions on the screen
- C. How to Obtain a List of Certified DBEs without Internet Access: DBE Directory - If you do not have Internet access, Caltrans also publishes a directory of certified DBE firms extracted from the online database. A copy of the directory of certified DBEs may be ordered from the Caltrans Publications Unit at (916) 263-0822, 1900 Royal Oaks Drive, Sacramento, CA 95815-3800.

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

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, that is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

APPENDIX G-1, CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

(Third Party Contracts and Subcontracts over \$25,000)

Instructions for Certification:

1. By signing and submitting this proposal, the prospective lower tier participant is providing the signed certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, MTC may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to MTC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “persons,” “lower tier covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact MTC for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by MTC.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which does a prudent person in the ordinary course of business dealings normally possess.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, MTC may pursue available remedies including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transaction**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its “principals” [as defined at 49 CFR Section 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Date

(signature of authorized official)

(type/print name and title)

APPENDIX G-2, CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____ hereby certify on behalf of _____ that:
(name and title of grantee official) (name of grantee)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Executed this _____ day of _____, 201__.

By:

(signature of authorized official)

(title of authorized official)

APPENDIX G-3, LOCAL AGENCY CONSULTANT DBE COMMITMENT
EXHIBIT 10-01 CONSULTANT PROPOSAL DBE COMMITMENT
 (Inclusive of all DBEs at time of proposal)

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE:

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	%
17. Local Agency Contract Number: _____			
18. Federal-Aid Project Number: _____			
19. Proposed Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. 20. Local Agency Representative's Signature _____ 21. Date _____ 22. Local Agency Representative's Name _____ 23. Phone _____ 24. Local Agency Representative's Title _____		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. 12. Preparer's Signature _____ 13. Date _____ 14. Preparer's Name _____ 15. Phone _____ 16. Preparer's Title _____	

DISTRIBUTION: Original – Included with consultant’s proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654- 3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT

CONSULTANT SECTION

25. **Local Agency** - Enter the name of the local or regional agency that is funding the contract.
26. **Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
27. **Project Location** - Enter the project location as it appears on the project advertisement.
28. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
29. **Consultant's Name** - Enter the consultant's firm name.
30. **Prime Certified DBE** - Check box if prime contractor is a certified DBE.
31. **Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
32. **DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
33. **DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
34. **DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
35. **Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
36. **Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
37. **Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
38. **Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
39. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
40. **Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

41. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
 42. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
 43. **Proposed Contract Execution Date** - Enter the proposed contract execution date.
 44. **Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
 45. **Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
 46. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
 47. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
 48. **Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.
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APPENDIX G-4, LOCAL AGENCY CONSULTANT DBE INFORMATION
EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT
 (Inclusive of all DBEs listed at bid proposal)

1. Local Agency: _____ 2. Contract DBE Goal: _____
 3. Project Description: _____
 4. Project Location: _____
 5. Consultant's Name: _____ 6. Prime Certified DBE: 7. Total Contract Award Amount: _____
 8. Total Dollar Amount for **ALL** Subconsultants: _____ 9. Total Number of **ALL** Subconsultants: _____

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Local Agency to Complete this Section			\$ %
20. Local Agency Contract Number: _____			
21. Federal-Aid Project Number: _____			
22. Contract Execution Date: _____			14. TOTAL CLAIMED DBE PARTICIPATION
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. 23. Local Agency Representative's Signature _____ 24. Date _____ 25. Local Agency Representative's Name _____ 26. Phone _____ 27. Local Agency Representative's Title _____			IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. 15. Preparer's Signature _____ 16. Date _____ 17. Preparer's Name _____ 18. Phone _____ 19. Preparer's Title _____ _____

DISTRIBUTION: 1. Original – Local Agency
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654- 3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENT

CONSULTANT SECTION

- 28. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 29. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 30. Project Location** - Enter the project location as it appears on the project advertisement.
- 31. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 32. Consultant's Name** - Enter the consultant's firm name.
- 33. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 34. Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
- 35. Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 36. Total number of ALL subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 37. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 38. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 39. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 40. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 41. Total Claimed DBE Participation - \$:** Enter the total dollar amounts entered in the "DBE Dollar Amount" column. **%:** Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 42. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 43. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 44. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 45. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 46. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 47. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 48. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 49. Contract Execution Date** - Enter the date the contract was executed.
- 50. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 51. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 52. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 53. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 54. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

APPENDIX G-5, DBE INFORMATION – GOOD FAITH EFFORTS

Federal-aid Project No. _____ Bid Opening Date _____

The _____ established a Disadvantaged Business Enterprise (DBE) goal of _____% for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the “Local Agency Bidder DBE Commitment” form indicates that the bidder has met the DBE goal. This will protect the bidder’s eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the “Local Agency Bidder DBE Commitment” form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled “Submission of DBE Commitment” of the Special Provisions:

- A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications:

Date of Advertisement:

- B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of DBEs Solicited:

Date of Initial Solicitation:

Follow Up Methods and Dates:

C. The items of work which the bidder made available to DBE firms including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

Item of Work:	Bidder Normally Performs Item (Y/N):	Breakdown of Items:	Amount (\$):	Percentage of Contract:
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D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

Names, addresses and phone numbers of firms selected for the work above:

E. Efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs:

F. Efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization:	Method/Date of Contact:	Results:
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H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.