



METROPOLITAN
TRANSPORTATION
COMMISSION

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

Amy Rein Worth, Chair
Cities of Contra Costa County

Dave Cortese, Vice Chair
Santa Clara County

Alicia C. Aguirre
Cities of San Mateo County

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

Tom Bates
Cities of Alameda County

David Caspary
City and County of San Francisco

Bill Dodd
Napa County and Cities

Dorene M. Giacopini
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 Licardo
San Jose Mayor's Appointee

Mark Luce
Association of Bay Area Governments

Jake Mackenzie
Sonoma County and Cities

Joe Piraynski
Cities of Santa Clara County

Jean Quan
Oakland Mayor's Appointee

Bijan Saripi
State Business, Transportation
and Housing Agency

James P. Spering
Solano County and Cities

Adrienne J. Tisser
San Mateo County

Scott Wiener
San Francisco Mayor's Appointee

Steve Heminger
Executive Director

Ann Flemer
Deputy Executive Director, Policy

Andrew B. Fremier
Deputy Executive Director, Operations

March 18, 2014

**REQUEST FOR PROPOSAL (RFP)
FOR BUSINESS INSURANCE BROKER, CONSULTATION AND THIRD-PARTY
CERTIFICATE MANAGEMENT SERVICES LETTER OF INVITATION**

NOTICE IS HEREBY GIVEN that the Metropolitan Transportation Commission (MTC), on behalf of MTC, the Metropolitan Transportation Commission Service Authority for Freeways and Expressways (MTC SAFE), the Bay Area Toll Authority (BATA) and the Regional Administrative Facility Corporation (RAFC), invites your firm to submit a proposal to provide business insurance brokerage, consulting and third party insurance certificate management services, for a period beginning July 1, 2014 and continuing through June 30, 2015. The contract may be renewed at a negotiated price for a three-year period beginning July 1, 2015 to June 30, 2018. This letter, together with its enclosures, comprises the formal Request For Proposal (RFP) for this project. Responses to this RFP should be submitted in accordance with the instructions stated herein.

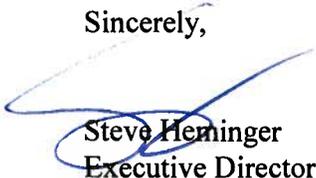
The RFP document for this project are available for download on the MTC website at <http://procurements.mtc.ca.gov/>. Proposers are responsible for checking the website for any Addenda that may be issued relative to this RFP. Responses should be submitted in accordance with the instructions set forth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

Interested firms must submit an original and six (6) copies, as well as one electronic PDF version, of their proposal by **4 p.m., Friday, April 11, 2014**, in accordance with the instructions contained in the RFP. Other key RFP Dates are listed in Section V, Consultant Selection Timetable of the RFP.

MTC Point of Contact
Mamie Lai, MTC Project Manager
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700
Tel: 510/ 817-5860
E-mail: mlai@mtc.ca.gov

Thank you for your interest.

Sincerely,


Steve Heminger
Executive Director

SH: DR

J:\CONTRACT\Procurements\Misc Professional Svcs\RFPs\FY 13-14\Brokerage\MTC Ins Brokerage RFP 14_final.docx

TABLE OF CONTENTS

I. MTC AND PROJECT DESCRIPTION	1
A. DESCRIPTION OF MTC	1
B. BACKGROUND	1
II. PROPOSER MINIMUM QUALIFICATIONS	1
III. SCOPE OF WORK, PERIOD OF PERFORMANCE, AND BUDGET	1
A. SCOPE OF WORK	1
B. PERIOD OF PERFORMANCE	2
C. BUDGET	2
IV. PROPOSERS' CONFERENCE AND REQUESTS FOR CLARIFICATION OR EXCEPTIONS.....	2
V. CONSULTANT SELECTION TIMETABLE	2
VI. SUBMITTAL OF PROPOSALS.....	3
VII. FORM OF PROPOSAL.....	4
VIII. PROPOSAL EVALUATION	7
A. REVIEW FOR GENERAL RESPONSIVENESS	7
B. EVALUATION PANEL AND EVALUATION CRITERIA.....	8
C. PROPOSER DISCUSSIONS.....	8
D. REQUEST FOR BEST AND FINAL OFFER.....	8
IX. GENERAL CONDITIONS.....	9
A. AWARD	9
B. CONTRACT ARRANGEMENTS	9
C. SELECTION DISPUTES	10
D. PUBLIC RECORDS	10
E. KEY PERSONNEL	11
F. CONFLICTS OF INTEREST	11
G. PERSONALLY IDENTIFIABLE INFORMATION	12
APPENDIX A, SCOPE OF WORK	13
APPENDIX B, BUSINESS INSURANCE PROGRAM SCHEDULE	17
APPENDIX C, CALIFORNIA LEVINE ACT STATEMENT	18
APPENDIX D, STANDARD MTC CONSULTANT CONTRACT	19
APPENDIX D-1, INSURANCE REQUIREMENTS	36

I. MTC AND PROJECT DESCRIPTION

A. *Description of MTC*

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

B. *Background*

MTC was created by the California Legislature in 1970 to plan the transportation facilities and services for the nine-county San Francisco Bay Area. MTC's nineteen member policy board also acts as the Metropolitan Transportation Commission Service Authority for Freeways and Expressways (MTC SAFE), created in 1988 to manage a motorist aid call box system along the 9-county Bay Area's freeways and expressways (California Streets and Highways code Sections 2550 *et seq.*) and the Bay Area Toll Authority (BATA), created in 1998, pursuant to California Streets and Highways Code Sections 30960 *et seq.*, to oversee the improvements and operations of the seven state-owned toll bridges in the Bay Area. The Bay Area Headquarters Authority (BAHA) was created as a Joint Powers Authority (JPA) between BATA and MTC. The Bay Area Infrastructure Financing Authority (BAIFA) was created in 2006 as a Joint Powers Authority (JPA) between MTC and BATA to plan, develop, operate and finance transportation projects. In September 2011, the Joint Exercise of Powers Agreement creating BAIFA was amended to permit BAIFA to participate in developing and operating express lanes.

The Regional Administrative Facility Corporation (RAFC) is a non-profit mutual benefit corporation formed in 1983 by MTC, the Association of Bay Area Governments (ABAG) and the San Francisco Bay Area Rapid Transit District (BART) to manage the MetroCenter, a condominium office building located at 101 8th Street in Oakland which is owned by the three agencies.

The six agencies establish their business insurance needs and contract for their insurance coverages separately. This RFP is intended to result in the selection of a broker/consultant for all four agencies with MTC serving as the point of contact or agent for all six agencies. The selected broker/consultant will take primary direction from the MTC Director of Administrative and Technology Services. The contract will be with MTC.

II. PROPOSER MINIMUM QUALIFICATIONS

There are no Minimum Qualification requirements associated with the RFP.

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

A. *Scope of Work*

The workscope for this contract is detailed in *Attachment A, Scope of Work*. There are three (3) tasks specified in the scope of work for this project as follows:

- Task I. Brokerage Services
- Task II. Consulting Services
- Task III. Third-party Contractor Insurance Certificate Management Services

As part of its proposal, each proposer should propose any modifications to the workscope or the project schedule that it deems necessary in order to further the objectives of the project. For your reference, the existing insurance policies are included as *Attachment B*, Business Insurance Program.

B. Period of Performance

MTC expects the work to commence on or about July 1, 2014, and to be completed no later than June 30, 2016. At MTC's sole option, the contract may be renewed at a negotiated price for a three-year period beginning July 1, 2016 to June 30, 2019 for work related to the *Appendix A*, Scope of Work.

C. Budget

No budget has been established for the contract. Our current broker/consultant is compensated for its brokerage services out of the business insurance premiums.

IV. PROPOSERS' CONFERENCE AND REQUESTS FOR CLARIFICATION OR EXCEPTIONS

A Proposers' Conference will be held at 10:00 a.m. on Friday, March 28, 2014 at the Joseph P. Bort MetroCenter Building, 101 8th Street, Oakland, in the Claremont Conference Room.

Any addenda will be posted on MTC's website. All 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 Monday, March 31, 2014, to guarantee response or consideration. MTC reserves the right to reject any proposal that contains unauthorized conditions or exceptions.

V. CONSULTANT SELECTION TIMETABLE

10:00 a.m., Friday, March 28, 2014	Proposers' Conference, at 101 8 th Street, Oakland, CA 94607, in the Claremont Conference Room
4:00 p.m., Monday, March 31, 2014	Closing date/time for receipt of requests for modifications/exceptions
No later than three (3) working days prior to the date proposals are due.	Deadline for protesting RFP provisions

4:00 p.m., Friday, April 11, 2014	Closing date/time for receipt of proposals
Week of April 7, 2014*	Interviews/Discussions (if held)
Week of April 18, 2014*	Date for receipt of Best and Final Offers (if required)
May 14, 2014*	Administration Committee Review
July 1, 2014*	Contract Execution / Start Date (approximate)

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

VI. SUBMITTAL OF PROPOSALS

1. Interested firms must submit an original and six (6) copies, as well as one electronic PDF version, of their proposal by **4 p.m., Friday, March 28, 2014. Submission of an electronic copy of the proposal without hard copies will not satisfy the submission requirement.**
2. Proposals are to be addressed as follows:
RFP for Business Insurance Broker, Consultation & Third-party
Certificate Management Services
Attention: Mamie Lai
101 8th Street, 3rd Floor Receptionist
Oakland, CA 94607
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. No proposals submitted solely by email and no faxed proposals will be considered.
6. 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
7. Consultant agrees and acknowledges all RFP specifications, terms and conditions and indicates ability to perform by submission of a proposal.
8. A signed proposal submitted to MTC in response to this RFP shall constitute a binding offer from Consultant to contract with MTC according to the terms of the proposal for a period of ninety (90) days after the proposals are due to MTC.

9. 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.
10. This RFP does not commit MTC to award a contract or to pay any costs incurred in the preparation of a proposal in response to this RFP.
11. Only one proposal will be accepted from any one person, partnership, corporation, or other entity; however, several alternatives may be included in one response.
12. 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.
13. MTC reserves the right in its sole discretion not to enter into any contract as a result of this RFP.
14. 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 firm.

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:

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 the name and telephone number of a contact person, if different from the signature. 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 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 ninety (90) 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, local 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 Consultant's understanding of the nature of the work and the general approach to be taken, and identify any specific considerations. It should include, but not be limited to, the following:

1. A discussion of the project's purpose;
2. A summary of proposed approach; and
3. The assumptions made in selecting the approach.

E. Work Plan

This section should present a work plan for the tasks described in *Appendix A, Scope of Work*. The proposed work plan should:

1. Discuss how the Consultant will conduct the identified task, identify deliverables, and propose a schedule. 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 Consultant believes necessary to accomplish the project goals. The schedule should show the expected sequence of tasks, subtasks and milestones.
2. Provide a staffing plan for each task. Provide an organizational chart that shows roles and responsibilities of key personnel and reporting structure, including reporting and communication relationships between MTC, Consultant staff, and subcontractors, if any.
3. Describe approach to managing resources and maintaining quality results. Include a description of the role of any subcontractors, their specific responsibilities, and how their work 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. A description of Broker/Consultant's experience and past projects that demonstrate the Consultant's ability to provide the specific insurance brokerage, consulting, and third-party contract administration services. A summary (no longer than one page each) of up to three (3) projects similar in subject matter and scope to this project, including the client agency, the contract term and amount, and a contact person (with email and telephone number) who may be contacted as a reference. Proposers are welcome to identify and provide examples of any other qualifications they feel are critical to the successful completion of the Scope of Work attached as *Appendix A*.
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. A description of the Broker/Consultant's past experience (if any) with the public sector, especially transportation agencies, including providing consulting services regarding financial guarantees such as performance bonds and letters of credit.
4. Provide at least one sample of a written report (e.g. loss run or historical report) and two samples of written correspondence to clients providing advice on insurance requirements. The samples must have been prepared by key members of the Consultant team and should identify the authors. Only one copy of each sample is required. The samples will 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 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 in each phase contained in *Appendix A, Scope of Work*. The budget should include, but is not limited to, a line item budget with billing rates for each phase.

1. For the detailed cost breakdown, each proposer should clearly state the total cost for providing each of the three (3) requested Tasks outlined in *Attachment A, Scope of Services*.
 - The cost breakdown must provide information on how the Broker is typically compensated, who provides the compensation (i.e. Carrier or MTC), and typical percent or dollar range for the compensation:
 - Commission;
 - Flat rate;
 - Fixed fee not-to-exceed amount; or

- Other (please specify.)
- 2. The cost proposal must include the hourly billing rates for all project personnel. If the cost to perform any of the services is provided at no cost to the agency, but paid as a commission by the insurance provider, the proposer should include a statement as to what they expect to receive as a reasonable commission for their service.
- 3. Please include information (date and outcome) on firm's most recent pre-award audit, if applicable.

H. California Levine Act Statement

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

I. Insurance Provisions

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

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

J. Not Used

K. Not Used

L. 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 Proposals for purposes of the California Public Records Act and will be reviewed to determine responsibility only. All statements will be returned to all proposers prior to consultant selection.

VIII. PROPOSAL EVALUATION

A. *Review for General Responsiveness*

The 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 *Appendix C*. Proposers failing to meet the Minimum Qualifications and Requirements listed herein this RFP or satisfy the federal Disadvantaged Business Enterprise (DBE) requirements (if applicable), 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 the 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.

B. Evaluation Panel and Evaluation Criteria

Responsive proposals will then be evaluated by an evaluation panel of MTC 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. Attempts 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. Experience in relevant insurance brokerage and consulting services, including public agency experience (40%)
2. Professional background of staff (30%)
3. Service approach and responsiveness to clients (based in part on references) (20%)
4. Cost (10%)

C. 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.

D. 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 of

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

The selected Consultant will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix D-1, Insurance Requirements*. Proposer agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements in *Appendix D-1*, within ten (10) days of MTC's notice 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.

MTC expects the Broker/Consultant to be compensated for its brokerage services out of the business insurance premiums.

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 Consultant 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 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 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 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 consultant selection.

Except with regard to initial determinations of non-responsiveness, the evaluation record shall remain confidential until the MTC Executive Director or appropriate MTC 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 Executive Director or Section Director, as appropriate.

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 MTC, no later than 4:00 p.m. on the third business day after receipt of the written response from the MTC Executive Director. MTC's decision will be the final agency decision.

Authorization to award an agreement to a particular consultant 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 MTC'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 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 this RFP marked along the right margin with a vertical line, contain technical or financial information which are trade secrets and/or which, 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 staff persons assigned to the project are expected to remain on the project. Any change in key staff persons of the proposed project team is subject to prior written approval of MTC. Removal of any key staff persons identified in the proposal without written consent of the 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 Consultant 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 Agreement 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 Agreement.

G. 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 D, Special Conditions Regarding Personally Identifiable Information of Appendix D, MTC Standard Consultant Contract.

APPENDIX A, SCOPE OF WORK

DESCRIPTION OF AGENCIES

The **Metropolitan Transportation Commission (MTC)** was created in 1970, pursuant to California Government Code 66500 *et seq.*, to conduct transportation planning in the San Francisco Bay Area. Under state law, all applications for state and federal transportation assistance in the Bay Area must be approved by MTC. MTC policy direction is provided nineteen Commissioners.

The **Metropolitan Transportation Commission Service Authority for Freeway and Expressways (MTC SAFE)** was created in 1988, pursuant to California Streets and Highways Code Sections 2250 *et seq.* to manage a motorist aid call box system along the 9-county Bay Area's freeways and expressways. A subsequent amendment to the legislation permitted the MTC SAFE to manage a towing service on selected segments of Bay Area freeways. MTC SAFE policy direction is provided by the nineteen MTC Commissioners, acting as the SAFE.

The **Bay Area Toll Authority (BATA)** was created in 1998, pursuant to California Streets and Highway Code Sections 30950 *et seq.* to oversee the improvements and operations of seven state-owned toll bridges in the Bay Area. BATA policy direction is provided by the nineteen MTC Commissioners, acting as BATA.

The **Bay Area Headquarters Authority (BAHA)** was created as a Joint Powers Authority (JPA) between BATA and MTC. BAHA purchased 375 Beale Street (formerly known as 390 Main Street, San Francisco) in October 2011 and is renovating the building as the Regional Agency Headquarters Facility for MTC, BATA, the Air District and ABAG. The co-location of the regional agencies encourages further integration of regional planning efforts currently under the umbrella of One Bay Area.

The **Bay Area Infrastructure Financing Authority (BAIFA)** was created in 2006 as a Joint Powers Authority (JPA) between MTC and BATA to plan, develop, operate and finance transportation projects. In September 2011, the Joint Exercise of Powers Agreement creating BAIFA was amended to permit BAIFA to participate in developing and operating express lanes. In October 2011, the California Transportation Commission (CTC) found 270 miles of express lanes eligible for development and operation by MTC under Section 149.7 of the Streets and Highways Code. In April 2013, MTC delegated its express lane responsibilities to BAIFA.

The **Regional Administrative Facility Corporation (RAFC)** is a non-profit mutual benefits corporation formed in 1983 to provide project management to the Joseph P. Bort MetroCenter building, a condominium governmental office building located at 101 8th Street, Oakland, California 94607-4700. The MetroCenter is owned and occupied by MTC; the Association of Bay Area Governments (ABAG), a joint powers agency formed pursuant to Government Code Section 6500; and the San Francisco Bay Area Rapid Transit District (BART), a rail transit operating agency formed pursuant to Public Utilities Code Section 28500 *et seq.* RAFC policy direction is provided by the three Board of Directors. RAFC and

MTC have entered into a cooperative agreement under which MTC will select and contact with a broker/consultant for RAFC's business insurance needs.

MTC, MTC SAFE, BATA, BAHA, BAIFA and RAFC currently have business insurance policies as shown in *Attachment B, Business Insurance Program Summary* with a policy period that currently ends on April 1, annually. Generally, the selected Broker/Consultant will be asked to provide at least two estimates for each insurance coverage renewal and two or more deductible and/or self-retention alternatives. In addition, Broker/Consultant is expected to provide business insurance-related consultation, certificate management, claim processing, and other insurance services as the need arises.

WORKSCOPE, SCHEDULE AND BUDGET

Under the professional services agreement, the Broker/Consultant will provide business insurance brokerage and consultant services for MTC, MTC SAFE, BATA, BAHA, BAIFA and RAFC as follows:

Task I. Brokerage Services

- A. Evaluate the current insurance programs to ensure adequate insurance protection at optimum costs.
- B. Develop specifications, underwriting information and marketing strategy for various insurance programs, including the recommended coverage, deductible and self-retention levels.
- C. Market the existing insurance programs for policy period ending April, 2015. Obtain quotations and evaluate coverage options. Review recommendations for placement of insurance program with staff.
- D. Bind approved coverages and maintain policies throughout the coverage period.
- E. Provide insurance binder for business insurance coverage including a summary and schedules.
- F. Arrange and schedule an annual safety inspection of facilities and equipment to assess risk and provide input into the development of the recommended future insurance programs.
- G. Assist the Building Administrator, RAFC Project Manager and BAHA Project Manager, in identifying and evaluating property exposure to loss, including reviewing previous analysis and evaluations. Recommend insurance programs and policies that provide required coverage at optimum costs.

- H. Investigate rights of the insured agencies. Review and process, as appropriate, business insurance claims, invoices, underwriters' audits and other documents on behalf of the insured agencies.
- I. Investigate and provide analyses and recommendations regarding the rights of the insured agencies under their various insurance policies to enable these agencies to protect and enforce any and all rights that they may have thereunder, including rights of indemnity and defense.

Deliverables

1. Develop specifications, underwriting information and marketing strategy for next policy period ending April 1, 2015. *Due Date: January 15, 2015*
2. Provide Insurance Binder with proposed policy renewals and cost by agency. Meet and review information with Project Manager and other MTC, MTC SAFE, BATA, BAHA, BAIFA and RAFC staff. *Due Date: February 28, 2015*
3. Upon approval of insurance policy renewals, bind insurance coverage. *Due Date: On or before April, 2015*
4. Deliver insurance policy renewal documents/endorsements and invoices to Project Manager. *Due Date: April 15, 2015*
5. Perform day-to-day accounting and financial activities associated with handling the accounts. Submit invoices and other paperwork necessary to make prompt payment of insurance programs. *(As needed.)*
6. Perform an annual safety inspection of all MTC, MTC SAFE, BATA, BAHA, BAIFA and RAFC facilities. *Due Date: May 30, 2015*
7. Respond to requests to investigate insurance claims, provide analyses and other inquiries within 24 hours. *(As needed.)*

Task II. Consulting Services

- A. Respond to requests for consulting services within 24 hours. Complete require analysis as needed.
- B. Provide such other analyses and recommendations as is customarily rendered by a business insurance consultant.
- C. If appropriate, recommend self-insurance, and develop detailed implementation process. Assist the Building Administrator and/or the Project Manager in implementing the self-insurance programs, including any claims processing and subrogation assistance as necessary. Review all new exposures to loss.

Deliverables:

1. To be determined as the need arises.

Task III. Third-party Contractor Insurance Certificate Management Services

- A. Provide advice on the development of insurance provisions for third party contracts issued; most of which are similar to the boilerplate insurance requirements as described in *Attachment D, MTC's Standard Consultant Agreement*.
- B. Review the insurance provisions including in all third-party contracts issued and ensure contractor compliance with these provisions. *Note: There are approximately 325 vendors who have third-party contracts.*
- C. Maintain an updated database of all third-party contracts and vendor compliance with the required insurance provisions in a web based electronic format, that allows for the an electronic push/pull of data from MTC's internal contract database. Proposer may recommend an alternate electronic format.

Deliverables

1. For every third party contract, maintain copies of all third-party contractor's evidence of insurance documents on behalf of agency.
2. At a minimum, provide the Project Manager an updated database on the status of each vendor's compliance with required insurance provisions on a monthly basis.
3. Advise the contract's Project Manager when a third-party Contractor fails to provide evidence of insurance within the 30 days of contract execution. (*As needed.*)
4. Follow-up with agency Project Manager and third-party contractors within two weeks of insurance lapse.

BROKER/CONSULTANT PERSONNEL

The successful Broker/Consultant must assign a minimum of one acceptable professional to MTC who holds a valid and current professional insurance designation for Property and Casualty Insurance such as, but not limited to Certified Insurance Counselor, Certified Property & Casualty Underwriter, or Registered Professional Liability Underwriter.

APPENDIX B, BUSINESS INSURANCE PROGRAM SCHEDULE

**MTC, MTC SAFE, BATA, BAIFA
All policies effective April 1, 2013-2014**

Coverage	Limits	Deductible/Retention
Property	\$75,000,000	\$10,000
General Liability	\$1,000,000	\$10,000 *
Auto Liability	\$1,000,000	\$500 Comprehensive \$1,000 Collision
Foreign Package	\$1,000,000	\$0
Excess Umbrella Liability	\$25,000,000	\$10,000
Crime Insurance	\$20,000,000 and various	\$50,000
Public Officials and Employment Practices Liability	\$10,000,000	\$50,000
Employed Lawyers	\$5,000,000	\$25,000
Non-Owned Aircraft Liability	MTC is non-renewing on April 1, 2014	
Cyber Liability	TBD	TBD

*Claims Handled by TPA, Carl Warren

**RAFC
All policies effective April 1, 2013-2014**

Coverage	Limits	Deductible/Retention
Property	\$29,000,000	\$5,000
General Liability	\$1,000,000	\$0
Auto Liability	\$1,000,000	\$0
Excess Umbrella Liability	\$10,000,000	\$10,000
Directors and Officers Liability	\$2,000,000	\$10,000

**BAHA
All policies effective October 14, 2013-2014**

Coverage	Limits	Deductible/Retention
Property and COC	\$170,000,000	\$50,000
General Liability	\$1,000,000	\$0
Auto Liability	\$1,000,000	\$500 Comprehensive \$500 Collision
Excess Umbrella Liability	\$50,000,000	\$10,000
Environmental Liability	\$2,000,000	\$25,000

APPENDIX C, CALIFORNIA LEVINE ACT STATEMENT

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

MTC’s commissioners include:

Alicia C. Aguirre	Federal D. Glover	Joe Pirzynski
Tom Azumbrado	Scott Haggerty	Jean Quan
Tom Bates	Anne W. Halsted	Bijan Sartipi
David Campos	Steve Kinsey	James P. Spering
Dave Cortese	Sam Liccardo	Adrienne J. Tissier
Bill Dodd	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 D, MTC STANDARD CONSULTANT CONTRACT

_____, 2014

Name
Address
City, State, Zip Code + Four

RE: Professional Services Agreement

Dear insert name:

This letter, effective as of _____, 2014 (“Effective Date”) is the agreement between insert name of firm (“Consultant”) and the Metropolitan Transportation Commission (“MTC”) for the performance of professional services in connection with Business Insurance Broker, Consultation and Third-Party Certificate Management (“the Agreement”).

1. It is agreed that Consultant will perform all the services specified in Attachment A, Scope of Work, according to the schedule in Attachment B, Project Payment Schedule, both attached hereto and incorporated herein by this reference.
2. Work will be performed under the direction of Mamie Lai or a designated representative (herein "Project Manager") who will approve a work plan prior to your beginning work.
3. Consultant will be compensated for its services in accordance with Attachment B, Project Payment Schedule, attached hereto and incorporated herein by this reference. The maximum amount payable to Consultant, including (as applicable) labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subcontractors costs (including mark-up), travel, equipment, materials and supplies, and expenses shall not exceed [spell out amount in whole dollars (\$_____)] (“Maximum Payment”). MTC shall make payments to CONSULTANT in accordance with the provisions described in Attachment B.

All invoices must be made in writing and delivered or mailed to MTC as follows:

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

contract in the name of MTC, and Consultant will be responsible for its own acts and those of its agents and employees.

8. Consultant agrees to obtain and maintain at its own expense for the duration of the Agreement the types of insurance listed in Attachment C, Insurance Requirements, Part 1, against claims, damages or losses due to injuries to persons or damage to property or other losses arising in connection with the performance of the Agreement, placed with insurers with a Best's rating of A-VIII or better.
9. CONSULTANT shall indemnify and hold harmless MTC, the Additional Insureds listed in Attachment C, Insurance Requirements, Part 2, and their commissioners, directors, officers, agents, and employees or any of them ("the MTC Indemnitees") from any and all claims, demands, suits, or other legal proceedings actions ("the Claims") arising out of: (a) any injury or death to persons or property or pecuniary, financial or economic losses caused by any breach of the Agreement by Consultant or by any negligent act or omission or willful misconduct of the Consultant or its officers, employees, subconsultants or agents or any of them, under or in connection with this Agreement; or (b) based on an 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 agrees at its own cost, expense and risk to defend any and all such Claims against the MTC Indemnitees, and to pay and satisfy any resulting judgments, plus attorneys' fees and costs. This indemnification shall survive the termination or expiration of this Agreement.
10. Consultant agrees to comply with the special provisions related to the access and protection of personally identifiable information set forth in Attachment D, Special Conditions Regarding Personally Identifiable Information, attached hereto and incorporated herein by this reference.
11. 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 the Agreement shall remain the property of MTC and shall be returned to MTC at the completion or termination of the Agreement. No license to such MTC Data, outside of the Scope of Work of the Project, is conferred or implied by your 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 the following paragraph.

12. 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.
13. 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 the 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 the 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 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 entire copyright in the Work Product. Consultant shall be responsible for the preservation of any and all such Work Products prior to transmittal to MTC, and shall replace any such Work Products as are lost, destroyed, or damaged while in its possession without additional cost to MTC. Notwithstanding the above, Work Products are not intended 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.

14. Consultant agrees to retain all documents, working papers, records, accounts and other materials relating to its performance under the Agreement for four years following the fiscal year of the last expenditure under the Agreement or until completion of any litigation, claim or audit, whichever is longer, and MTC may inspect and audit such records during that period of time.
15. 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 it is aware upon due inquiry bearing upon any possible interest, direct or indirect, which 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.
16. 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.

17. Any claim or controversy concerning the interpretation, application, or implementation of this Agreement between MTC and Consultant that cannot be resolved through the informal, good faith efforts of the parties 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. 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. The prevailing party in any dispute shall be entitled to payment of its attorneys' fees and costs. This section shall survive the termination or expiration of the Agreement.
18. All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of California applicable to agreements made and to be performed within the State.
19. Consultant will not assign or subcontract any part of the Agreement without the prior written consent of MTC, and any attempt to do so will be void and unenforceable.

20. This Agreement constitutes the complete agreement between the parties and supersedes any prior written or oral communications. Any amendment of the Agreement must be in writing, specifically identified as an amendment to the Agreement, and signed by both Consultant and the Executive Director of MTC, or his designated representative. The Project Manager is not a designated representative, for purposes of approving an amendment.

If you agree, please sign both copies of this letter in the space provided below and return one to us. The other copy is for your files.

Very truly yours,

Steve Heminger
Executive Director

SH: DR

J:\CONTRACT\Procurements\Misc Professional Svcs\RFPs\FY 13-14\Brokerage\App D.docx

Accepted and Agreed to this _____ day
of _____, 2014.

insert name and, if known, title

ATTACHMENT A

SCOPE OF WORK AND SCHEDULE

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:

Task 1:

Deliverable:

Task 2:

Etc.

ATTACHMENT B

PROJECT PAYMENT SCHEDULE

FY 2014-15 and 2015-16

Task #	Deliverable	Amount Due																		
1.	Insurance Brokerage Services	No charge to MTC. Consultant shall be compensated in commission by Insurance Carriers																		
2.	Business Insurance Consulting Services (as needed)	Included unless a single project or request requires more than ____hours of resources. In these situations a flat fee or hourly payment would be agreed upon in advance. Total budget not to exceed \$_____ based on the hourly billing rates included in Attachment B-1.																		
3.	Certificate Management Services	Total budget not to exceed \$_____. Annual base rate to be billed in quarterly increments based on ____ vendors with an annual true-up in June for the number of vendors above the base as follows: <table border="1" data-bbox="737 1041 1481 1375"> <thead> <tr> <th>Fiscal Year</th> <th>Annual Base Rate (up to ____vendors)</th> <th>Above Base</th> </tr> </thead> <tbody> <tr> <td>FY 2014-15</td> <td>\$_____</td> <td>\$__/_vendor</td> </tr> <tr> <td>FY 2015-16</td> <td>\$_____</td> <td>\$__/_vendor</td> </tr> <tr> <td>FY 2016-17</td> <td>\$_____</td> <td>\$__/_vendor</td> </tr> <tr> <td>FY 2017-18</td> <td>\$_____</td> <td>\$__/_vendor</td> </tr> <tr> <td>FY 2018-19</td> <td>\$_____</td> <td>\$__/_vendor</td> </tr> </tbody> </table>	Fiscal Year	Annual Base Rate (up to ____vendors)	Above Base	FY 2014-15	\$_____	\$__/_vendor	FY 2015-16	\$_____	\$__/_vendor	FY 2016-17	\$_____	\$__/_vendor	FY 2017-18	\$_____	\$__/_vendor	FY 2018-19	\$_____	\$__/_vendor
Fiscal Year	Annual Base Rate (up to ____vendors)	Above Base																		
FY 2014-15	\$_____	\$__/_vendor																		
FY 2015-16	\$_____	\$__/_vendor																		
FY 2016-17	\$_____	\$__/_vendor																		
FY 2017-18	\$_____	\$__/_vendor																		
FY 2018-19	\$_____	\$__/_vendor																		

ATTACHMENT B-1

HOURLY BILLING RATES*

Position Title	Hourly Rate
	\$__ per hour

ATTACHMENT C
Insurance Provisions

PART 1

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 & Employers Liability may be waived, if and only for as long as CONSULTANT is a sole proprietor or a corporation with stock 100% owned by officers with no employees.

2. Commercial General Liability Insurance for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single

limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of MTC.

MTC and those entities listed in Part 2 of this Attachment C (if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.

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

4. Umbrella Insurance in the amount of \$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 \$5,000,000 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 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.

6. Property Insurance. Property Insurance covering CONSULTANT'S own business personal property and equipment to be used in performance of this Agreement AND materials or property to be purchased and/or installed on behalf of MTC (if any). 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.

Such policy shall contain a Waiver of Subrogation in favor of MTC.

MTC (and those entities listed in Part 2 of this Attachment , if any), and their commissioners, directors, officers, representatives, agents and employees are to be named as

additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONSULTANT's operations.

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

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

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

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

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

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

F. Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of CONSULTANT's personnel, 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 Section 9 of this Agreement.

Part 2

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

- Metropolitan Transportation Commission (MTC)
- Metropolitan Transportation Commission Service Authority for Freeways and Expressways (MTC SAFE)
- Bay Area Toll Authority (BATA)
- Bay Area Headquarters Authority (BAHA)
- Bay Area Infrastructure Financing Authority (BAIFA)
- Regional Administrative Facility Corporation (RAFC)
- Association of Bay Area Governments (ABAG)
- San Francisco Bay Area Rapid Transit District (BART)

Attachment D
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, 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 and its 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 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) 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 that may be used, transmitted, or stored on such systems in the performance of this Agreement.

Notwithstanding anything to the contrary in Article 14, Records, of this Agreement, CONSULTANT agrees to retain PII for no longer than the completion date of the Agreement. At the conclusion of this retention period, CONSULTANT agrees to use Department of Defense (“DOD”) approved software to wipe any disks containing PII. Hard drives and computers shall be reformatted and reimaged in an equivalently secure fashion. CONSULTANT agrees to destroy hard-copy documents containing PII by means of a cross-cut shredding machine. 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 the Attachment D, Special Conditions Relating to Personally Identifiable Information.”

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 and agrees to indemnify MTC against any loss, cost, damage or liability by reason of CONSULTANT's violation of this provision.

4. Subconsultants

MTC 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 which 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 which may injure or cause loss, either directly or indirectly, to MTC.

CONSULTANT shall comply, and shall cause its employees, representatives, agents and subcontractors to comply, with such directions as MTC may make to ensure 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, 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 which has or may have resulted in compromise to PII. For purposes of this section, immediately is defined as within two hours of discovery. The MTC contact for such notification is as follows:

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

APPENDIX D-1, INSURANCE REQUIREMENTS

Minimum Insurance Coverages. Consultant shall, at its own expense, obtain and maintain in effect at all times the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement, 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) days of MTC's notice to firm that it wishes to contract with the firm.
—	<u>Workers' Compensation Insurance</u> 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 & Employers 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.
—	<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 which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of MTC. MTC, MTC SAFE, BATA, BAHA, BAIFA, RAFC, ABAG, BART, 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.
—	<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 which shall not be less than \$1,000,000 combined single limit per accident.
—	<u>Umbrella Insurance</u> 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.
—	<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 \$5,000,000 per claim. Such policy shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and

	<p>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>—</p>	<p><u>Property Insurance.</u> 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.</p>
<p>MTC, MTC SAFE, BATA, BAHA, BAIFA, RAFC, ABAG, BART 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>All policies will be issued by insurers acceptable to MTC, generally with a Best's Rating of A-VIII or better.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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:</p> <ol style="list-style-type: none"> 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.

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 this Agreement.

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 this Agreement.

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

Representative Name and Title	
Name of Authorizing Official	
Authorized Signature	
Date	

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