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Deputy Executive Director, Operations

July 17, 2014

## REQUEST FOR QUALIFICATIONS

### SAN FRANCISCO BAY AREA CORE CAPACITY TRANSIT STUDY

NOTICE IS HEREBY GIVEN that the Metropolitan Transportation Commission (MTC), together with project partners San Francisco Bay Area Rapid Transit District, San Francisco Municipal Transportation Agency, San Francisco County Transportation Authority, and Alameda-Contra Costa Transit District, invites your firm to submit a Statement of Qualifications (SOQ) in the preparation and development of the San Francisco Bay Area Core Capacity Transit Study.

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

Interested firms must submit an original and six (6) copies, as well as one electronic PDF version, of their SOQ by **4:00 p.m., Thursday, August 21, 2014**, in accordance with the instructions contained in the RFQ. Other key RFQ Dates are listed in Section V, Consultant Selection Timetable of the RFQ.

Any contract entered into as a result of this RFQ will be funded, in whole or in part, with federal funds from U.S. Department of Transportation, Federal Transit Agency and/or Federal Highway Administration. Accordingly, the requirements included in Attachment H, Federal Requirements of Appendix D, MTC Standard Consultant Contract, and Appendices F through F-5 to this RFQ shall apply to this procurement.

*MTC Point of Contact*  
Adam Noelting, Project Manager  
Metropolitan Transportation Commission  
Joseph P. Bort MetroCenter  
101 Eighth Street  
Oakland, CA 94607-4700  
Tel: 510/ 817-5966  
E-mail: [ANoelting@mtc.ca.gov](mailto:ANoelting@mtc.ca.gov)

Thank you for your interest.

Sincerely,



Steve Heminger  
Executive Director

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## **I. PURPOSE AND PROJECT DESCRIPTION**

### **A. Description of MTC**

The Metropolitan Transportation Commission (MTC) was created by the California Legislature in 1970 to plan the transportation network for the nine San Francisco Bay Area counties. MTC functions both as the regional transportation planning agency – a state designation – and, for federal purposes, as the region's metropolitan planning organization (MPO). As such, MTC is responsible for regularly updating the Regional Transportation Plan (RTP), a comprehensive blueprint for the development of mass transit, highway, airport, seaport, railroad, bicycle and pedestrian facilities.

### **B. Purpose**

The San Francisco Bay Area's robust transit network is a critical element of the region's ability to support existing communities and job centers and accommodate forecasted growth in an environmentally sustainable manner. On an average weekday, approximately 1.6 million trips are made on rail, bus, and ferry transit systems, representing about 10 percent of total commute trips made by all modes within the region. Transit is especially critical for supporting current and forecasted growth in the region's three largest cities – San Francisco, Oakland, and San Jose – which are projected to absorb roughly 40 percent of the new jobs and housing in the region between now and 2040. Transit ridership is increasing all across the Bay Area, particularly in the backbone trunk corridors that connect job centers to residential areas.

In April of this year, MTC, in partnership with San Francisco Bay Area Rapid Transit District (BART), San Francisco Municipal Transportation Agency (SFMTA), San Francisco County Transportation Authority (SFCTA), and Alameda-Contra Costa Transit District (AC Transit) ("Project Partners") outlined a strategy to perform a collaborative San Francisco Bay Area Transit Core Capacity Study ("Study") as part of a request for a regional planning grant from the United States Department of Transportation's Transportation Investment Generating Economic Recovery ("TIGER") Discretionary Grant program. The Study will be undertaken regardless of receipt of a TIGER regional planning grant award; however, the scope and depth of work performed will be scaled to the final amount of funding available.

### **C. Project Description**

MTC seeks a Firm to assist with planning and technical analyses required to evaluate and prioritize short-, medium-, and long-term transit investments, and with policy and operating strategies to address existing and forecasted capacity constraints in Core San Francisco, see Figure 1 below. The chosen firm will focus on identifying a package of investments that expand transit capacity and connectivity to the rapidly growing Core San Francisco job centers. Core San Francisco is served by two key corridors that will be the focus of this Study: the Transbay Corridor and the Muni Metro Corridor.

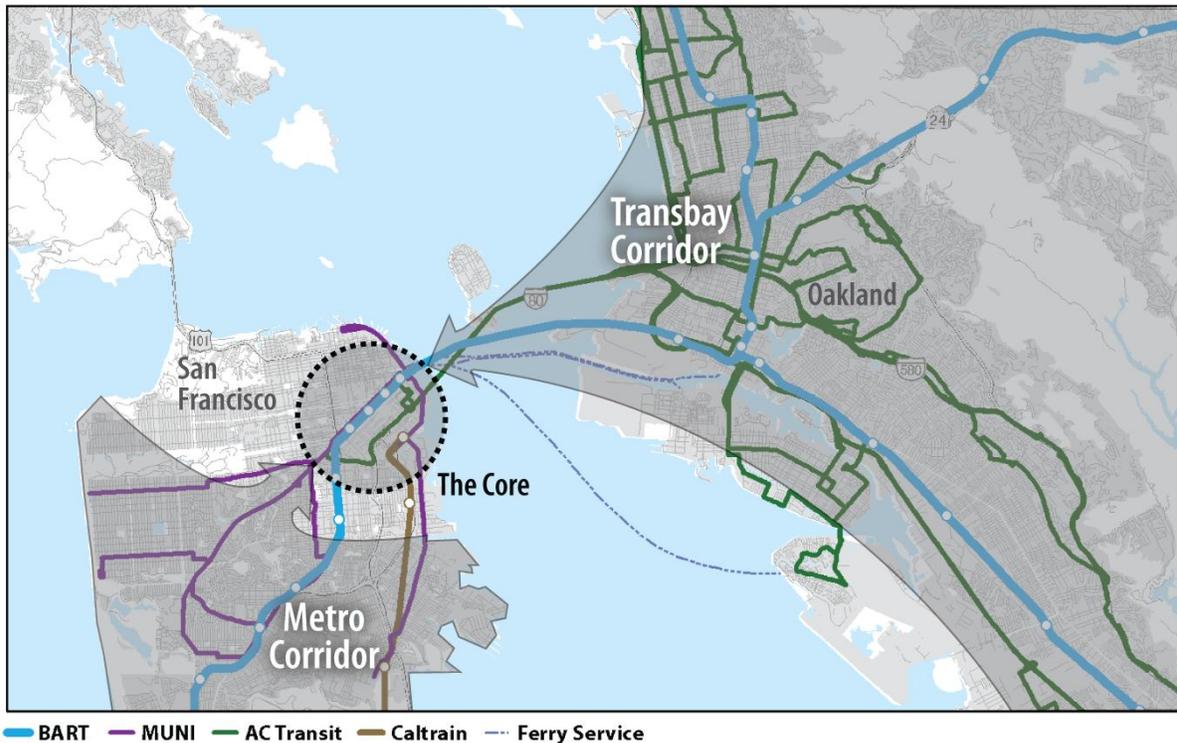


Figure 1. Study Area Map

#### **D. Areas of Proposer Expertise**

Proposers shall submit a Statement of Qualifications (SOQ) demonstrating the Areas of Expertise summarized below, and more fully described in *Appendix A, Preliminary Scope of Work*, either as an individual firm or as part of a multi-disciplinary team (“Proposer” herein refers to an individual firm or such team). If a Proposer team is formed, one firm within each team must submit the SOQ and serve as the prime consultant. The Project Manager shall be an employee of the prime consultant. Remaining firm(s) shall be subcontractor(s). To be eligible for SOQ evaluation, Proposers must meet the Minimum Qualifications (MQs) described in

Section II of this RFQ for every Area of Expertise.

The Areas of Expertise are briefly described below, and in further detail in *Appendix A, Preliminary Scope of Work*.

##### **A. Public Outreach and Engagement**

- Developing public outreach plans and strategies
- Managing and facilitating public outreach programs

##### **B. Transit Systems and Operations Planning**

- Data synthesis and analysis
- Transit market demand analysis
- Travel forecasting
- Transit systems integration (e.g., rail, bus, and ferry)
- Transit operations analysis (e.g., rail, bus, and ferry)

- Conceptual project development
- Multimodal corridor planning
- Understanding of integrated transportation and land use planning
- Project phasing, prioritization, and implementation strategies
- Federal, State, regional, and local transportation and transit funding framework

**C. Transit Systems Engineering and Design**

- Transit systems design (e.g., rail, bus, and ferry)
- Transit operations and service design (e.g., rail, bus, and ferry)
- Cost estimation

## **II. MINIMUM QUALIFICATIONS**

The Minimum Qualifications (MQs) required for each Area of Expertise are described below. Proposers must meet the MQs in every Area of Expertise to be eligible for consideration for the Study.

**A. Public Outreach and Engagement**

- The Proposer must demonstrate successful completion of at least two (2) projects in the past three (3) years performing work requiring expertise in any of the topics listed above in Section I. D.A.
- Project Manager must demonstrate at least five (5) years of overall project management experience performing work requiring expertise in any of the topics listed above in Section I.D.A.

**B. Transit Systems and Operations Planning**

- The Proposer must demonstrate experience related to transit systems planning and coordination among multiple transit modes (e.g., rail, bus, and ferry).
- The Proposer must demonstrate successful completion of at least two (2) projects in the past five (5) years performing work requiring expertise in any of the topics listed above in Section I.D.B.
- Project Manager must demonstrate at least five (5) years of overall project management experience performing work requiring expertise in any of the topics listed above in Section I.D.B.

**C. Transit Systems Engineering and Design**

- The Proposer must demonstrate experience related to transit systems engineering and design among multiple transit modes (e.g., rail, bus, and ferry).
- The Proposer must demonstrate successful completion of at least two (2) projects in the past five (5) years performing work requiring expertise in any of the topics listed above in Section I.D.C.

- Project Manager must have at least five (5) years of overall project management experience performing work requiring expertise in any of the topics listed above in Section I.D.C.

#### **D. Other Qualifications**

The following Proposer qualifications are desirable, but not required in order for a Proposer to be evaluated:

- Project manager and other key staff familiar with the Bay Area transit system.
- Depth of staff resources to work on multiple tasks at the same time.

### **III. SCOPE OF WORK, SCHEDULE, AND BUDGET**

A preliminary work scope for the project is provided in *Appendix A, Preliminary Scope of Work*. MTC has not refined the scope of work for the Study.

All work will be assigned pursuant to MTC-initiated task orders, which will include a specific scope of work based on the preliminary work scope and tasks identified in *Appendix A, Preliminary Scope of Work*. Payment for work performed under task orders may be deliverables-based or time and materials, as determined by the MTC Project Manager and specified in signed task orders. A sample task order form is attached hereto as part of *Appendix C, MTC Standard Consultant Agreement, Attachment A-2, Task Order Form*.

Note that Tasks 1-3 of Section C in *Appendix A, Preliminary Scope of Work*, are optional tasks for the proposing teams. These tasks may be included as part of this contract, or they may be implemented separately by the operating agencies as separate contracts or tasks under separate contracts not included in this RFQ.

MTC expects work to commence on or about November 1, 2014, and to be complete by March 31, 2017. At MTC's sole option, the contract may be extended for additional work related to or contemplated by the preliminary scope of work.

Funding for this project is subject to MTC budget approval. It is anticipated that one million dollars (\$1,000,000) is available for the project. Additional funding may be available pending a regional planning grant award from the United States Department of Transportation's Transportation Investment Generating Economic Recovery ("TIGER") Discretionary Grant program.

### **IV. PROPOSERS' CONFERENCE AND REQUESTS FOR CLARIFICATION OR EXCEPTIONS**

A Proposers' Conference will be held at **1:00 p.m., Thursday, July 24, 2014**, at the Joseph P. Bort MetroCenter Building, 101 8<sup>th</sup> Street, Oakland, in the Claremont Conference Room.

Any addenda to this RFQ will be posted on MTC's website. All Proposers are responsible for checking the website for any addenda to this RFQ.

Any requests for clarification of or exceptions to RFQ requirements must be received by MTC no later than **4:00 p.m., on Monday, July 28, 2014**, to guarantee response or consideration. MTC reserves the right to reject any SOQ that contains unauthorized conditions or exceptions.

## V. CONSULTANT SELECTION TIMETABLE

1:00 p.m. (PST), Thursday, July 24, 2014	Proposers' Conference in the Joseph P. Bort Metro Center Building, 101 8 <sup>th</sup> Street, Oakland, CA, Claremont Conference Room
4:00 p.m. (PST), Monday, July 28, 2014	Closing date and time for requests for clarifications/ exceptions to RFQ provisions
No later than one (1) week prior to the date SOQs are due	Closing date for objections to RFQ provisions
<b>4:00 p.m. (PST), Thursday, August 21, 2014</b>	<b>Closing date and time for receipt of Statements of Qualifications at MTC offices</b>
September 10-12, 2014*	Interviews (if conducted)
October 8, 2014*	MTC Administration Committee Approval

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

## VI. SUBMITTAL OF SOQS

1. Interested firms must submit an original and six (6) copies, as well as one electronic PDF version, of their SOQ by **4:00 p.m., Thursday, August 21, 2014**. **Submission of an electronic copy of the SOQ without hard copies will not satisfy the submission requirement.**
2. SOQs are to be addressed as follows:  

San Francisco Bay Area Core Capacity Study  
Attention: Adam Noelting  
101 8<sup>th</sup> Street, 3<sup>rd</sup> Floor Receptionist  
Oakland, CA 94607
3. Proposer's name and return address must also appear on the envelope.
4. SOQs will be received only at the address shown above and **no later than the date and time indicated**. MTC is not responsible for deliveries delayed for any reason. Any SOQs 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 SOQs submitted solely by email and no faxed SOQs will be considered.
6. All SOQs, 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 3<sup>rd</sup> floor at the receptionist

desk shall be considered the official timepiece for the purpose of establishing the time of receipt of SOQs.

7. Consultant agrees and acknowledges all RFQ specifications, terms and conditions and indicates ability to perform by submission of a SOQ.
8. A signed SOQ submitted to MTC in response to this RFQ shall constitute a binding offer from Consultant to contract with MTC according to the terms of the SOQ for a period of one hundred twenty days (120) days after the SOQs are due to MTC.
9. A SOQ may be withdrawn at any time before the date and time when SOQs are due by submitting a written request for its withdrawal to the MTC Project Manager.
10. This RFQ does not commit MTC to award a contract or to pay any costs incurred in the preparation of a SOQ in response to this RFQ.
11. Only one SOQ 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 SOQs 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 RFQ.
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 RFQ, MTC reserves the right to reject the SOQ and enter into a contract with the next highest scoring firm.

## **VII. FORM OF STATEMENT OF QUALIFICATIONS**

Sections that should be included in the SOQ are described below. Page limits, where specified, are for each side of print. Proposers are encouraged to print double-sided copies to save paper.

### **A. Transmittal Letter**

A transmittal letter signed by an official authorized to solicit business and enter into contracts for the firm. The transmittal letter should include the name, telephone number, and email of a contact person if different from the signator. The letter should also indicate whether there are any conflicts of interest that would limit the Proposer's ability to provide the requested services, which should be fully addressed as described in Section VII.I below. The letter should indicate that the SOQ is a firm offer to enter into a contract to perform work related to this RFQ for a period of one hundred twenty (120) days from SOQ submission. (Not to exceed 1 page)

**B. Title Page**

Title page showing the RFQ subject, the name of the proposer's firm, address, telephone number, name of contact person and email, and the date. (Not to exceed 1 page)

**C. Approach to Study**

A detailed description to the Proposer's proposed approach to completing all tasks in *Appendix A, Preliminary Scope of Work*, including the optional tasks, based on the Proposer's qualifications and experience. (Not to exceed a total of 10 pages)

**D. Firm Qualifications and Experience**

A detailed statement describing the Proposer's qualifications and experience relevant to the tasks in *Appendix A, Preliminary Scope of Work*. Refer to Section I.D, Areas of Expertise and, Section II, Minimum Qualifications. (Not to exceed a total of 4 pages)

Provide proposer's organizational structure identifying Principal-In-Charge (PIC) (if applicable), Project Manager (PM) and Lead Staff, and team communication protocol. (Not to exceed 1 page)

**E. Staff Qualifications and Experience**

A brief summary of Proposer staff experience relevant to each Area of Expertise. Refer to Section I.D, Areas of Expertise and Section II, Minimum Qualifications. (Not to exceed 3 pages)

Provide staff resumes highlighting relevant experience of the staff expected to work on the resulting contract by Area of Expertise in the following order – PIC (if applicable), PM, Lead Staff and Technical Support Staff. (Not to exceed 8 pages)

For clarity, the Proposer is asked to submit a table showing each proposed staff person and his or her applicable skills and/or experience in relation to their Area(s) of Expertise, and naming the lead staff who meet(s) the MQs for the PM. (Not to exceed 1 page)

**F. Similar Projects**

Provide information regarding similar projects the Proposer completed in relation to each Area of Expertise as described in Section I.D. Examples should demonstrate Proposer's experience with at least two (2) projects substantially similar to tasks described in *Appendix A, Preliminary Scope of Work*, completed in the past three (3) years. For clarity, these two (2) projects can count as projects that also demonstrate Proposer's Minimum Qualifications (as set forth in Sections II.A – II.C)

Project summaries must include the name of the client, the firm's role and responsibilities, key staff and their roles and responsibilities, the firm's contract term and amount, and a contact

person (with telephone number and e-mail) who may be contacted as a reference. (Not to exceed 6 pages)

Also include a list of any contracts with MTC, BART, SFMTA, AC Transit, or SFCTA by the Proposer or any of its subcontractors in the past three (3) years, including a brief description of the scope of work, the contract amount, date of execution and the project manager. (Not to exceed 2 pages)

### **G. Work Sample**

A copy of one report or final work product prepared by key members of the Proposer team in which scope and details are comparable to the tasks in *Appendix A, Preliminary Scope of Work*. Where key members of the Proposer team have not worked together on the same project, separate reports or final work products shall be submitted. Identify which key members worked on each report or final work product and in what capacity, and provide client contact information.

The work sample will be considered in evaluating firm and staff expertise and experience, and written presentation effectiveness (see Section B below). To save paper, MTC requests (but does not require) that where the work sample exceeds 50 pages, it be submitted separately from the SOQ in pdf format on a CD or DVD; provide 4 electronic copies in lieu of 8 printed copies.

### **H. Hourly Rates**

IN A SEPARATE SEALED ENVELOPE: Include your firm's fully loaded hourly rates, including a description of all charges that would be passed on to MTC. For hourly rates, indicate when rates are due to change, that basis for change, and approximately how much they can be expected to change each year.

### **I. Conflict of Interest**

By submitting an SOQ, the Proposers represent and warrant that no Commissioner, officer or employee of MTC is in any manner interested directly or indirectly in the SOQ or in the contract that may result from this RFQ or in any profits expected to arise therefrom, as set forth in California Government Code Section 1090. Proposers further warrant and represent that they presently have no interest and agree that they will not acquire any interest that would present a conflict of interest under California Government Code Sections 1090 et seq. or 87100 et seq. during the performance of services under any contract resulting from this RFQ and that they will not knowingly employ any person having such an interest. Violation of this provision may result in the contract being deemed void and unenforceable.

### **J. Forms and Certificates**

1. A signed California Levine Act statement (*Appendix B, California Levine Act Statement*);
2. A signed *Appendix D, Iran Contracting Act of 2010*.

3. A signed Certification Regarding Debarment, Suspension, and Other Responsibility Matters (*Appendix E-1, Certification Regarding Debarment, Suspension, and Other Responsibility Matters*);
4. A signed Certification of Restriction on Lobbying (*Appendix E-2, Certification of Restrictions of Lobbying*);
5. Note that federally required forms regarding DBE participation will be required at task order issuance (see *Appendix C, MTC Standard Consultant Agreement*, Attachment H, *Federally Required Clauses*, and Appendix E-3, Appendix E-4, and Appendix E-5 of this RFP, for further information).

## VIII. EVALUATION

### A. **Review for Satisfaction of Minimum Qualifications and Responsiveness**

The MTC Project Manager, in consultation with the MTC Office of General Counsel, will conduct an initial review of the SOQs for responsiveness to ensure that each SOQ meets the MQs set out in Sections II.A – II.C. Proposers failing to meet the MQs will not be considered. In addition, any SOQ that does not include enough information to permit the evaluators to rate the SOQ in any one of the evaluation factors listed below will be considered non-responsive and will not be evaluated. An SOQ that fails to include one or more items requested in Section IVII 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**

Responsive SOQs meeting the MQs will be evaluated by a panel of staff representatives from the Project Partners or other public agencies based on the following evaluation criteria, listed in order of relative importance.

1. Experience and qualifications of the firm(s) and of proposed staff in relation to the expertise sought by MTC, as listed and described in Section I.D and in *Appendix A, Preliminary Scope of Work*; this may include information gathered through references;
2. Experience and qualifications of the firm(s) in relation to the proposed approach to the Study;
3. Written and oral communication, as evidenced by the submitted SOQ and interviews, if held;
4. Depth of staff resources to work on multiple tasks at the same time; and
5. References (see below).

### C. **Proposer Interviews**

Following the evaluation, the panel may elect to recommend award to a particular proposer or may hold interviews with a “short list” of proposers, prior to selection. The panel will recommend a Consultant to the MTC Executive Director, based on their evaluation of the written proposals and oral interviews (if held). The Executive Director will review the recommendation

and, if he agrees, he will approve the award or forward the recommendation to the appropriate MTC Committee for approval.

MTC reserves the right to not convene interviews and to make an award on the basis of written proposals, alone. 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. Further, MTC reserves the right to accept or reject any and all proposals submitted, to waive minor irregularities in proposals, and to request additional information from the proposers. Any award made will be made to the firm whose proposal is the most advantageous to MTC, based on the evaluation criteria listed above.

#### **D. Recommendation for Contract Award**

The MTC Project Manager will then recommend a Proposer to the Executive Director. If he agrees with the recommendations, he will request the approval of the MTC Administration Committee.

### **IX. GENERAL CONDITIONS**

#### **A. Limitations**

This RFQ does not commit MTC to award a contract or to pay any costs incurred by any proposer in the preparation of a SOQ in response to this RFQ.

#### **B. Award**

Any award made will be to the Consultant whose SOQ is most advantageous to MTC based on the evaluation criteria defined in Section VI. 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 RFQ, MTC reserves the right to reject the SOQ of the selected firm and enter into a contract with the next highest scoring firm.

#### **C. Binding Offer**

A signed SOQ submitted to MTC in response to this RFQ shall constitute a binding offer from Proposer to contract with MTC according to the terms of the SOQ for a period of one hundred twenty (120) days after its date of submission, which shall be the date SOQs are due to MTC.

#### **D. Contract Arrangements**

MTC's Standard Consultant Contract is attached as *Appendix C*. 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 E below.

The selected Consultant will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix C-1, Insurance Requirements*. Proposer agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements in *Appendix C-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 RFQ must be brought to MTC's attention no later than the deadline for protesting RFQ provisions or compliance with all material insurance requirements will be assumed.

All work will be assigned pursuant to MTC-initiated task orders, which will include a specific scope of work based on the preliminary work scope and tasks identified in *Appendix A, Preliminary Scope of Work*. Payment for work performed under task orders may be deliverables-based or time and materials, as determined by the MTC Project Manager and specified in signed task orders. A sample task order form is attached hereto as part of *Appendix C, MTC Standard Consultant Agreement, Attachment A-2, Task Order Form*.

#### **E. Selection Disputes**

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

1. No later than 4:00 p.m. on the third day prior to the date SOQs are due, for objections to RFQ provisions; or
2. No later than 4:00 p.m. on the third day after the date the firm is notified that it did not meet the MQs 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 Administration Committee authorizes award.

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

## **F. Public Records**

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

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

“The data on the following pages of this SOQ, including pricing information submitted under Section VII.H of this RFQ 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 SOQ, MTC shall have the right to use or disclose the data, unless otherwise provided by law. [List pages].”

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

In the event properly marked data is requested pursuant to the California Public Records Act, the Proposer will be advised of the request. If the SOQ requests that MTC withhold such data from disclosure and MTC complies with the proposer's request, the proposer shall assume all responsibility for any challenges resulting from the non-disclosure; indemnify and defend MTC and hold it harmless from and against all claims, legal proceedings, and resulting damages and

costs (including but not limited to attorneys' fees that may be awarded to the party requesting such proposer information); and pay any and all costs and expenses relating to the withholding of the proposer information.

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

### **G. Conflicts Of Interest**

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

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

Whenever MTC is awarding a contract that involves the rendering of advice, it will consider whether there exists the potential for bias, because of other activities, relationships or contracts of the Proposer, and if so, whether any potential bias can be mitigated acceptably by MTC and the Proposer. After award, the 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.

### **H. Disadvantaged Business Enterprise (DBE) Policy**

**Federal funding will likely be the part of the contracts resulting from this RFQ. Therefore, the following requirements apply.**

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 in the work under this RFQ will assist Caltrans in meeting its federally-mandated, statewide overall DBE goal.

MTC will establish Disadvantaged Business Enterprise (DBE) goals for each task order issued under any contract that included federal funds entered into as a result of this RFQ.

#### 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, a "Local Agency Proposer DBE Commitment (Consultant Contract)" (Exhibit 10-O1) 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.

A "Local Agency Proposer DBE Information (Consultant Contract)" (Exhibit 10-O2) form shall be included with the procurement document. The purpose of the form is to collect data required under 49 CFR 26. This form collects all DBE participation. Even if

no DBE participation will be reported, the successful Proposer must execute and return the form.

#### 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 their 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 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, which 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 A, PRELIMINARY SCOPE OF WORK**

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

Note that Tasks 1-3 of Section C in *Appendix A, Preliminary Scope of Work*, are optional tasks for the proposing teams. These tasks may be included as part of this contract, or they may be implemented separately by the operating agencies as separate contracts or tasks under separate contracts not included in this RFQ.

Services to be performed under this RFQ include the following Areas of Expertise:

### **A. PUBLIC OUTREACH AND ENGAGEMENT**

#### **1. Public and Stakeholder Outreach**

The Proposer should include a wide range of public and stakeholder outreach activities including traditional and innovative approaches. (The Proposer and Project Partners' specific roles and responsibilities for Tasks 1a, 1b, and 1c should be identified during the development of the Public Outreach Plan)

##### **a) Public Outreach**

An Outreach Strategy should be produced during Study initiation that describes outreach goals and objectives as well as a work plan to notify and seek input from stakeholders and members of the public over the course of the Study. The Outreach strategy should build on lessons learned from past outreach successes and utilize existing stakeholder forums to the greatest extent possible.

The Outreach Strategy should include Title VI outreach and is expected to include in-person and online outreach techniques and opportunities provided in a number of languages to ensure a diverse range of opportunities for the public to participate in the project. Outreach should include engagement with key stakeholders such as business coalitions, advocacy groups, and business improvement districts, as well as general public meetings as appropriate.

While it will be further detailed as a part of Outreach Strategy development, generally, two outreach phases are envisioned:

- i) Phase 1 should happen after completion of Task B3, and be focused on:
  - Providing an overview of the purpose of the Study and the evaluation framework.

- Sharing the results of the existing and future needs analysis (Task B3), including capacity goals by corridor by time horizon.
  - Summarizing projects/policies/operational strategies that have already been defined by corridor during predecessor planning efforts.
  - Understanding the public's issues and comments around the various alternative investments to be evaluated.
  - Seeking input on additional ideas that should be considered for development and evaluation.
- ii) Phase 2 should happen after completion of Task B7 and be focused on:
- Sharing what was heard in Phase 1 and how it was used.
  - Sharing the results of the evaluation and prioritization of high-performing concepts by time horizon.
  - Seeking feedback on stakeholder preferences among these concepts.
- b) Transit Agency Outreach

In addition to the Project Partners, additional relevant public agencies will also be consulted at key points throughout the course of the Study. MTC will facilitate regular meetings with a Technical Advisory Committee (TAC), expected to include participation from all Project Partners as well as other transit operators in the Core, County Congestion Management Agencies, City staff from local jurisdictions, local Federal Transit Administration staff, and the California Department of Transportation. This group will be consulted at key points throughout the course of the Study.

c) Local Government Outreach

At key points throughout the process, relevant staff from key local governments including in particular the Cities of Oakland and San Francisco will be engaged to ensure that potential modifications to service or new infrastructure investments generally align with their intended future land use visions. Elected officials from local governments will also be engaged through their participation in other Plan Bay Area activities; to ensure maximum efficiency, these efforts will be synchronized.

Deliverable(s): Public Outreach Plan, TAC meeting materials and summaries, Phase 1 and Phase 2 Outreach Materials and Summaries.

## **B. TRANSIT SYSTEMS AND OPERATIONS PLANNING**

### **1. Project Start-up and Ongoing Management**

Project start-up and ongoing management activities would include:

- Refining a work plan and budget by task.
- The Project Partners will develop a Project Charter that confirms Study goals and objectives, roles and responsibilities of participating agencies, structure for collaboration and reaching agreement across agencies.
- Regular coordination meetings among Project Partners and Proposer.

Deliverable(s): Refined scope of work and budget.

## 2. Existing/Future Needs Synthesis and Identification

Together, the Transbay corridor and Muni Metro spine comprise the backbone of the Bay Area's core transit system. Plan Bay Area will sustainably manage future regional growth, but its increased travel demand is expected to fall particularly heavily on several downtown San Francisco transit stations, along the Transbay and Muni Metro Corridors. The key challenge addressed in the Study will be developing concepts to expand capacity on the very successful Transbay and SF Muni Metro trunk transit services that are currently operating at, near or over-capacity levels due to increasing ridership.

The main goal of this task is to establish target peak hour capacity goals for each of the Study Corridors and identify key transportation challenges facing the Study Area and Corridors. Sub-tasks include:

- a) Establish project goals and objectives. The Project Partners will work with project stakeholders to define the project goals and objectives. The goals and objectives will then be used to frame the Evaluation Criteria developed in Task B4.
- b) Quantify existing and planned future capacity of those projects already in development by Study Corridor and Mode. Operators will be asked to confirm or update the latest assumptions. This effort will also include information about capacity provided by employer shuttles operating to/from/within the Core.
- c) Market Demand Analysis by Study Corridor. This task will utilize Plan Bay Area land use to forecast travel demand by corridor for short- medium- and long-term horizon years. The analysis would include:
  - Identify the major travel markets for each corridor. For example, in the Transbay corridor, identifying the most common origins in the region to destinations in San Francisco, could inform new AC Transit bus routes that could serve origins and destinations not near existing BART stations in the shorter-term. Similarly, identifying these same Transbay travel markets could inform the ideal route for a second BART Transbay tube in the longer term.
  - Forecasting future travel within the region.
  - Determine the total number of forecast trips and peak period trips by all modes by corridor.
  - Using the results of the forecasts, a capacity target by corridor by travel market will be established.
  - Identification and analyses of regional policies that can encourage and support transit in corridors (e.g., parking pricing and congestion tolling.)

Deliverable(s): Technical memo(s) identifying (1) the study goals and objectives, and (2) identifying and synthesizing future needs, quantification of existing and planned capacity by study corridor and mode, and market demand analysis. Maps and extensive data shall support the technical memo(s.)

### **3. Identify Transportation Challenges Facing the Study Area and Corridors**

- a) Synthesize past studies/work to identify i) constraints/needs to maintaining/increasing capacity, and ii) capacity improvement concepts that have already been developed: Several past studies have been completed or are currently in progress that identify transit system needs and/or have developed capacity improvement concepts for some of the Study Corridors. With limited effort, this task would allow for a small level of effort to synthesize all relevant past work, including core maintenance/State of Good Repair needs that must be achieved to maintain existing capacity.
- b) Identify key transportation challenges in the Study Area and Corridors. The challenges will include both current and future challenges to providing a reliable, efficient transit system to meet the projected demand. It is anticipated that the challenges will include but not be limited to capacity constraints, operational challenges, track and right of way limitations, and vehicle constraints.

Deliverable(s): Technical memo(s) identifying key transportation challenges constraining the transit system in the Study Area and Corridors.

### **4. Evaluation Framework**

An evaluation framework will be established to translate the Study's goals and objectives into qualitative and quantitative metrics that can be used to screen and prioritize strategies and identify appropriate methodologies for carrying out the evaluation. The evaluation framework will build off the robust project performance analysis, including project level benefit cost analysis, MTC conducts for the regional transportation plan, as well as project analysis frameworks used by the participating agencies in establishing their investment priorities. The Project Partners recommend including time as a component to evaluating investment priorities by using a "stream-based" benefits approach. The framework will also take into account the performance measures currently being developed by U.S. DOT under the MAP-21 performance monitoring initiative. Overall, the evaluation framework's primary goal should be: amount of peak transit capacity by corridor/mode and travel market.

Deliverable(s): Technical memo(s) detailing evaluation framework and methodology.

### **5. Develop Capacity Improvement Concepts**

In this task, Proposers will add to the existing improvement concept list synthesized in Task B3 to develop additional ways to achieve the targeted capacity by Study corridor, mode, and time horizon. In this task, the transit operators (SFMTA, BART, and AC Transit) will provide direction to Proposers for development of improvement concepts specific to their systems in consideration of their agency-wide policies and other system plans and needs.

Proposers should address short-, mid-, and long-range transit strategies including infrastructure, policy, and operational recommendations to maintain and increase transit

capacity and improve reliability and connectivity. Some short-range strategies may be advanced as interim recommendations during the Study.

For the near future, additional capacity must come through efficient use of existing infrastructure – a strategy that is consistent with Plan Bay Area’s “Fix-it First” investment strategy. BART is proceeding with several projects designed to enhance capacity of the existing system, including a new train control system and new increased capacity vehicles. The options to expand capacity in this corridor are complicated by the geography of the San Francisco Bay, and the constrained nature of the transit and highway infrastructure that cross it. Fixed links through this corridor are limited to BART’s Transbay Tube, and the San Francisco-Oakland Bay Bridge. While the primary focus is the flow through the corridor connecting San Francisco with the Inner East Bay, the Transbay Corridor is fed by major travel flows from many counties and travel markets to the north, east, and south. BART’s ability to handle additional demand in the Transbay Corridor is contingent on major new investments and station modifications to the BART system, some of which are underway, and some of which are unfunded. Plan Bay Area also advances the BART Metro concept, which facilitates long-term land use changes primarily by providing a high-frequency, high capacity urban core rail trunk system, with the Transbay Corridor as the central linchpin of the core system.

The Muni Metro Corridor has been incrementally upgraded over the last 30-40 years. Entry and exit points to the Muni Metro Corridor suffer from poor reliability due to the merging/diverging of multiple rail lines and the transition from manual to automatic train control. Topographic barriers provide few options for direct routes heading into or out of the financial district on a mode other than light rail. The Muni Metro Corridor provides a high-frequency local rail system, which is the core of the transit system in San Francisco, but which is also in need of capacity and operational modifications.

Concepts are expected to include the following categories:

a) Rail Strategies

- Interventions to increase line capacity on existing lines (upgrades to train control system, increase/enhancement to rolling stock/facilities, junction modifications, station modifications, service design.)
- Interventions to increase speed/reliability of existing lines and operate different service patterns (e.g. tail tracks, crossovers, turn-backs, and portal improvements.)
- New lines (e.g. second Transbay Tube variations, new BART line in San Francisco extending from second Tube, Central Subway extension to Fisherman’s Wharf.)
- Any rail capacity improvement strategies will consider all relevant aspects of capacity including line capacity, station capacity, station access considerations, rolling stock/facilities requirements, and relevant operating plans changes.

b) Bus strategies

- New route structure to better serve demand in East Bay as well as potential expanded employment destinations beyond downtown San Francisco such as Mission Bay and San Francisco Civic Center.
- More frequent service in more high-density TOD corridors along with new vehicle fleet to increase per-trip capacity. Establishment of a transit network using Park & Rides to efficiently carry more riders, reduce travel time through neighborhoods, and consequently improve service frequencies.
- Priority treatments to provide speed and reliability including Bay Bridge contra-flow lane, transit-only lanes and transit priority on East Bay arterials and intersection treatments (signal priority and queue jumps.)
- Improved coordination and implementation with private shuttles.

c) Ferry strategies

- More frequent ferry service/additional ferry terminals.
- Improved multi-modal connectivity.

d) Policy/Operational

- Regional pick-up/drop-off within San Francisco.
- Coordinated marketing.
- Peak hour fare premiums.
- Fare coordination.
- Station-specific congestion pricing.
- Interagency fare coordination.
- Employer Transportation Demand Management engagement and coordination.

Deliverable(s): Capacity improvement concept descriptions and visuals for each corridor, mode, and time horizon.

## 6. Screen Capacity Improvement Concepts

Using the evaluation criteria identified in Task B4, Proposers will screen the concepts developed in Task B5 and if applicable, refined in Task C1. Screening criteria will likely include: supports regional goals, potential implementation schedule, rough order of magnitude capital cost and change in operating cost, constructability and basic engineering feasibility. The goal is to reduce the conceptual alternatives to a more limited number for further project development. Preliminarily, five to ten concepts would advance to further project development.

Deliverable(s): Technical memo(s) detailing the results of the screening and recommending concepts for further analysis.

## 7. Evaluation, Prioritization, and Phasing of Capacity Improvements Concepts

Using the evaluation criteria identified in Task B4, Proposers will conduct an evaluation of the concepts as refined in Task C2 (if completed). The goal is to prioritize the alternatives to a limited number for future project development and implementation work,

and develop a preliminary recommendation for phasing by time horizon, and for inclusion in future updates of Plan Bay Area and agency planning efforts.

Projects or policies that can provide for short-term benefits may be advanced more quickly to develop interim improvement recommendations.

Potential alternatives include:

a) Transbay Corridor

The study will take the next step toward defining what is needed for BART and for the other modal operators to serve additional demand in the Transbay Corridor, both through enhancements to the existing infrastructure, and major construction of new infrastructure. It is important for the region to identify and evaluate investment trade-offs by identifying the point at which current and proposed infrastructure enhancements would not be sufficient to handle future demand.

Alternatives may include:

- No project.
- Bus service and infrastructure improvements:
  - Contraflow lane for AM Peak (The contraflow lane alternative will need to build on the 2010 Study. Each alternative should be defined to a higher level of engineering - assumed to be approximately 5%);
  - Bus fleet with higher capacity;
  - Shift model of service to high density areas; and
  - Integrate Park and Ride service.
- BART capacity improvements to the existing system using the current tube.
- Expanded ferry system.
- BART West Oakland transfer station concept with SF shuttle trains (no through service).
- Second Transbay Tube variations (2-track and/or 4-track)

b) Muni Metro Corridor

The SFMTA and SFCTA are currently developing a strategy to increase the person carrying capacity of the current Metro rail system through removal of key bottlenecks and infrastructure expansion, called the San Francisco Rail Capacity Strategy (Rail Strategy). This strategy will produce project descriptions and conceptual engineering for near term projects (0-5 years) to provide additional capacity using existing infrastructure and concepts for medium and long term projects (5+ years) that would expand the SFMTA rail system to meet projected future demand. This Study will take the projects developed in the Rail Strategy and move them forward with additional planning and engineering work.

Alternatives may include:

- No project.
- Supplemental bus service.
- Station platform extensions.

- Portal area traffic control, transit only lanes, and Transit Signal Priority.
- Wayside and Automatic Train Control System upgrades.
- Three and four car trains with optimized interior configuration.
- Additional pocket and crossover tracks.
- Operating short lines and shuttles.

Deliverable(s): Technical memo(s) documenting evaluation methodology, recommended priorities, and recommendations for potentially phasing capacity improvements over time.

## **8. Implementation Strategy**

In this task, Proposers will communicate the results of the effort to develop regional consensus on prioritized alternatives for short, mid, and long-term improvements. An implementation strategy will be developed that references the relationship between/amongst alternatives. Prioritized alternatives will be used to aid as an advocacy platform for future funding programs, and to leverage existing funding sources. Projects or policies that can provide for short-term benefits may be advanced more quickly to develop interim improvement recommendations.

- a) Identify partnerships amongst agencies necessary for implementation.
- b) Identify major roadblocks for implementation.
- c) Develop project development and implementation plan, design and environmental phases, and project delivery methods.
- d) Develop funding plan and strategy.

Deliverable(s): Technical memo(s) detailing an implementation strategy.

## **9. Draft and Final Report**

The technical work completed will be summarized in a Draft Final Report. The report will be circulated for review and refined based on comments. This task also includes preparation of presentation materials and making presentations on the findings and recommendations to governing bodies of project team. A Final Report will be approved by the Agency Team.

Deliverable(s): Draft and Final Report, Summary Presentation.

## **C. TRANSIT SYSTEMS ENGINEERING AND DESIGN**

Transit systems engineering and design tasks are optional tasks. These tasks may be incorporated into the overall work scope, or they may be implemented separately by the operating agencies as separate contracts or tasks under separate contracts.

### **1. Refine Capacity Improvement Concepts (\*Optional - Operator-led)**

Engineering and operations planning support for initial development of capacity improvement concepts. SFMTA, BART, and AC Transit will manage Proposers to develop initial capacity improvement concepts, in support of the conceptual planning work in Task B5.

Deliverable(s): Conceptual engineering drawings to a level appropriate for initial concept development (less than 1% design for most concepts.)

## **2. Project Development (\*Optional - Operator-led)**

For the subset of concepts identified in Task B6 for further project development, SFMTA, BART, and AC Transit will manage Proposers to conduct additional project development. Conceptual Engineering drawings to a level appropriate for evaluation and prioritization (up to 5% design for most concepts) will be developed.

Deliverable(s): 5% engineering drawings including horizontal and vertical alignments, typical cross-sections, service and operating parameters.

## **3. Refine Project Development (\*Optional - Operator-led)**

In this task, operators will guide Proposers in additional scoping and project development of the highest prioritized projects identified in Task B7, including:

- a) Advance project conceptual design.
- b) Refine ridership estimates.
- c) Develop initial environmental assessment. Prepare an initial checklist assessment of environmental issues likely to be raised in future CEQA and NEPA processes, at both the Program-level and the Project-level.
- d) Develop initial Title VI evaluation. Develop an initial Title VI evaluation of the preferred alternatives. Analysis will comply with FTA Title VI Circular 4702.1B Service and Fare Equity, released on October 12, 2012.
- e) Phasing plan for construction and fleet expansion. Develop a phasing plan for construction of any rail alternatives that proceeds in logical segment order and allows interim operability of project phases as they are completed.
- f) Refine cost estimates. Cost estimates should be completed using a format and level of detail appropriate for application for entry into the FTA New Starts or Core Capacity process.

Deliverable(s): Technical memo(s) and visuals summarizing refined project concepts and evaluation work.

**APPENDIX B, 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. Halstead	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 C, MTC STANDARD CONSULTANT AGREEMENT

### PROFESSIONAL SERVICES AGREEMENT

Between METROPOLITAN TRANSPORTATION COMMISSION  
And SAN FRANCISCO BAY AREA CORE CAPACITY TRANSIT STUDY  
For **INSERT BRIEF DESCRIPTION**

THIS AGREEMENT is made and entered into as of the **xx** day of August, 2014, 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") [**"CONTRACTOR" MAY BE SUBSTITUTED, IF APPROPRIATE**], 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 prepare and develop the San Francisco Bay Area Core Capacity Transit Study (herein called "the Study" or "the Project"); and

WHEREAS, the services required for the Study 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 Study, and the federally-required clauses in Attachment H, Federally-Required Clauses, attached hereto and incorporated herein, apply to the Study;

WHEREAS, the parties hereto now wish to enter into an agreement (the "Agreement") pursuant to which CONSULTANT will render professional services in connection with the Study 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 Carolyn Clevenger, (herein called "MTC Project Manager"). As MTC Project Manager, Carolyn Clevenger 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.

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

Order Process, attached hereto and incorporated herein, and should include, at a minimum, a completed form as shown in Attachment A-2, Task Order Form.

CONSULTANT agrees to perform or secure the performance of all specified services in their entirety with respect to fully executed Task Orders within the Maximum Payment specified in Article 3. **INSERT NAME OF MTC PROJECT MANAGER** (herein called "MTC Project Manager") is responsible for communication with CONSULTANT and the administration of this Agreement. MTC'S Executive Director or designated representative may substitute a new MTC Project Manager by written notice to CONSULTANT.

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

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

#### 1.1 PROGRESS REPORTS

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

#### 2. PERIOD OF PERFORMANCE

CONSULTANT's services hereunder shall commence on or after August \_\_\_\_, 2014, and shall be completed no later than March 31, 2017, unless extended by duly executed amendment or earlier terminated, as hereinafter provided. CONSULTANT's services shall be performed in accordance with the schedule included in each signed Task Order.

#### 3. COMPENSATION AND METHOD OF PAYMENT

Subject to duly executed amendments, MTC will pay CONSULTANT for its services as described in duly executed Task Orders a total amount, including (as applicable) labor, supervision, applicable surcharges such as taxes, insurance, and fringe benefits, indirect costs, overhead, profit, subcontractors costs (including mark-up), travel, equipment, materials and supplies, expenses and any fixed fee, [**SPELL OUT AMOUNT IN WHOLE DOLLARS (\$\_\_\_\_\_)**] ("Maximum Payment"). MTC shall make payments to CONSULTANT in accordance with the provisions described in Attachment C, Compensation and Method of Payment, attached hereto and incorporated herein by this reference.

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

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 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 Study by such personnel of more than 10% requires the prior written approval of the Project Manager or a designee. CONSULTANT shall maintain records documenting compliance with this Article, which 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, which shall specify the changes in work performed and any adjustments in compensation and schedule. All amendments shall be executed by the Executive Director or a designated representative and CONSULTANT and specifically identified as amendments to the Agreement. The MTC Project Manager is not a designated representative, for purposes of approving an amendment.

6. TERMINATION

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

B. Termination for Default. If CONSULTANT does not deliver the work products specified in this Agreement in accordance with the delivery schedule or fails to perform in the manner called for in the Agreement, or if CONSULTANT fails to comply with any other material provision of the Agreement, MTC may terminate this Agreement for default. Termination shall be effected by serving a fifteen (15) day advance written notice of termination on CONSULTANT, setting forth the manner in which CONSULTANT is in default. If CONSULTANT does not cure the breach or describe to MTC's satisfaction a plan for curing the breach within the fifteen (15) day period, MTC may terminate the Agreement for default. In the event of such termination for default, CONSULTANT will be entitled to be reimbursed only for work performed in full compliance with the contract requirements as follows: For terminated deliverables-based Task Orders, CONSULTANT shall be reimbursed for costs incurred for

incomplete deliverables up to the time of termination, not to exceed the amount payable for such deliverables. For terminated time-and-materials Task Orders, CONSULTANT shall be paid for hours worked, plus authorized expenses, not to exceed the maximum payable under the terminated Task Order. Such reimbursement will be offset by any costs incurred by MTC to complete work required under the Agreement. In no event shall MTC be required to reimburse CONSULTANT for any costs incurred for work causing or contributing to the default. If CONSULTANT has any property in its possession belonging to MTC, CONSULTANT will account for the same, and dispose of it in the manner MTC directs. MTC shall not in any manner be liable for the CONSULTANT's actual or projected lost profits had the 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 during the life of this Agreement the types of insurance and financial security listed in Attachment E, Insurance and Financial Security (Bond) Provisions, attached hereto and incorporated herein, against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under this Agreement. All insurance must be placed with insurers with a Best's rating of A-VIII or better.

#### 8. INDEPENDENT CONTRACTOR

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

#### 9. INDEMNIFICATION

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

A. Any injury or death to persons or property or pecuniary, financial or economic losses that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by CONSULTANT caused by any breach of the Agreement or negligent act or omission or willful misconduct of the CONSULTANT or its officers, employees, subconsultants or agents; 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 Study, 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 Study shall be the property of MTC and subject to the provisions of Article 11.

10.1 NOT USED

10.2 NOT USED

#### 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 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 and all rights, title and interest in and to such Work Products, including ownership of any copyright, patent, trademark, trade secret, or other intellectual property or proprietary rights in the Work Product. CONSULTANT also agrees to execute all papers necessary for MTC to perfect its ownership of the rights in the Work Product. Notwithstanding the above, “Work Products” are not intended nor shall they be construed to include CONSULTANT’S pre-existing intellectual property secured, developed, written, or produced by CONSULTANT prior to the execution of this Agreement or developed concurrently with this Agreement but not specifically for this Agreement; CONSULTANT shall retain all right, title and interest in any such pre-existing intellectual property.

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

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

## 12. SUBCONTRACTS

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 the CONSULTANT with provisions allowing the 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 subcontractors, 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 subcontractors 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 subcontractors is an independent obligation from MTC's obligation to make payments to CONSULTANT.

C. Any substitution of subcontractors listed in Attachment G must be approved in writing by MTC's Project Manager in advance of assigning work to a substitute subcontractor.

D. 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 thereof without prior express written consent of the Project Manager or a designated representative, and any attempt thereat shall be void and unenforceable.

## 14. RECORDS

CONSULTANT agrees to establish and maintain an accounting system conforming to Generally Accepted Accounting Principles (GAAP) that is adequate to accumulate and segregate reasonable, allowable, and allocable project costs. CONSULTANT further agrees to keep all records pertaining to the project being funded for audit purposes for a minimum of four (4) years following the fiscal year of last expenditure under the Agreement; or until completion of any litigation, claim or audit, whichever is longer. Any conflicting language regarding retention of records contained in Attachment H, Federally-Required Clauses, shall supersede this Article.

## 15. AUDITS

CONSULTANT shall permit MTC, and its 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.



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.

#### 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 the CONSULTANT to damages incurred by the 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 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 which are imposed on MTC as a recipient of federal or state funds are hereby in turn imposed on CONSULTANT. Attachment H and its parts, Federal Required Clauses, 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 which 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 the CONSULTANT 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 which 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. The 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 the

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 which MTC has specifically directed CONSULTANT to suspend under this section.

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

### 23. WARRANTY OF SERVICES

A. In the performance of its services, CONSULTANT represents and warrants that it has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services, and that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing. In addition, CONSULTANT shall provide such specific warranties as may be set forth in specific Task Orders as agreed upon by the parties.

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

1. The right to have CONSULTANT re-perform such services at the CONSULTANT's expense; or
2. The right to have such services done by others and the costs thereof charged to and collected from the CONSULTANT if within 30 days after written notice to CONSULTANT requiring such re-performance, CONSULTANT fails to give satisfactory evidence to the 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, MTC's Project Manager shall provide a written determination as to the dispute, which shall include the basis for its decision. Upon CONSULTANT's written acceptance of the 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 Project Manager's determination.

If the 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 calendar (30) 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 which 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 terminations 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 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 the 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 for Services, 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 the 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, the 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**

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

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

## **ATTACHMENT A-1, TASK ORDER PROCESS**

Detailed Task Order Process:

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

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

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

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

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

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

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

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

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

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

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

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

**ATTACHMENT A-2**  
**Task Order Form**

Contract #

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

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

A. Deliverables-based.

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

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

**B. Time and Materials**

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

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

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

METROPOLITAN TRANSPORTATION  
COMMISSION

CONSULTANT

\_\_\_\_\_  
Ken Kirkey, MTC Planning Director  
Date: \_\_\_\_\_

\_\_\_\_\_  
Insert name and title of authorized individual  
Date: \_\_\_\_\_

Task Order Schedule

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

Detailed Description of Work

**Task Order #: Title**

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

**ATTACHMENT B**  
**Project Schedule**

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

## **ATTACHMENT C**

### **Compensation and Method of Payment**

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

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

C. Method of Payment. CONSULTANT shall submit invoices for services rendered no more frequently than on a monthly basis. Invoices shall identify work for which payment is requested by Task Order number (including fiscal year). All invoices will be dated, numbered in serial order, and signed by CONSULTANT. If applicable, CONSULTANT's final invoice must include the certification that all Personally Identifiable Information (PII) has been destroyed in accordance with Attachment F.

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

For Task Orders authorizing time and materials payment, CONSULTANT shall specify the work performed, hours worked, and amount due (by personnel), authorized expenses (with receipts for such expenses), the total amount claimed under the invoice and the amount paid to date under the Task Order.

**ATTACHMENT D**  
**Key Personnel Assignments**

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

**ATTACHMENT E**  
**Insurance and Financial Security (Bond) Provisions**

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

3. Business Automobile Insurance for all automobiles owned (if any), used or maintained by CONSULTANT and CONSULTANT's officers, agents and employees, including

but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.

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

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

The policy shall provide coverage for all work performed by CONSULTANT and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of 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, materials or property to be purchased and/or installed on behalf of MTC (if any), and builders risk for property in the course of construction (if applicable). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of MTC.

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

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

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

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

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

- (1) Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;
- (2) Maintain and provide evidence of similar insurance for at least three
- (3) years following project completion, including the requirement of

- adding all additional insureds; and
- (3) If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, CONSULTANT shall purchase “extended reporting” coverage for a minimum of three (3) years after completion of the work.

F. Failure to Maintain Insurance. All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of CONSULTANT’s personnel, 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. NOT USED

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.

- **Federal Transit Administration (FTA)**
- **Federal Highway Administration (FHWA)**

**ATTACHMENT F  
NOT USED**

**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. The CONSULTANT or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The 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 the 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. If the contract has a DBE goal, 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, which 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 Subcontractors

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 subcontractor. This provision applies to both DBE and non-DBE prime CONSULTANT 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. 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 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 SUBCONTRACTORS

CONSULTANT shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor 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 Transit Administration and/or 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 subcontractor 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 subcontractor 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 the 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, the 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 subcontractor 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 subcontractor 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 which 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.

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, the 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.

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.

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. DEBARMENT

CONSULTANT certifies that neither it, nor any of its participants, principals or subcontractors is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 49 CFR Part 29, by any Federal agency or department.

#### 16. 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).

#### 17. 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.



## INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE COMMITMENT

### Consultant Section

*The Consultant shall:*

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc)..
4. **Consultant Name** - Enter the consultant's firm name.
5. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
6. **Description of Services to be Provided** - Enter item of work description of services 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.
7. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
8. **DBE Cert. Number** - Enter the DBEs Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
9. **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.
10. **Total % Claimed** – Enter the total participation claimed. If the Total % Claimed is less than item “6. Contract DBE Goal”, a Good Faith Effort (GFE) is required.
11. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
12. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
13. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
14. **Date** - Enter the date this section of the form is signed by the preparer.
15. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

### Local Agency Section:

*The Local Agency representative shall:*

16. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
17. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
18. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
19. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
20. **Local Agency Representative 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 Local Agency Representative signs the form.
22. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
23. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

**ATTACHMENT H-2**  
**Exhibit 10-02: Local Agency Consultant DBE Information**

(Inclusive of all DBEs listed at bid proposal)

NOTE: Please refer to instructions on the reverse side of this form.

<b>Consultant to Complete this Section</b>			
<b>1. Local Agency Name:</b> <u>Metropolitan Transportation Commission (MTC)</u>			
<b>2. Project Location:</b> <u>San Francisco Bay Area</u>			
<b>3. Project Description:</b> <u>San Francisco Bay Area Core Capacity Study</u>			
<b>4. Total Contract Award Amount:</b> \$ _____			
<b>5. Consultant Name:</b> _____			
<b>6. Contract DBE Goal %:</b> <u>TBD Task Order Based</u>			
<b>7. Total Dollar Amount for all Subcontractors:</b> \$ <u>TBD Task Order Based</u>			
<b>8. Total Number of all Subcontractors:</b> <u>TBD Task Order Based</u>			
<b>Award DBE Information</b>			
9. Description of Services to be Provided	10. DBE Firm	11. DBE Cert.	12. DBE Dollar
<b>Local Agency to Complete this Section</b>		13. Total Dollars Claimed	12. DBE Dollar
<b>20. Local Agency Contract Number:</b> _____		\$ _____	_____
<b>21. Federal-aid Project Number:</b> _____			
<b>22. Contract Execution Date:</b> _____		<b>14. Total % Claimed</b>	_____ %
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:			
<b>23. Local Agency Representative Name (Print)</b> _____		_____	
<b>24. Local Agency Representative Signature</b> _____		<b>25. Date</b> _____	
<b>26. Local Agency Representative Title</b> _____		<b>27. (Area Code) Tel. No.</b> _____	
<b>Caltrans to Complete this Section</b>		15. Preparer's Signature	
Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:		_____	
_____		<b>16. Preparer's Name (Print)</b> _____	
<b>28. DLAE Name (Print)</b> _____		<b>17. Preparer's Title</b> _____	
<b>29. DLAE Signature</b> _____		<b>18. Date</b> _____	
<b>30. Date</b> _____		<b>19. (Area Code) Tel. No.</b> _____	

**Distribution:** (1) Copy – Email a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract award. Failure to send a copy to the DLAE within 30 days of contract award may result in delay of payment.  
 (2) Copy – Include in award package sent to Caltrans DLAE (3) Original – Local agency files

## INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE INFORMATION

### Consultant Section

*Consultant shall:*

1. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
2. **Project Location** - Enter the project location as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
4. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
5. **Consultant Name** - Enter the consultant's firm name.
6. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
7. **Total Dollar Amount for all Subcontractors** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
8. **Total number of all subcontractors** – Enter the total number of all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
9. **Description of Services to be Provided** - Enter item of work description of services 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.
10. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
11. **DBE Cert. Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
12. **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, and include DBEs that are not identified as subcontractors on the Exhibit 10-O1 form. See LAPM Chapter 9 for how to count full/partial participation.
13. **Total Dollars Claimed** – Enter the total dollar amounts for columns 12 and 13.
14. **Total % Claimed** – Enter the total participation claimed for columns 12 and 13. SUM = (item "14. Total Participation Dollars Claimed" divided by item "4. Total Contract Award Amount"). If the Total % Claimed is less than item "6. Contract DBE Goal", a Good Faith Effort (GFE) is required.
15. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
16. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
17. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
18. **Date** - Enter the date this section of the form is signed by the preparer.
19. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

### Local Agency Section:

*The Local Agency representative shall:*

20. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
21. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
22. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
23. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
24. **Local Agency Representative 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.
25. **Date** - Enter the date the Local Agency Representative signs the form.
26. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
27. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

### Caltrans Section:

*Caltrans District Local Assistance Engineer (DLAE) shall:*

28. **DLAE Name (Print)** – Clearly enter the name of the DLAE.
29. **DLAE Signature** – DLAE must sign this section of the form to certify that it has been reviewed for completeness.
30. **Date** - Enter the date that the DLAE signs this section the 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
<b>Original DBE Commitment</b>			<b>Total:</b>	\$8.00	\$8.00			

*highlight + F9 = math*

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



**FINAL REPORT – UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE), FIRST-TIER SUBCONTRACTORS CEM 2402(F) (Rev. 02/2008)**

The form requires specific information regarding the construction project: Contract Number, County, Route, Post Miles, Federal-aid Project No., the Administering Agency, the Contract Completion Date and the Estimated Contract Amount. It requires the prime contractor name and business address. The focus of the form is to describe who did what by contract item number and descriptions, asking for specific dollar values of item work completed broken down by subcontractors who performed the work both DBE and non-DBE work forces. DBE prime contractors are required to show the date of work performed by their own forces along with the corresponding dollar value of work.

The form has a column to enter the Contract Item No. (or Item No's) and description of work performed or materials provided, as well as a column for the subcontractor name and business address. For those firms who are DBE, there is a column to enter their DBE Certification Number. The DBE should provide their certification number to the contractor and notify the contractor in writing with the date of the decertification if their status should change during the course of the project. The form has six columns for the dollar value to be entered for the item work performed by the subcontractor.

The Non-DBE column is used to enter the dollar value of work performed for firms who are not certified DBE.

The decision of which column to be used for entering the DBE dollar value is based on what program(s) status the firm is certified. This program status is determined by the California Unified Certification Program by ethnicity, gender, ownership, and control issues at time of certification. To confirm the certification status and program status, access the Department of Transportation Civil Rights web site at: <http://www.dot.ca.gov/hq/bep> or by calling (916) 324-1700 or the toll free number at (888) 810-6346.

Based on this DBE Program status, the following table depicts which column to be used:

<b>DBE Program Status</b>	<b>Column to be used</b>
If program status shows DBE only with no other programs listed	DBE

If a contractor performing work as a DBE on the project becomes decertified and still performs work after their decertification date, enter the total dollar value performed by this contractor under the appropriate DBE identification column.

If a contractor performing work as a non-DBE on the project becomes certified as a DBE, enter the dollar value of all work performed after certification as a DBE under the appropriate identification column.

Enter the total of each of the six columns in Form CEM-2402(F).

Any changes to DBE certification must also be submitted on Form-CEM 2403(F).

Enter the Date Work Completed as well as the Date of Final Payment (the date when the prime contractor made the “final payment” to the subcontractor for the portion of work listed as being completed). The contractor and the resident engineer sign and date the form indicating that the information provided is complete and correct.

## ATTACHMENT I-1

### FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, CONSULTANT shall not discriminate against any employee for employment because of race, color, sex, sexual orientation, religion, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. CONSULTANT shall take affirmative action to ensure that employees are treated during employment without regard to their race, sex, sexual orientation, color, religion, ancestry, or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave, or disability leave. Such action shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT shall post in conspicuous places, available to employees for employment, notices to be provided by STATE setting forth the provisions of this Fair Employment section.

2. CONSULTANT, its contractor(s) and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.), and the applicable regulations promulgated thereunder (California code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Each of the CONSULTANT'S contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements as appropriate.

3. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.

4. CONSULTANT shall permit access to the records of employment, employment advertisements, application forms, and other pertinent data and records by STATE, the State Fair Employment and Housing Commission, or any other agency of the State of California designated by STATE, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.

5. Remedies for Willful Violation:

(a) STATE may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which CONSULTANT was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that CONSULTANT has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.

(b) For willful violation of this Fair Employment Provision, STATE shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by STATE

in securing the goods or services thereunder shall be borne and paid for by CONSULTANT and by the surety under the performance bond, if any, and STATE may deduct from any moneys due or thereafter may become due to CONSULTANT, the difference between the price named in the Agreement and the actual cost thereof to STATE to cure CONSULTANT's breach of this Agreement.

**ATTACHMENT I-2, STATE DEPARTMENT OF TRANSPORTATION  
REQUIREMENTS**

**Caltrans Non – Discrimination**

A. In the performance of work undertaken pursuant to this Agreement, CONSULTANT shall not, and shall affirmatively require that its contractors shall not, unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave.

B. CONSULTANT shall ensure, and shall require that its contractors and all subcontractors and/or subrecipients shall ensure, that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONSULTANT shall comply, and ensure that its contractors and subcontractors and/or subrecipients shall comply, with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (af), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

C. Each of CONSULTANT's contractors, subcontractors, and/or subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements. CONSULTANT shall include the non-discrimination and compliance provisions hereof in all contracts and subcontracts to perform work under this Agreement.

D. CONSULTANT shall comply with the nondiscrimination program requirements of Title VI of the Civil Rights Act of 1964. Accordingly, 49 CFR Part 21, and 23 CFR Part 200 are made applicable to this Agreement by this reference. Wherever the term "Contractor" appears therein, it shall mean CONSULTANT.

E. CONSULTANT shall permit, and shall require that its contractors, subcontractors, and subrecipients will permit, access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by STATE to investigate compliance with these non-discrimination provisions.

## APPENDIX A TO ATTACHMENT I-2

During the performance of this Agreement, CONSULTANT, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

(1) Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

(2) Nondiscrimination: CONSULTANT, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the REGULATIONS, including employment practices when the agreement covers a program set forth in Appendix B of the REGULATIONS.

(3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT's obligations under this Agreement and the REGULATIONS relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: CONSULTANT shall provide all information and reports required by the REGULATIONS, or directives issued pursuant thereto, and shall permit access to CONSULTANT's books, records, accounts, other sources of information, and its facilities as may be determined by STATE or FHWA to be pertinent to ascertain compliance with such REGULATIONS or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to STATE or the FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, STATE shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a) withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or

(b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the REGULATIONS, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as STATE or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request STATE enter into such litigation to protect the interests of STATE, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

## APPENDIX B TO ATTACHMENT I-2

The following clauses shall be included in any and all deeds effecting or recording the transfer of PROJECT real property, structures or improvements thereon, or interest therein from the United States.

### (GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that CONSULTANT shall accept title to the lands and maintain the project constructed thereon, in accordance with Title 23, United States Code, the Regulations for the Administration of federal-aid for Highways and the policies and procedures prescribed by the Federal Highway Administration of the Department of Transportation and, also in accordance with and in compliance with the Regulations pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the CONSULTANT all the right, title, and interest of the U.S. Department of Transportation in, and to, said lands described in Exhibit "A" attached hereto and made a part hereof.

### (HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto CONSULTANT and its successors forever, subject, however, to the covenant, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on CONSULTANT, its successors and assigns.

CONSULTANT, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns,

(1) that no person shall on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed (;) (and) \*

(2) that CONSULTANT shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended (;) and

(3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the U.S. Department of Transportation shall have a right to re-enter said lands and facilities on said land, and the above-described land and facilities shall thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this deed.\*

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

## APPENDIX C TO ATTACHMENT I-2

The following clauses shall be included in any and all deeds, licenses, leases, permits, or similar instruments entered into by CONSULTANT, pursuant to the provisions of Assurance 7(a) of Attachment I-2 .

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add ‘as covenant running with the land’) that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.), shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of Secretary, Part 21, Nondiscrimination in federally-assisted programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

(Include in licenses, leases, permits, etc.)\*

That in the event of breach of any of the above nondiscrimination covenants, CONSULTANT shall have the right to terminate the (license, lease, permit etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)\*

That in the event of breach of any of the above nondiscrimination covenants, CONSULTANT shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of CONSULTANT and its assigns.

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

## APPENDIX D TO ATTACHMENT I-2

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by the CONSULTANT, pursuant to the provisions of Assurance 7 (b) of Attachment I-2 .

The grantee (licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add “as a covenant running with the land”) that:

(1) no person on the ground of race, color, sex, national origin, religion, age or disability, shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the use of said facilities;

(2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the ground of race, color, sex, national origin, religion, age or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with the Regulations.

(Include in licenses, leases, permits, etc.)\*

That in the event of breach of any of the above nondiscrimination covenants, CONSULTANT shall have the right to terminate the (license, lease, permit, etc.) and to re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, lease, permit, etc.) had never been made or issued.

(Include in deeds)\*

That in the event of breach of any of the above nondiscrimination covenants, CONSULTANT shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of CONSULTANT, and its assigns.

\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

## **ATTACHMENT I-3, STATE DEPARTMENT OF TRANSPORTATION REQUIREMENTS**

### **Caltrans Non – Discrimination**

A. In the performance of work undertaken pursuant to this Agreement, CONSULTANT shall not, and shall affirmatively require that its contractors shall not, unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave, and denial of pregnancy disability leave.

B. CONSULTANT shall ensure, and shall require that its contractors and all subcontractors and/or subrecipients shall ensure, that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. CONSULTANT shall comply, and ensure that its contractors and subcontractors and/or subrecipients shall comply, with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (af), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

C. Each of CONSULTANT's contractors, subcontractors, and/or subrecipients shall give written notice of their obligations under this clause to labor organizations with which they have collective bargaining or other labor agreements. CONSULTANT shall include the non-discrimination and compliance provisions hereof in all contracts and subcontracts to perform work under this Agreement.

D. CONSULTANT shall comply with the nondiscrimination program requirements of Title VI of the Civil Rights Act of 1964. Accordingly, 49 CFR Part 21, and 23 CFR Part 200 are made applicable to this Agreement by this reference. Wherever the term "Contractor" appears therein, it shall mean CONSULTANT.

E. CONSULTANT shall permit, and shall require that its contractors, subcontractors, and subrecipients will permit, access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission or any other agency of the State of California designated by STATE to investigate compliance with these non-discrimination provisions.

### APPENDIX C-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 (√)	<b>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.</b>
—	<p><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 &amp; 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.</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 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 &amp; 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 style="padding-left: 40px;">MTC, FTA and FHWA 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 which shall not be less than \$1,000,000 combined single limit per accident.</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 \$ 5,000,000 per claim.</p> <p style="padding-left: 40px;">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 &amp; 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>Umbrella Insurance</u> in the amount of \$1,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.</p>
—	<p><u>Property Insurance</u> 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</p>

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.

**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.

**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:

- (4) 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;
- (5) 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
- (6) 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.

**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.

**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.

**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 *Appendix C*.

**Subcontractor's Insurance:** See *Appendix C, Standard Consultant Agreement*, at Attachment E, regarding CONSULTANT'S liability for Subcontractors.

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

**APPENDIX D, 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 E, FEDERAL REQUIREMENTS**

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

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 this Agreement will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

**MTC will established Disadvantaged Business Enterprise (DBE) goal at the time each task order is issued.**

### **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 E-3*, Local Agency Consultant DBE Commitment, form and *Appendix E-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 E-3, Local Agency Consultant DBE Commitment*, form and *Appendix E-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 their 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, which 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 E-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 E-2, CERTIFICATION OF RESTRICTIONS OF 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 \_\_\_\_\_, 2014.

By:

\_\_\_\_\_  
(signature of authorized official)

\_\_\_\_\_  
(title of authorized official)

### APPENDIX E-3, LOCAL AGENCY CONSULTANT DBE COMMITMENT

(Inclusive of all DBEs at time of proposal)  
NOTE: Please refer to instructions on the reverse side of this form.

<b>Consultant to Complete this Section</b>			
1. Local Agency Name: <u>Metropolitan Transportation Commission (MTC)</u>			
2. Project Location: <u>San Francisco Bay Area</u>			
3. Project Description: <u>San Francisco Bay Area Core Capacity Study</u>			
4. Consultant Name: _____			
5. Contract DBE Goal %: <u>TBD-Task Order Based</u>			
DBE Commitment Information			
6. Description of Services to be Provided	7. DBE Firm Contact Information	8. DBE Cert. Number	9. DBE %
Local Agency to Complete this Section		10. Total % Claimed	_____ %
16. Local Agency Contract Number: _____			
17. Federal-aid Project Number: _____			
18. Proposed Contract Execution Date: _____			
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:		11. Preparer's Signature _____	
19. Local Agency Representative Name (Print) _____		12. Preparer's Name (Print) _____	
20. Local Agency Representative Signature _____	21. Date _____	13. Preparer's Title _____	
22. Local Agency Representative Title _____	23. (Area Code) Tel. No. _____	14. Date _____	15. (Area Code) Tel. No. _____

**Distribution:** (1) Original – Submit with Award Package  
(2) Copy – Local Agency files

## INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE COMMITMENT

### Consultant Section

*The Consultant shall:*

24. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
25. **Project Location** - Enter the project location as it appears on the project advertisement.
26. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.)
27. **Consultant Name** - Enter the consultant's firm name.
28. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
29. **Description of Services to be Provided** - Enter item of work description of services 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.
30. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
31. **DBE Cert. Number** - Enter the DBEs Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
32. **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.
33. **Total % Claimed** – Enter the total participation claimed. If the Total % Claimed is less than item “6. Contract DBE Goal”, a Good Faith Effort (GFE) is required.
34. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
35. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
36. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
37. **Date** - Enter the date this section of the form is signed by the preparer.
38. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

### Local Agency Section:

*The Local Agency representative shall:*

39. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
40. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
41. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
42. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
43. **Local Agency Representative 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.
44. **Date** - Enter the date the Local Agency Representative signs the form.
45. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
46. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

### APPENDIX E-4, LOCAL AGENCY CONSULTANT DBE INFORMATION

(Inclusive of all DBEs listed at bid proposal)

NOTE: Please refer to instructions on the reverse side of this form.

<b>Consultant to Complete this Section</b>			
1. Local Agency Name: <u>Metropolitan Transportation Commission (MTC)</u>			
2. Project Location: <u>San Francisco Bay Area</u>			
3. Project Description: <u>San Francisco Bay Area Core Capacity Study</u>			
4. Total Contract Award Amount: \$ <u>TBD-Task Order Based</u>			
5. Consultant Name: <u>TBD-Task Order Based</u>			
6. Contract DBE Goal %: <u>TBD-Task Order Based</u>			
7. Total Dollar Amount for <u>all</u> Subcontractors: \$ <u>TBD-Task Order Based</u>			
8. Total Number of <u>all</u> Subcontractors: <u>TBD-Task Order Based</u>			
<b>Award DBE Information</b>			
9. Description of Services to be Provided	10. DBE Firm Contact Information	11. DBE Cert. Number	12. DBE Dollar Amount
<b>Local Agency to Complete this Section</b>		13. Total Dollars Claimed	12. DBE Dollar Amount
20. Local Agency Contract Number: _____		\$ _____	_____ %
21. Federal-aid Project Number: _____			
22. Contract Execution Date: _____		14. Total % Claimed	
Local Agency certifies that all DBE certifications are valid and the information on this form is complete and accurate:		_____ %	
23. Local Agency Representative Name (Print) _____		15. Preparer's Signature _____	
24. Local Agency Representative Signature _____	25. Date _____	16. Preparer's Name (Print) _____	
26. Local Agency Representative Title _____	27. (Area Code) Tel. No. _____	17. Preparer's Title _____	
<b>Caltrans to Complete this Section</b>		18. Date	19. (Area Code) Tel. No.
Caltrans District Local Assistance Engineer (DLAE) certifies that this form has been reviewed for completeness:		_____	_____
28. DLAE Name (Print) _____	29. DLAE Signature _____	30. Date _____	_____

**Distribution:** (1) Copy – Email a copy to the Caltrans District Local Assistance Engineer (DLAE) within 30 days of contract award. Failure to send a copy to the DLAE within 30 days of contract award may result in delay of payment.  
(2) Copy – Include in award package sent to Caltrans DLAE (3) Original – Local agency files

### INSTRUCTIONS - LOCAL AGENCY CONSULTANT DBE INFORMATION

### **Consultant Section**

*The Consultant shall:*

31. **Local Agency Name** – Enter the name of the local or regional agency that is funding the contract.
32. **Project Location** - Enter the project location as it appears on the project advertisement.
33. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
34. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
35. **Consultant Name** - Enter the consultant's firm name.
36. **Contract DBE Goal %** - Enter the contract DBE goal percentage, as it was reported on the Exhibit 10-I form. See LAPM Chapter 10.
37. **Total Dollar Amount for all Subcontractors** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
38. **Total number of all subcontractors** – Enter the total number of all subcontracted consultants. SUM = (DBE's + all Non-DBE's). Do **not** include the prime consultant information in this count.
39. **Description of Services to be Provided** - Enter item of work description of services 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.
40. **DBE Firm Contact Information** - Enter the name and telephone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and telephone number, if the prime is a DBE.
41. **DBE Cert. Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened. (DBE subcontracted consultants should notify the prime consultant in writing with the date of the decertification if their status should change during the course of the contract.)
42. **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, and include DBEs that are not identified as subcontractors on the Exhibit 10-O1 form. See LAPM Chapter 9 for how to count full/partial participation.
43. **Total Dollars Claimed** – Enter the total dollar amounts for columns 12 and 13.
44. **Total % Claimed** – Enter the total participation claimed for columns 12 and 13. SUM = (item "14. Total Participation Dollars Claimed" divided by item "4. Total Contract Award Amount"). If the Total % Claimed is less than item "6. Contract DBE Goal", a Good Faith Effort (GFE) is required.
45. **Preparer's Signature** – The person completing this section of the form for the consultant's firm must sign their name.
46. **Preparer's Name (Print)** – Clearly enter the name of the person signing this section of the form for the consultant.
47. **Preparer's Title** - Enter the position/title of the person signing this section of the form for the consultant.
48. **Date** - Enter the date this section of the form is signed by the preparer.
49. **(Area Code) Tel. No.** - Enter the area code and telephone number of the person signing this section of the form for the consultant.

### **Local Agency Section:**

*The Local Agency representative shall:*

50. **Local Agency Contract Number** - Enter the Local Agency Contract Number.
51. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
52. **Contract Execution Date** - Enter the date the contract was executed and Notice to Proceed issued. See LAPM Chapter 10, page 23.
53. **Local Agency Representative Name (Print)** - Clearly enter the name of the person completing this section.
54. **Local Agency Representative 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.
55. **Date** - Enter the date the Local Agency Representative signs the form.
56. **Local Agency Representative Title** - Enter the position/title of the person signing this section of the form.
57. **(Area Code) Tel. No.** - Enter the area code and telephone number of the Local Agency representative signing this section of the form.

### **Caltrans Section:**

*Caltrans District Local Assistance Engineer (DLAE) shall:*

58. **DLAE Name (Print)** – Clearly enter the name of the DLAE.
59. **DLAE Signature** – DLAE must sign this section of the form to certify that it has been reviewed for completeness.
60. **Date** - Enter the date that the DLAE signs this section the form.

**APPENDIX E-5, DBE INFORMATION – GOOD FAITH EFFORTS**

Federal-aid Project No. \_\_\_\_\_ Bid Opening Date \_\_\_\_\_

The Metropolitan Transportation Commission (MTC) will establish a Disadvantaged Business Enterprise (DBE) goal for each Task Order when it is issued. 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:

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- 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:

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- 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:

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

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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:

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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:

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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):

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**NOTE:** USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.