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*Andrew B. Fremier*  
Deputy Executive Director, Operations

October 31, 2014

**Addendum No. 3**  
**to**  
**Request for Proposals**  
**Next Generation Clipper® System Consultant Support**  
**dated September 30, 2014**

Dear Consultant:

This letter is Addendum No. 3 to the Request for Proposals for Next Generation Clipper® System Consultant Support dated September 30, 2014, as amended by Addendum No. 1, dated October 9, 2014 and Addendum No. 2, dated October 27, 2014 (collectively "RFP"). Where text is revised, deleted text is shown in ~~strike-through~~ format; added text is *italicized*. The RFP is revised as follows:

<u>Addendum Item</u>	<u>Reference</u>	<u>Change</u>
1.	RFP, Section VII Form of Proposal, F. 5, Page 8	Full resumes for key personnel <i>and other resources</i> may be included as an appendix. [Each <del>key personnel</del> resume not to exceed two (2) pages]
2.	RFP, Section VII, Form of Proposal Cost Proposal, I. item 2, Page 9	<del>MTC will not pay for ordinary travel expenses, meals, or lodging for Consultant staff or subconsultants who are based out of the local area, or permit add-on fees for use of subconsultants.</del>
3.	RFP, Section VII, Form of Proposal, N. Financial Responsibility, Page 10+	<del>In a separate, sealed envelope: Provide a copy of Proposer's most recent annual and past quarterly financial filing. The financial statements will not be considered part of the proposal for purposes of the California Public Records Act and will be reviewed to determine responsibility only. All financial statements will be returned to the Proposer prior to Consultant selection.</del> <i>In a separate sealed envelope, the Proposer shall provide a copy of its most recent annual and quarterly financial filings or annual financial statements audited in accordance with generally-accepted accounting principles (GAAP). The financial</i>

		<p><i>statements shall include an opinion of the Certified Public accountant on the statement(s). If a Proposer does not have financial filings or audited financial statements available, unaudited financial statements may be provided, together with a signed statement to the effect that no financial filings or audited financial statements have been prepared by or for the Proposer. The financial information submitted will not be considered part of the Proposals for purposes of the California Public Records Act and will be reviewed to determine financial responsibility only. Based on the financial information, MTC may find the Proposer not responsible. MTC reserves the right to request additional information if necessary to determine financial responsibility. All financial information will be returned to all Proposers prior to Consultant selection.</i></p>
<p>4.</p>	<p>RFP, Section IX, General Conditions, B. Contractual Arrangements, Paragraph 3, Page 13</p>	<p>The contract resulting from this RFP will be Task Order based, with payment based on MTC’s receiving of satisfactory deliverables or <del>cost reimbursement</del> <i>time and materials</i> with ceiling, in accordance with duly executed Task Orders.</p>
<p>5.</p>	<p>Appendix D, Article 10.2, Nondisclosure of Confidential Information, Paragraph 2</p>	<p><del>CONSULTANT agrees to take all necessary and reasonable precautions to maintain the confidentiality of Confidential Information and agrees not to use, copy, distribute or disclose such Confidential Information except for the business purpose underlying this Agreement, except as authorized in writing by MTC. CONSULTANT further agrees to disclose Confidential Information only to its directors, officers, employees and consultants who need to know such information, and who have agreed to be bound by the terms and conditions of this Agreement. Promptly upon the request of MTC, at any time and for any reason, CONSULTANT shall destroy or return to MTC, at MTC’s option, all documents, computer files and other tangible materials that contain Confidential Information. These obligations survive the termination of this Agreement, unless otherwise agreed in writing.</del></p>

		<p><del>by MTC.</del></p> <p><i>CONSULTANT agrees to take all necessary and reasonable precautions to maintain the confidentiality of Confidential Information and agrees not to use, copy, distribute or disclose such Confidential Information except for the business purpose underlying this Agreement, except as authorized in writing by MTC or except as required by law, legal process, or applicable professional standards.</i></p> <p><i>CONSULTANT further agrees to disclose Confidential Information only to its partners, principals, employees, subconsultants, and vendors who need to know such information in order to permit the CONSULTANT to perform the services required under this Agreement and with respect to subconsultants who have agreed with CONSULTANT to be bound by terms and conditions at least equivalent to those contained in this Section 10.2 and, as applicable, Attachment F. CONSULTANT further represents to MTC that each such vendor has agreed to conditions of confidentiality with respect to Confidential Information to the same or similar extent as CONSULTANT has agreed to pursuant this Agreement. CONSULTANT will have full responsibility to cause these vendors to comply with such conditions of confidentiality and CONSULTANT shall be responsible for any consequences of their failure to comply. CONSULTANT may from time to time use the services of CONSULTANT-controlled entities or CONSULTANT member firms to provide administrative and clerical support. For purposes of this paragraph, "vendor" is defined to include any such CONSULTANT-controlled entities or CONSULTANT member firms. Promptly upon the request of MTC, at any time and for any reason, CONSULTANT shall destroy or return to MTC, at MTC's option, all documents, computer files and other tangible materials that contain Confidential Information provided that after obtaining MTC's prior written consent as to specific Confidential Information, CONSULTANT shall be permitted to retain, and shall not be</i></p>
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		<i>obligated to return or destroy, such Confidential Information. These obligations survive the termination of this Agreement, unless otherwise agreed in writing by MTC.</i>
6.	Appendix D, Article 11, Ownership of Work Products, final paragraph is added as included herein.	<i>After obtaining MTC's prior written consent as to the specific Work Products, Consultant may use Work Products completed under this Agreement for Consultant's internal purposes, including but not limited to marketing or business development purposes.</i>
7.	Appendix D, Attachment E, Insurance, Section 1.A.5	Such policy or a separate Cyber Liability Insurance policy shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage and having minimum limits of \$1,000,000 per claim.
8.	Appendix D, Attachment E, Insurance, 1.B., Acceptable Insurers	All policies will be issued by insurers acceptable to MTC, generally with a Best's Rating of A-VIII or better or issued through CONSULTANT's wholly owned captive insurance company that is in good standing with its regulators.
9.	Appendix D, Attachment F, Personally Identifiable Information, Paragraph 3. Compliance with Statutes and Regulations	CONSULTANT agrees to comply with applicable information handling and confidentiality requirements outlined in the California Information Practices Act (Civil Code sections 1798 <i>et.seq.</i> ) and in the California Streets and Highways Code Section 31490. In addition, CONSULTANT warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations, formal letters of interpretation and court orders of the United States, the State of California and MTC relating to the handling and confidentiality of PII, including the terms and conditions contained in this Attachment F, <u>Special Conditions Relating to Personally Identifiable Information</u> and agrees to indemnify MTC against any loss, cost, damage or liability by reason of CONSULTANT's violation of this provision.

10.	Appendix B, Cost Proposal Worksheets, Page 36	<i>Appendix B, <u>Cost Proposal Worksheets</u>, is deleted in its entirety and replaced with Appendix B, <u>Cost Proposal Worksheets</u>, Addendum 3, attached hereto.</i>
11.	Appendix D-1, Insurance Requirements, Page 41	<i>Appendix D-1, <u>Insurance Requirements</u>, is deleted in its entirety and replaced with Appendix D-1, <u>Insurance Requirements</u>, Addendum 3, attached hereto.</i>

The remaining provisions of the RFP dated September 30, 2014, as amended on October 9, 2014, and October 27, 2014 remain unchanged. In the event of a conflict between this Addendum and the previous version(s), this Addendum takes precedence.

Any questions concerning this Addendum to the RFP should be directed to Derek Toups, Project Manager, at [ClipperProcurements@mtc.ca.gov](mailto:ClipperProcurements@mtc.ca.gov).

Sincerely,



Andrew B. Fremier  
Deputy Executive Director, Operations

SH: dt:mg

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**APPENDIX B  
COST PROPOSAL WORKSHEET  
RATE BREAKDOWN  
Addendum #3**

Name/Classification	Contract Year	Actual Hourly Rate and/or Average Hourly Rate	Fringe Benefit/Labor Overhead %	G&A %	Fee/Profit %	Fully Burdened Rate	Fully Burdened Overtime Rate	Effective Dates of Hourly Rate		Escalation Increase %
								From:	To:	
Person #1	Year 1									
	Year 2									
	Year 3									
	Year 4									
	Year 5									
Person #2	Year 1									
	Year 2									
	Year 3									
	Year 4									
	Year 5									
Classification #1	Year 1									
	Year 2									
	Year 3									
	Year 4									
	Year 5									

**NOTES:**

1. For all key team members that are listed on the Proposer's Organization Chart, list the name and corresponding job classification. For all other employees (i.e. support staff/non-professional)
2. For named employees enter the actual hourly rate. For classifications only, list the average hourly rate for that classification.
3. Note any employees/classifications that are subject to prevailing wage requirements with an asterisk (\*).
4. Form above contains no formulas; Proposers may enter formulas as appropriate to complete the table.

**APPENDIX B  
COST PROPOSAL WORKSHEET  
STAFFING PLAN  
Addendum #3**

Consultant:

Contract No.:

Project Description: **C2 System Support**

EA:

Cost Center:

Task / SubTask	Subtask Breakdown	Description	Schedule		Fiscal Years (Hours)														Totals
			Begin Date	End Date	Staff 1	Staff 2	Staff 3	Staff 4	Staff 5	Staff 6	Staff 7	Staff 8	Staff 9	Staff 10	Staff 11	Staff 12	Staff 13	Staff 14	
1		<b>General Project Support</b>			Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	
1.1		Project Administration																	
1.2		Communications and Committee Mtg Admin																	
1.3		Strategic Advice																	
1.4		Project Controls																	
1.5		Systems Engineering																	
1.6		Special Studies																	
1.7		Review System Description/ConOps																	
		Totals =>																	
2		<b>Procurement Phase Activities</b>			Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	
2.1		Requirements Capture																	
2.2		Fare Media Distribution Strategies																	
2.3		Sales Channel/Third Party Retail Network																	
2.4		Final Procurement Plan																	
2.5		Funding Strategy																	
2.6		Peer Agency/Vendor Outreach																	
2.7		Technical Specifications																	
2.8		Engineer's Estimates																	
2.9		Solicitation Documents																	
2.10		Procurement(s) Support																	
2.11		Conformed Specifications																	
2.12		Final Transition Plan																	
		Totals =>																	
3		<b>Implementation Phase Activities</b>			Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	
3.1		Contractor(s) Oversight																	
3.2		Work Progress Monitoring																	
3.3		CDRL Monitoring																	
3.4		Change Order Management																	
3.5		QA/QC Oversight																	
3.6		Oversight of System Design and Development																	
3.7		Installation Monitoring																	
3.8		Oversight of System Testing																	
3.9		Transition Support																	
3.10		Support to Operational Procedures																	
3.11		Risk Monitoring/Mitigation																	
3.12		Claims Administration																	
		Totals =>																	
4		<b>Operations Phase Activities</b>			Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	
4.1		Operations Strategy and Agreements																	
4.2		Operations Support																	
4.3		Asset Management																	
4.4		Configuration and Change Control																	
4.5		Contract Closeout Support																	
		Totals =>																	
5		<b>Other Project Support As Needed</b>			Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	Hrs	
5.1																			
5.2																			
5.3																			
5.4																			
5.5																			
5.6																			
5.7																			
5.8																			
5.9																			
5.10																			
		Totals =>																	

**APPENDIX B  
COST PROPOSAL WORKSHEETS  
PRICING SUMMARY  
Addendum #3**

Consultant: \_\_\_\_\_ Project Manager: \_\_\_\_\_  
 Contract No.: \_\_\_\_\_ Date: \_\_\_\_\_ Total Estimate:    
 Project Description: \_\_\_\_\_ EA: \_\_\_\_\_ Cost Center: \_\_\_\_\_

Task	Task Order #	Description	Schedule		Hours														Total Hours
			Begin Date	End Date	Staff 1	Staff 2	Staff 3	Staff 4	Staff 5	Staff 6	Staff 7	Staff 8	Staff 9	Staff 10	Staff 11	Staff 12	Staff 13	Staff 14	
1		General Project Support																	
2		Procurement Phase Activities																	
3		Implementation Phase Activities																	
4		=J9 J3																	
5		Other Project Support As Needed																	
<b>Totals =</b>																			

Task	Task Order #	Description	Hourly Rates:														Total Cost		
			Staff 1	Staff 2	Staff 3	Staff 4	Staff 5	Staff 6	Staff 7	Staff 8	Staff 9	Staff 10	Staff 11	Staff 12	Staff 13	Staff 14			
1		General Project Support	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2		Procurement Phase Activities	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
3		Implementation Phase Activities	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
4		=J9 J3	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5		Other Project Support As Needed	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Totals =</b>																			

Task	Task Order #	Description	Other Direct Costs	Total Cost
1		General Project Support		
2		Procurement Phase Activities		
3		Implementation Phase Activities		
4		=J9 J3		
5		Other Project Support As Needed		
<b>Totals =</b>				

**TOTAL ESTIMATED PROJECT COST =**

**APPENDIX D-1, INSURANCE REQUIREMENTS  
ADDENDUM No. 3**

Minimum Insurance Coverages. CONSULTANT shall, at its own expense, obtain and maintain in effect at all times the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under its Agreement with MTC, placed with insurers with a Best's rating of A-VIII or better, or issued through CONSULTANT's wholly owned captive insurance company that is in good standing with its regulators.

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>
—	<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 & Employer's Liability may be waived, if and only for as long as CONSULTANT is a sole proprietor or a corporation with stock 100% owned by officers with no employees.
—	<u>Commercial General Liability Insurance</u> for Bodily Injury and Property Damage liability, covering the operations of CONSULTANT and CONSULTANT's officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of MTC. MTC, FTA, 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.
—	<u>Business Automobile Insurance</u> for all automobiles owned (if any), used or maintained by CONSULTANT and CONSULTANT's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.
—	<u>Umbrella Insurance</u> in the amount of \$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.
—	<u>Errors and Omissions Professional Liability Insurance</u> for errors and omissions and the resulting damages, including, but not limited to, economic loss to MTC and having minimum limits of \$1,000,000 per claim. Such policy or a separate Cyber Liability Insurance policy shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage, and having minimum limits of \$1,000,000 per claim.- The policy shall provide coverage for all work performed by CONSULTANT and any

work performed or conducted by any subcontractor/consultant working for or performing services on behalf of 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.

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.

MTC, FTA, 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.

All policies will be issued by insurers acceptable to MTC, generally with a Best's Rating of A-VIII or better, or issued through CONSULTANT's wholly owned captive insurance company that is in good standing with its regulators.

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

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

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

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

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

purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.

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

Prior to commencement of any work under its Agreement with MTC, CONSULTANT shall deliver to MTC Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on behalf of the insurer by an authorized representative thereof.

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

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

Representative Name and Title	
Name of Authorizing Official	
Authorized Signature	
Date	

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

REQUESTS FOR CLARIFICATION, MODIFICATION, AND EXCEPTIONS  
C2 SYSTEM SUPPORT RFP DATED SEPTEMBER 30, 2014

	RFP REFERENCE	QUESTION	RESPONSE
1	General	May our firm submit a proposal to be a prime contractor for only the “stakeholder and public communications” aspect?	<i>Proposers must propose for the entire Scope of Work. If your firm is interested in only a portion of the Scope of Work, consider teaming with firms who complement your expertise such that the entire Scope of Work can be supported.</i>
2	General	May we submit a proposal for only particular Task Orders?	<i>Proposers must propose for the entire Scope of Work. If your firm is interested in only a portion of the Scope of Work, consider teaming with firms who complement your expertise.</i>
3	General	Does this RFP allow for “bench” type bids in which vendors are approved for specific services?	<i>This procurement will result in a single contract, not a panel of pre-qualified consultants, as would an RFQ. Therefore, we are requesting that Proposers propose for the entire Scope of Work.</i>
4	General	How would a firm submit a proposal for this RFP as part of a “team” of contractors? Would there need to be one lead firm, with the rest being sub-contractors?	<i>If the award is made to a team, one firm would take the role of prime Contractor, and the other members of the team would be subcontractors to that prime.</i>
5	Section IV Consultant Selection Timetable	We appreciate MTC’s forward thinking regarding the services that may be required in the coming years, including requirement, engineering, procurement, special studies, peer agency outreach, communication needs, etc.. For MTC to receive the best responses from consultant teams, we request that the proposal deadline be extended by two weeks. This additional time allows the prime contractor the necessary time to fully vet the subcontractors, confirm their independence, and put appropriate teaming agreements in place.	<i>See Addendum #2.</i>
6	Section VII Form of Proposal, A	It is hereby assumed that (Proposer) will have the opportunity to review potential commitments, during the delivery of the proposed services, which whereby (Proposer) would be in a position to work with vendors of MTC. This to avoid any Conflict of Interests or Independence matters which could result given potential client relationships which may be in place between (Proposer) and vendor.	<i>See Appendix D, Article 18.1.</i>
7	Section VII Form of Proposal, F. 5	Is it acceptable if the appendix includes resumes of non-key staff who appear on our org chart?	<i>See Addendum #3, Item 1.</i>
8	Section VII Form of Proposal, H	We do not issue “quarterly financial filings” and do not have audited financial statements. Would it be acceptable to provide our confidential condensed balance sheets for the last 2 years?	<i>See Addendum #3, Item 3.</i>
9	Section VII Form of Proposal, H.3	<b>Would MTC consider the following changes to the referenced provision?</b> 1. Provide a summary of all contracts, <u>to the best of Proposer’s knowledge</u> , your firm (including subcontractors) has held with MTC, MTC Service Authority for Freeways and Expressways (MTC SAFE), Bay Area Toll Authority (BATA), Bay Area Infrastructure Financing Authority (BAIFA), Bay Area Headquarters Authority (BAHA) or any of the entities listed in Attachment J to <i>Appendix D</i> to this RFP in the past three years, including a brief description of the scope of work, the contract amount, and date of execution (excluded from page count).	<i>Exception not granted.</i>
10	Section VII Form of Proposal, I & Appendix B	Please clarify “Actual Hourly Rate and/or Average Hourly Rate.” Based on I.3, can we assume “including billing rates” this refers to the rate for a job classification, such as an Associate, Engineer I, Sr. Manager, etc.?	<i>See Appendix B, Note 2: “2. For named employees enter the actual hourly rate. For classifications only, list the average hourly rate for that classification”</i>
11	Section VII Form of Proposal, I. 2	Page 10 of RFP states no “add on fee for use of subcontractors” but the professional Services Agreement, Section 3 states “subcontractor’s costs including mark-up.” Please clarify these conflicting statements.	<i>See Addendum #3, Item 2.</i>
12	Section VII, Form of Proposals I Cost Proposal	“MTC will not pay for ordinary travel expenses, meals, or lodging for Consultant staff or subconsultants who are based out of the local area, or permit add-on fees for use of subconsultants”. Please clarify whether this pertains to consultant staff who are not based in the Bay Area. Will MTC not reimburse expenses incurred for air travel, lodging and meals when these employees travel to the Bay Area for on-site work and meetings at MTC and participating transit agencies? Requiring a firm to absorb travel expenses of out-of-town staff may result in the exclusion of personnel with valuable experience from other regional projects. Please remove this restriction or explain how these expenses can be covered in the cost proposal.	<i>See Addendum #3, Item 2.</i>

REQUESTS FOR CLARIFICATION, MODIFICATION, AND EXCEPTIONS  
C2 SYSTEM SUPPORT RFP DATED SEPTEMBER 30, 2014

	RFP REFERENCE	QUESTION	RESPONSE
13	Section VII Form of Proposal, I Cost Proposal, & Appendix B	We recognize MTC's need to select a cost competitive vendor team, and to have appropriate cost proposal detail in order to meet federal and state audit obligations. Since the goal of the cost breakdown and audit is to provide proof that MTC selected a vendor with a market-competitive price, we request that MTC allow vendors to propose their federally approved GSA rates (or rates lower than each firm's GSA rate), rather than providing the specific cost breakdown. This approach allows vendors to maintain confidentiality, yet meet the needs of MTC.	<i>The rate breakdown is required.</i>
14	Section VII Form of Proposal, I and IX General Conditions, B.	Please confirm that (1) subconsultants who do not contract on a cost-plus basis can provide fully-loaded hourly rates for inclusion in Section I (Cost Proposal), rather than cost-based rates; and (2) that applicable, conforming changes may be made in the contract's (and subcontract) terms and conditions if our team is awarded.	<i>See Addendum #3. No Cost-Plus arrangements are contemplated pursuant to this procurement. A breakdown of fully loaded rates as described in Appendix B is required.</i>
15	Section VII, Form of Proposal; J, K, L, M	Items J, K, L, and M each identify various forms to be submitted with the proposal. Please clarify which of these forms, if any, are required from Subconsultants at the time of Proposal submission.	<i>DBE Goals will be assigned at the time Task Orders are issued; no DBE forms are required at the time of Proposal submission. All other required forms must be submitted with the Proposal.</i>
18	Section VII, Form of Proposal, A	Please confirm that the following potential conflict of interest scenario can be mitigated, provided a reasonable plan for conflict mitigation and confidential information handling is developed and mutually agreed: our firm, or an affiliate of our firm, provides services to a firm which may provide some or all of the Next Generation Clipper system or the existing Clipper system, but the services we provide them are unrelated to Clipper.	<i>Mitigation may be possible, but MTC would need more detail as to the exact nature of the conflict and proposed mitigation. Please refer to Section VII. A., (Transmittal Letter), and Section IX. F. (Conflicts of Interest) of the RFP and include all requested detail in the Proposal.</i>
19	Section VII Form of Proposal, I. 2	Page 10 of RFP states no "add on fee for use of subcontractors" but the professional Services Agreement, Section 3 states "subcontractor's costs including mark-up." Please clarify these conflicting statements.	<i>See Addendum #3, Item 2.</i>
24	Section IX General Conditions, H	Proposer assumes that details regarding the pre-award audit noted on page 16 of your solicitation will be discussed in detail, further limiting the scope of any proposed audit solely to this contract, and providing Proposer the opportunity to negotiate certain terms as required to conform to the proposed audit while protecting sensitive data associated with other client contracts?	<i>Pre-award Audit Requirements and Procedures may be found in the Caltrans Local Assistance Procedures Manual, Chapter 10 (and Attachments) <a href="http://www.dot.ca.gov/hq/LocalPrograms/lam/prog_p/ch10-2013-10-22.pdf">http://www.dot.ca.gov/hq/LocalPrograms/lam/prog_p/ch10-2013-10-22.pdf</a>. MTC does not have the latitude to negotiate audit requirements associated with federal funding.</i>
25	Section IX General Conditions, D	<b>Would MTC consider the following changes to the referenced provision?</b> In the event properly marked data is requested pursuant to the California Public Records Act, the Proposer will be advised of the request. <del>If the Proposer 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.</del>	<i>Exception not granted.</i>
26	Section IX General Conditions, F	<b>Would MTC consider the following changes to the referenced provision?</b> The Proposer further warrants and represents that it presently has no interest and agrees that it will not knowingly acquire any interest that would present a conflict of interest under California Government Code Sections 1090 <i>et seq.</i> or 87100 <i>et seq.</i> during the performance of services under any contract resulting from this RFP and that it will not knowingly employ any person having such an interest. Violation of this provision may result in the contract being deemed void and unenforceable. Whenever MTC is awarding a contract that involves the rendering of advice, it will consider whether there exists the potential for bias <u>in the performance of services under such contract</u> , 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.	<i>Exceptions not granted.</i>

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	RFP REFERENCE	QUESTION	RESPONSE
27	Section IX, General Conditions, F	<b>Would MTC consider the following changes to the referenced provision?</b> Proposer shall not engage the services of any subcontractor or independent contractor on any work related to this RFP if the subcontractor or independent contractor, or any employee of the subcontractor or independent contractor <u>who will perform services in connection with a contract resulting from this RFP</u> , has an actual or apparent organizational conflict of interest related to work or services contemplated under this RFP.	<i>Exception not granted. Please refer to Section VII. A., (Transmittal Letter), and Section IX. F. (Conflicts of Interest) of the RFP and include all requested detail in the Proposal.</i>
28	Appendix A, Scope of Work	<b>Would MTC consider the following changes to the referenced provision?</b> Consultant shall prepare one (1) or more RFPs that include <del>contractual terms and conditions</del> ; detailed statement(s) of work, technical specifications, evaluation and selection criteria, payment terms, payment milestones, schedule milestones, etc. and will assist MTC's Office of General Counsel in the development of a complete standard agreement, <del>including the provision of draft and/or sample contract language and terms and conditions for system integration and maintenance activities; for incorporation into MTC's draft standard agreement to be attached to the RFP(s); Upon request, Consultant shall identify proposed contractual provisions to address business risks such as contractor transition; insurance, limitations of liability; indemnification; risk of revenue loss; and inter-contractor agreements.</del> MTC will be responsible for finalizing the standard agreement in accordance with agency legal requirements. The RFP(s) shall direct vendors to s Contract in accordance with applicable professional standards.□□□□	<i>Exceptions not granted.</i>
29	Appendix B	Would MTC consider revising the requirement for completion of Appendix B such that cost estimates at the sub-task level are not required?	<i>See Addendum #3, Item 10</i>
30	Appendix D	Please clarify if minor / firm-specific exceptions to the contract can be disclosed in the proposal and/or addressed during final negotiations if a team is selected.	<i>The form of contract will be finalized based on Exceptions that were requested timely and that have been accepted and reflected in Addendum #3. Please refer to Section VI, paragraph 7, and Section IX. B.</i>
31	Appendix D, Recitals	<b>Would MTC consider the following changes to the referenced provision?</b> WHEREAS, MTC has obtained federal funds from the United States Department of Transportation ("U.S. DOT") to assist in financing the Project, and the federally-required clauses in Attachment H, <u>Federally-Required Clauses</u> , attached hereto and incorporated herein, apply to the Project <u>as may be set forth in an individual Task Order</u> ; and	<i>Exception not granted.</i>
32	Appendix D, Article 1, Scope of Services	<b>Would MTC consider the following changes to the referenced provision?</b> In the performance of its services, CONSULTANT represents that it <del>has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services;</del> <u>will perform the services in accordance with applicable professional standards</u> , and CONSULTANT represents that it carries and will maintain all applicable licenses, certificates, and registrations needed for the work in current and good standing.	<i>Exception not granted.</i>
34	Appendix D, Article 6, Termination, Paragraph B	<b>Would MTC consider the following changes to the referenced provision?</b> For terminated deliverables-based Task Orders, CONSULTANT shall be reimbursed for <del>costs incurred</del> <u>work performed</u> for incomplete deliverables up to the time of termination, not to exceed the amount payable for such deliverables.	<i>Exception not granted.</i>
35	Appendix D, Article 6, Termination, Paragraph C	<b>Would MTC consider the following changes to the referenced provision?</b> 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, <del>after setting up a new delivery or performance schedule</del> , may allow CONSULTANT to continue work, or treat the termination as a termination for convenience.	<i>Exception not granted.</i>

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	RFP REFERENCE	QUESTION	RESPONSE
36	Appendix D, Article 9, Indemnification	<b>Would MTC consider the following changes to the referenced provision?</b> CONSULTANT further agrees to <u>pay for its proportionate share of the defend-defense</u> of any and all such claims, actions, suits or other legal proceedings <u>and pay including</u> all charges of attorneys and all other costs and expenses of defenses, <del>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. CONSULTANT has no obligation to pay for any of the indemnitee's defense related costs prior to a final determination of its liability. Following any such determination of its liability, CONSULTANT shall be responsible to pay an amount of such costs equal to the finally determined percentage of liability based upon the comparative fault of the CONSULTANT.</del>	<i>Exception not granted.</i>
37	Appendix D, Article 9, Indemnification	<b>Would MTC consider the following changes to the referenced provision?</b> <del>CONSULTANT further agrees to defend any and all such claims, actions, suits or other legal proceedings which are subject to the indemnification obligations identified in subparagraphs A or B and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment in such proceedings is rendered against any of the MTC Indemnified Parties, CONSULTANT shall, at its expense, satisfy and discharge the same.</del>	<i>Exception not granted.</i>
38	Appendix D, Article 9, Indemnification, Paragraph A	<b>Would MTC consider the following changes to the referenced provision?</b> <del>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 CONSULTANT or its officers, employees, subconsultants or agents; or</del>	<i>Exception not granted.</i>
39	Appendix D, Article 9, Indemnification, Paragraph A	<b>Would MTC consider the following changes to the referenced provision?</b> A. Any injury or death to persons or property or pecuniary, financial, or economic losses <del>that may occur, or that may be alleged to have occurred,</del> arising from the performance of this Agreement by CONSULTANT <u>to the extent that the above are actually</u> caused by any breach of the Agreement or negligent act or omission or willful misconduct of CONSULTANT or its officers, employees, subconsultants or agents; or	<i>Exception not granted.</i>
40	Appendix D, Article 9, Indemnification, Paragraph B	<b>Would MTC consider the following changes to the referenced provision?</b> B. Any <del>allegation-finding</del> that materials or services provided by CONSULTANT under this Agreement infringe or violate copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.	<i>Exception not granted.</i>
41	Appendix D, Article 10.2, Nondisclosure of Confidential Information	<b>Would MTC consider changes to the referenced provision?</b> Please confirm that can discuss with MTC modifications to the referenced provision to mutually agree certain circumstances in which it would be acceptable to disclose confidential information to third parties, provided we would be responsible for maintaining the confidentiality of MTC's information, regardless of where or by whom such information is Processed on our behalf. For example, these third parties could include our other affiliated companies as well as external third parties providing administrative support services on our behalf, who may collect, use, transfer, store or otherwise process information in various jurisdictions in which they operate in order to facilitate performance of the services, to comply with regulatory requirements, to check conflicts, to provide financial accounting and other administrative support services or for quality and risk management purposes.	<i>See Addendum #3, Item 5.</i>
42	Appendix D, Article 10, Data to be Furnished by MTC	<b>Would MTC consider the following changes to the referenced provision?</b> <del>Any updates, revisions, additions or enhancements to such MTC Data made by CONSULTANT in the context of the Project shall be the property of MTC and subject to the provisions of Article 11.</del>	<i>Exception not granted.</i>
43	Appendix D, Article 10, Data to be Furnished by MTC	<b>Would MTC consider the following addition to the referenced provision?</b> <u>MTC will provide to CONSULTANT all data in MTC's possession relating to CONSULTANT's services on the PROJECT. CONSULTANT will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by MTC.</u>	<i>Exception not granted.</i>

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	RFP REFERENCE	QUESTION	RESPONSE
45	Appendix D, Article 10.1, Personally Identifiable Information	<b>Would MTC consider changes to the referenced provision?</b> While we are not certain that in our role as a subconsultant we will need to take possession of personally identifiable information but to the extent we are required to do, please confirm that we can work with MTC to develop a mutually satisfactory and legally compliant approach to information handling that may differ in part from these provisions.	<i>Exception not granted.</i>
46	Appendix D, Article 10.2, Nondisclosure of Confidential Information	<b>Would MTC consider the following changes to the referenced provision?</b> CONSULTANT agrees to take all necessary and reasonable precautions to maintain the confidentiality of Confidential Information and agrees not to use, copy, distribute or disclose such Confidential Information except for the business purpose underlying this Agreement, except as authorized in writing by MTC <u>or except as required by law, legal process, or applicable professional standards.</u> CONSULTANT further agrees to disclose Confidential Information only to its <del>directors, officers, employees and consultants</del> <u>partners, principals, employees, subconsultants, and vendors</u> who need to know such information, <del>and who have agreed to be bound by the terms and conditions of this Agreement.</del> Promptly upon the request of MTC, at any time and for any reason, CONSULTANT shall destroy or return to MTC, at MTC's option, all documents, computer files and other tangible materials that contain Confidential Information. These obligations survive the termination of this Agreement, unless otherwise agreed in writing by MTC.	<i>See Addendum #3, Item 5.</i>
47	Appendix D, Article 11, Ownership of Work Products	<b>Would MTC consider the following changes to the referenced provision?</b> 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 <u>which are explicitly identified in a Task Order as a deliverable</u> ("Work Products") <u>and</u> prepared or assembled and furnished to MTC by CONSULTANT or its subconsultants pursuant to this Agreement shall be and are the property of MTC. MTC shall be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of CONSULTANT or in the hands of any subconsultant upon completion or termination of the work shall be <b>immediately</b> 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 <u>reasonably</u> necessary for MTC to perfect its ownership of the rights in the Work Product.	<i>Exception not granted.</i>
48	Appendix D, Article 11, Ownership of Work Products	<b>Would MTC consider the following addition to the referenced provision?</b> MTC shall receive a perpetual, royalty-free, non-transferable, non-exclusive license to use the deliverables for the purpose for which they were intended. Any inventions, patents, copyrights, computer software, or other intellectual property developed during the course of, or as a result of, the PROJECT shall remain the property of CONSULTANT.	<i>Exception not granted.</i>
49	Appendix D, Article 11, Ownership of Work Products	<b>Would MTC consider the following addition to the referenced provision?</b> CONSULTANT may retain copies of all work products for reference and to demonstrate its capabilities to future potential clients.	<i>See Addendum #3, Item 6.</i>
50	Appendix D, Articles 14 and 15, Records and Audits	Please confirm that we can discuss with MTC and our prime contractor reasonable modifications to the language to the extent that permitting greater access to our facilities and working papers would conflict with other professional obligations. Please note we can permit inspection of books and records pertaining to all fees, expenses and other charges for the services rendered, as well as non-discrimination requirements.	<i>Exception not granted.</i>

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	RFP REFERENCE	QUESTION	RESPONSE
51	Appendix D, Article 14, Records	<b>Would MTC consider the following changes to the referenced provision?</b> <del>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.</del> CONSULTANT further agrees to keep all <u>timekeeping and expense</u> 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, <u>Federally-Required Clauses</u> , shall supersede this Article.	<i>Exception not granted.</i>
52	Appendix D, Article 15, Audits	<b>Would MTC consider the following changes to the referenced provision?</b> CONSULTANT shall permit MTC and MTC's authorized representatives to have access to CONSULTANT's <del>books, records, accounts, and any and all work products, materials, and other data</del> <u>timekeeping and expense records</u> 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 <del>books, records, accounts, work products, materials and data</del> <u>timekeeping and expense records</u> for that period of time. CONSULTANT further agrees to include in all its subcontracts hereunder exceeding \$25,000 a provision to the effect that the subconsultant agrees that MTC or any of MTC's duly authorized representatives shall have access to and the right to examine any directly pertinent <del>books, documents, papers, and</del> <u>timekeeping and expense</u> records of such subcontractor for the term specified above.	<i>Exception not granted.</i>
53	Appendix D, Article 18, Organizational Conflicts of Interest	<b>Would MTC consider the following changes to the referenced provision?</b> CONSULTANT shall <del>immediately promptly</del> provide MTC with written notice of the facts and circumstances giving rise to this organizational conflict of interest.	<i>Exception not granted.</i>
54	Appendix D, Article 19, Laws and Regulations	<b>Would MTC consider the following changes to the referenced provision?</b> CONSULTANT shall comply with any and all applicable laws, statutes, ordinances, rules, regulations, <del>and procedural requirements</del> 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 <del>and procedural requirements</del> which are imposed on MTC as a recipient of federal or state funds are hereby in turn imposed on CONSULTANT.	<i>Exception not granted.</i>
55	Appendix D, Article 20, Claims or Disputes	<b>Would MTC consider the following changes to the referenced provision?</b> 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. <del>Therefore, CONSULTANT's failure to provide timely notice shall constitute a waiver of CONSULTANT's claims for additional compensation and/or time.</del> <u>To the extent CONSULTANT has knowledge of a claim</u> , 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.	<i>Exception not granted.</i>
56	Appendix D, Article 20, Claims or Disputes	<b>Would MTC consider the following changes to the referenced provision?</b> If there is a dispute over any claim, CONSULTANT shall continue to work during the dispute resolution process in a diligent and timely manner <del>as directed by MTC</del> <u>in accordance with the Agreement</u> , 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.	<i>Exception not granted.</i>
57	Appendix D, Article 23, Warranty of Services, Paragraph A	<b>Would MTC consider making changes to Article 23 of Appendix D?</b>	<i>Exception not granted.</i>

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	RFP REFERENCE	QUESTION	RESPONSE
58	Appendix D, Article 24, Dispute Resolution, Paragraph B	<b>Would MTC consider the following changes to the referenced provision?</b> Any claim or controversy concerning the interpretation, application, or implementation of this Agreement <u>or the performance of services thereunder</u> between MTC and CONSULTANT which cannot be resolved through the informal efforts described above, <del>may, by specific agreement of the parties;</del> shall 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.	<i>MTC would be willing to make the requested changes if preferred by the winning Proposer to the language in Appendix D.</i>
59	Appendix D, Article 24, Dispute Resolution, Paragraph C	<b>Would MTC consider the following changes to the referenced provision?</b> If a dispute is not resolved through discussion or <del>the parties do not agree to</del> alternative dispute resolution, either party may pursue available legal remedies in a California State or Federal court of competent jurisdiction.	<i>MTC would be willing to make the requested changes if preferred by the winning Proposer to the language in Appendix D.</i>
60	Appendix D, Article 24, Dispute Resolution, Paragraph D	<b>Would MTC consider the following changes to the referenced provision?</b> CONSULTANT shall continue to work during the dispute resolution process in a diligent and timely manner <del>as directed by MTC</del> <u>in accordance with the Agreement</u> , and shall be governed by all applicable provisions of the Agreement	<i>Exception not granted.</i>
61	Appendix D, Article 26, Attorney's Fees	<b>Would MTC consider the following changes to the referenced provision?</b> <del>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.</del>	<i>Exception not granted.</i>
62	Appendix D, Attachment A-1, Task Order Process, Step 2	<b>Would MTC consider the following changes to the referenced provision?</b> <u>At CONSULTANT's election</u> CONSULTANT prepares a proposal in response to the draft Task Order.	<i>Exception not granted. As the draft Task Order, as prepared by MTC, would not include pricing information, the proposal step is necessary in order to finalize the Task Order.</i>
63	Appendix D, Attachment A-1 Task Order Process, Step 5	<b>Would MTC consider the following changes to the referenced provision?</b> The MTC PM sends both copies of the signed Final Task Order to CONSULTANT, who, <u>if in agreement</u> , signs both copies and returns one to the MTC PM.	<i>Exception not granted. See footnote * to Attachment A-1, which states "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."</i>
64	Appendix D, Attachment A-2	Proposer assumes that the Task Order(s) will identify the deliverables required for each task order?	<i>See Appendix D, Attachment A-2, Task Order Form, Number 9., Payment Terms. A Deliverables-based Task Order will list the Deliverables and costs associated with each Deliverable.</i>
65	Appendix D, Attachment E	Regarding Attachment E – Article 1.C "Self-Insurance": Does MTC consider a Captive to be self-funding and if so, please confirm that it would be satisfactory evidence of financial capacity if the Captive provides a certification of insurance and can provide a certification from the regulators noting it is good standing.	<i>See Addendum #3, Items 8 and 11.</i>
66	Appendix D, Attachment E, Insurance	<b>Would MTC consider adding the phrase "for claims related to CONSULTANT's sole negligence" to each requirement for Waiver of Subrogation?</b>	<i>Exception not granted.</i>
67	Appendix D, Attachment E, Insurance and Financial Security (Bond) Provisions	<b>Would MTC consider the deletion of the requirement for a Waiver of Subrogation in all Insurance categories?</b>	<i>Exception not granted.</i>
68	Appendix D, Attachment E, Insurance and Financial Security (Bond) Provisions, Paragraph 1. A.	<b>Would MTC consider the following changes to the referenced provision?</b> 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 <del>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.")</del>	<i>Exception not granted.</i>
69	Appendix D, Attachment E, Insurance and Financial Security (Bond) Provisions, Paragraph 1. A.	<b>Would MTC consider the following changes to the referenced provision?</b> <del>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.</del>	<i>Exception not granted.</i>

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	RFP REFERENCE	QUESTION	RESPONSE
70	Appendix D, Attachment E, Insurance and Financial Security (Bond) Provisions, Paragraph 1. A. 6	<b>Would MTC consider the following changes to the referenced provision?</b> 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, <u>but only in so far as CONSULTANT solely caused the loss.</u> Prior to beginning work under this contract, CONSULTANT shall provide MTC with satisfactory evidence of compliance with the insurance requirements of this section.	<i>Exception not granted.</i>
71	Appendix D, Attachment E, Insurance and Financial Security (Bond) Provisions, Paragraph 1. A. 6	<b>Would MTC consider the following changes to the referenced provision?</b> <u>Errors and Omissions Professional Liability Insurance</u> for errors and omissions and the resulting damages, including, but not limited to, economic loss to MTC and having minimum limits of \$1,000,000 per claim. Such policy shall <del>contain</del> <u>extend to</u> cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage. The policy shall provide coverage for all work performed by CONSULTANT <del>and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of CONSULTANT. No contract or agreement between CONSULTANT and any subcontractor/consultant shall relieve CONSULTANT of the responsibility for providing this</del> <u>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.</u>	<i>Exception not granted.</i>
72	Appendix D, Attachment E, Insurance and Financial Security (Bond) Provisions, Paragraph 1. A.3	<b>Would MTC consider the following changes to the referenced provision?</b> <u>Business Automobile Insurance</u> for all automobiles <del>owned (if any)</del> , used or maintained by CONSULTANT and CONSULTANT's officers, <del>agents</del> and employees, including but not limited to <del>owned (if any)</del> , 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.	<i>Exception not granted.</i>
73	Appendix D, Attachment E, Insurance and Financial Security (Bond) Provisions, Paragraph 1. A.6	<b>Would MTC consider the following changes to the referenced provision?</b> 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), <del>and builders-risk for property in the course of construction (if applicable).</del> Coverage shall be written on a "Special Form" policy that includes theft, <del>but excludes earthquake,</del> with limits at least equal to the replacement cost of the property. <del>Such policy shall contain a Waiver of Subrogation in favor of MTC.</del>	<i>Exception not granted.</i>
74	Appendix D, Attachment E, Insurance and Financial Security (Bond) Provisions, Paragraph 1. A.6.D	<b>Would MTC consider the following changes to the referenced provision?</b> <del>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.</del>	<i>Exception not granted.</i>
75	Appendix D, Attachment E, Insurance Article 1.B Insurance – Acceptable Insurers	<b>Would MTC consider the following changes to the referenced provision?</b> All policies will be issued by insurers <del>acceptable to MTC,</del> generally with a Best's rating of A-VIII or better <u>or through CONSULTANT's wholly owned Captive Insurance Company that is in good standing with its regulators.</u>	<i>See Addendum #3, Items 8 and 11.</i>
76	Appendix D, Attachment E, Insurance, Section 1.A Paragraph 3:	<b>Would MTC consider the following changes to the referenced provision?</b> "Including provisions that CONSULTANT's insurance be primary without right of contribution from MTC <u>for claims related to CONSULTANT's sole negligence.</u> "	<i>Exception not granted.</i>
77	Appendix D, Attachment E, Insurance, Section 1.A.5	<b>Would MTC consider the following changes to the referenced provision?</b> Such policy <u>or a separate Cyber Liability Insurance policy</u> shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage <u>and having minimum limits of \$1,000,000 per claim.</u>	<i>See Addendum #3, Items 7 and 11.</i>

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	RFP REFERENCE	QUESTION	RESPONSE
78	Appendix D, Attachment F, Personally Identifiable Information, Paragraph 2	<b>Would MTC consider the following changes to the referenced provision?</b> All PII made available to or independently obtained by CONSULTANT in connection with this Agreement shall be protected by CONSULTANT from unauthorized use and disclosure through the observance of <del>the same or more effective</del> procedural requirements <del>as are applicable to MTC</del> <u>set forth herein</u> . This includes, but is not limited to, the secure transport, transmission and storage of PII used or acquired in the performance of this Agreement.	<i>Exception not granted.</i>
79	Appendix D, Attachment F, Personally Identifiable Information, Paragraph 3	<b>Would MTC consider the following changes to the referenced provision?</b> CONSULTANT agrees to comply with the <u>applicable</u> information handling and confidentiality requirements outlined in the California Information Practices Act (Civil Code sections 1798 et.seq.) and in the California Streets and Highways Code Section 31490. In addition, CONSULTANT warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, regulations and <u>court</u> orders of the United States, the State of California and MTC relating to the handling and confidentiality of PII, including the terms and conditions contained in this Attachment F, Special Conditions Relating to Personally Identifiable Information and agrees to indemnify MTC against any loss, cost, damage or liability by reason of CONSULTANT's violation of this provision.	<i>See Addendum #3, Item 9.</i>
80	Appendix D, Attachment F, Personally Identifiable Information, Paragraph 5	<b>Would MTC consider the following changes to the referenced provision?</b> CONSULTANT shall not, except as authorized or required by its duties by law, <u>legal process, or applicable professional standards</u> , reveal or divulge to any <u>unauthorized</u> person or entity any PII which becomes known to it during the term of this Agreement.	<i>Exception not granted.</i>
81	Appendix D, Attachment F, Personally Identifiable Information, Paragraph 6	<b>Would MTC consider the following changes to the referenced provision?</b> CONSULTANT shall <del>immediately</del> <u>promptly</u> notify MTC when it discovers that there may have been a breach in security which has or may have resulted in compromise to PII. For purposes of this section, immediately is defined as within two hours of discovery.	<i>Exception not granted.</i>
82	Appendix D, Attachment H, Federally Required Clauses, Paragraph 10	<b>Would MTC consider the following changes to the referenced provision?</b> <del>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 timekeeping and expense 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.</del>	<i>Exception not granted.</i>
83	Appendix D, Attachment H, Federally Required Clauses, Paragraph 11	<b>Would MTC consider the following changes to the referenced provision?</b> 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 <del>books, documents, papers, and</del> <u>timekeeping and expense</u> records of such subcontractor for the term specified above. The term "subcontract" as used in this clause excludes agreements not exceeding \$25,000.	<i>Exception not granted.</i>
84	Appendix D, Attachment H, Federally Required Clauses, Paragraph 11	<b>Would MTC consider the following changes to the referenced provision?</b> 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 <del>books, records, accounts, and any and all work products, materials, and other data</del> <u>timekeeping and expense records</u> 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.	<i>Exception not granted.</i>
85	Appendix D, Attachment H, Federally Required Clauses, Paragraph 6	<b>Would MTC consider the following changes to the referenced provision?</b> <del>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.</del>	<i>Exception not granted.</i>

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	RFP REFERENCE	QUESTION	RESPONSE
86	Appendix D, Attachment H, Federally Required Clauses, Paragraph 7	<b>Would MTC consider the following changes to the referenced provision?</b> <del>CONSULTANT shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by MTC.</del>	<i>Exception not granted.</i>
87	Appendix D-1	<b>Would MTC consider the following changes to the referenced provision?</b> 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. <del>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.</del>	<i>Exception not granted.</i>
88	Appendix D-1	<b>Would MTC consider the following changes to the referenced provision?</b> 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 <del>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.</del> <u>CONSULTANT's indemnification obligations under the Agreement or breach of contract.</u>	<i>Exception not granted.</i>
89	Appendix D-1, 1.A.4	Item 1.A.4, Umbrella Insurance requires umbrella insurance "in the amount of \$1,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance." Can a Subconsultant meet this requirement by holding each of the specified policies with limits of liability that are each at least \$1,000,000 higher than listed under the other paragraphs in Section 1.A?	<i>Yes.</i>
90	Proposed addition: Active Spreadsheets and Electronic Files	<b>Would MTC consider adding the following provision to Appendix D?</b> CONSULTANT may use models, electronic files, and spreadsheets with embedded macros created by CONSULTANT to assist CONSULTANT in providing the services under the Contract. If MTC requests a working copy of any such model, electronic file or spreadsheet, CONSULTANT may, at its discretion, make such item available to MTC for MTC's internal use only and such item shall be considered a deliverable (subject to the requirements herein); provided that MTC is responsible for obtaining the right to use any third party products necessary to use or operate such item.	<i>Exception not granted.</i>
91	Proposed addition: Limitation of Liability	<b>Would MTC consider adding a Limitation of Liability provision to Appendix D?</b> It is our firm's practice and policy to limit the aggregate amount of our liability to the fees paid for the services provided, and to exclude indirect, consequential, incidental, special and punitive damages. To not do so is unfair to large, stable, fiscally responsible firms who have greater capacity to satisfy liability. We note that the recent procurement for advisors on California High Speed Rail included a limit of liability, albeit as a multiple of fees.	<i>Exception not granted.</i>
92	Proposed addition: Limitation of Liability	<b>Would MTC consider adding the following provision to Appendix D?</b> Notwithstanding anything else in this Agreement (including its attachments) to the contrary, the liability of the CONSULTANT on account of any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under the Agreement or any Task Order issued thereunder shall be limited to the amount of fees paid or owing to CONSULTANT under the Task Order which gives rise to the action(s), damage(s), claim(s), liability(ies), cost(s), expense(s), or loss(es). In no event shall CONSULTANT be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs). This section shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss asserted, whether in Agreement, statute, tort (including but not limited to negligence) or otherwise. This term shall survive contract expiration or termination.	<i>Exception not granted.</i>

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	RFP REFERENCE	QUESTION	RESPONSE
93	Proposed addition: Management Decisions	<b>Would MTC consider adding the following provision to Appendix D?</b> MTC acknowledges and agrees that CONSULTANT's services may include advice and recommendations; but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, MTC. The CONSULTANT will not perform management functions or make management decisions for MTC.	<i>Exception not granted.</i>
94	Proposed addition: State Vendors	<b>Would MTC consider adding the following provision to Appendix D?</b> MTC is aware that CONSULTANT may be providing assurance, tax and/or advisory services to other actual or potential vendors of MTC. CONSULTANT will perform an internal search for any potential client conflicts relating to any of MTC's vendors identified by MTC as having a role in connection with CONSULTANT's performance of this Contract. MTC hereby agrees that a vendor's status as a CONSULTANT client does not impact CONSULTANT's engagement to perform this Contract. CONSULTANT will advise MTC of any conflicts of interest that could prevent it from performing the Contract. However, CONSULTANT is a large firm that is engaged by new clients on a daily basis and as a result it cannot guarantee that, following its conflict search, an engagement for any other related party will not be accepted somewhere else in CONSULTANT's firm. Should any new information come to CONSULTANT's attention, CONSULTANT will promptly inform MTC. CONSULTANT shall perform this Contract in accordance with applicable professional standards.	<i>Exception not granted. See Article 18.1 of Appendix D, which sets forth the applicable provisions for the scenario where a potential client of Consultant is an MTC vendor/contractor.</i>
95	Proposed addition: Third Party Usage	<b>Would MTC consider adding the following provision to Appendix D?</b> Any advice, recommendations, information, deliverables or other work product provided to MTC under this Contract is for the sole use of MTC, and is not intended to be, and may not be, relied upon by any third party, and all advice, recommendations, information, deliverables, or other work product may be marked to so indicate. Except for disclosures that are required by law or that are expressly permitted by this Contract, MTC will not disclose or permit access to such advice, recommendations, information, deliverables, or other work product to any third party without the CONSULTANT's prior written consent.	<i>Exception not granted.</i>
96	Proposed Addition: Volume Rebates	<b>Would MTC consider adding the following provision to Appendix D?</b> Where CONSULTANT is reimbursed for expenses, it is CONSULTANT's policy to bill clients the amount incurred at the time the good or service is purchased. If CONSULTANT subsequently receives a volume rebate or other incentive payment from a vendor relating to such expenses, CONSULTANT does not credit such payment to its clients. Instead, CONSULTANT applies such payments to reduce its overhead costs, which costs are taken into account in determining CONSULTANT's standard billing rates and certain transaction charges that may be charged to clients.	<i>Exception not granted.</i>
97	Proposed addition: California Accountancy Act	<b>Would MTC consider adding the following provision to Appendix D?</b> For engagements where services will be provided by the CONSULTANT through offices located in California, MTC acknowledges that certain of CONSULTANT's personnel who may be considered "owners" under the California Accountancy Act and implementing regulations (California Business and Professions Code section 5079(a); 16 Cal. Code Regs. sections 51 and 51.1) and who may provide services in connection with this engagement, may not be licensed as certified public accountants under the laws of any of the various states.	<i>If appropriate given the prime contractor selected, MTC would agree to include this language in the final Agreement.</i>
98	Proposed addition: Electronic Communications	<b>Would MTC consider adding the following provision to Appendix D?</b> CONSULTANT may communicate with MTC by electronic mail or otherwise transmit documents in electronic form during the course of this engagement. MTC accepts the inherent risks of these forms of communication (including the security risks of interception of or unauthorized access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices). MTC agrees that the final hardcopy version of a document, including a deliverable, or other written communication that CONSULTANT transmits to MTC shall supersede any previous versions transmitted electronically by CONSULTANT to MTC unless no such hard copy is transmitted.	<i>Exception not granted.</i>

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	<b>RFP REFERENCE</b>	<b>QUESTION</b>	<b>RESPONSE</b>
99	Proposed Addition: Force Majeure	<b>Would MTC consider adding the following provision to Appendix D?</b> CONSULTANT is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of CONSULTANT. In any such event, CONSULTANT'S contract price and schedule shall be equitably adjusted.	<i>Exception not granted. See Article 6, Paragraph C of Appendix D.</i>
100	Proposed addition: Opinions of Cost, Financial Considerations, and Schedules	<b>Would MTC consider adding the following provision to Appendix D?</b> In providing opinions of cost, financial analyses, economic feasibility Projections, and schedules for the PROJECT, CONSULTANT has no control over cost or price of labor and materials; unknown or latent conditions of existing equipment or structures that may affect operation or maintenance costs; competitive bidding procedures and market conditions; time or quality of performance by operating personnel or third parties; and other economic and operational factors that may materially affect the ultimate PROJECT cost or schedule. Therefore, CONSULTANT makes no warranty that MTC's actual PROJECT costs, financial aspects, economic feasibility, or schedules will not vary from CONSULTANT's opinions, analyses, Projections, or estimates.	<i>Exception not granted.</i>