



**REQUEST FOR PROPOSALS
RFP # 09-06
SPECIFICATIONS
FOR**

“Federal Legislative Consultant”

The schedule for this project is as follows: Pacific Daylight Time (PDT)

Date Issued:	December 8, 2008
Proposers Written Questions Due	December 19, 2008 by 3:00 PM PDT
MST Response to Questions	December 22, 2008
Proposals Date Due	January 5, 2009
Selection of Consultant	Week of January 12, 2009

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INTRODUCTION

Monterey-Salinas Transit is a joint powers agency that provides fixed route, demand-response and special seasonal transit service to a 277 square mile area of Monterey County with connections to Santa Cruz County in Watsonville. MST operates thirty-nine routes within a service area comprised of an estimated 352,000 people and has a total of 84 buses in its active fleet, including six themed trolley-style buses. It operates through two major transit hubs in Monterey and Salinas as well as secondary hubs in Marina and at the Edgewater Shopping Center in Sand City. Annual boardings on the fixed route system total 4.8 million (FY 2008) and the annual operating budget for the fixed route system in FY 2008 is \$23.9 million. Of that amount, 38% comes from local funds. Federal sources fund 29% of the operating budget. Approximately 28% of the operating budget is generated from fares. The remaining 5% of the operating budget is comprised of other funding sources.

MST provides a variety of fixed-route services to meet the unique needs of the rural, small and medium-sized communities it serves. High frequency commuter services in Salinas, Monterey and Seaside complement local and neighborhood services in Pacific Grove, Carmel, Marina and Del Rey Oaks. Regional service connects citizens of Monterey County to Watsonville, Carmel Valley and South Monterey County and to a variety of other destinations and attractions

For more information about MST, log onto <http://www.mst.org/>.

I. SCOPE OF SERVICES

A. BACKGROUND INFORMATION

MST desires to engage a consultant to analyze federal legislation, policies and regulations affecting MST, and to develop strategies for advancing actions at the federal level that are beneficial to MST and its programs. Contract services of a Federal Legislative advocate are being sought to provide MST with effective representation regarding federal transportation initiatives before the Legislature, the Department of Transportation (DOT) and related interest groups. The priorities for such a consultant in this regard are as follows: (a) provide timely information to the MST Board of Directors and staff on major federal actions and events occurring in Washington D.C.; (b) advocate for MST before the various legislative committees in Washington D.C.; (c) advocate on behalf of MST's interests on select transportation and related policy issues, as directed by MST staff; and (d) represent MST's interests and provide information to MST relative to legislative issues and/or bills which MST has identified as critical.

The consultant will be expected to: (a) provide complete, professional and high-quality services and products; (b) consult with MST personnel and others who are involved

with the work; and (c) provide advice and assistance in accomplishing the work. The General Manager/CEO will be the project manager for MST.

The selection will be made of the firm or person whose proposal is most responsive to the Request for Proposal (RFP) and offers the best advantage to MST.

As part of the selection process, consultants may be requested to provide information concerning client representation for evaluation by MST. If, in the discretion of MST, a conflict of interest, real or apparent, exists or may exist, then MST reserves the right not to select a consultant to perform the services herein, regardless of the qualifications of that consultant or the ranking of the consultant as provided below.

B. PROJECT TASKS AND DELIVERABLES

Under the general direction of MST's General Manager/CEO, and with policy guidance provided by the Board of Directors, the consultant shall provide professional support and assistance on a regular and continuing basis to accomplish the following:

- a. Monitor and report on federal legislative activities that are germane to the transportation industry in general and to MST in particular, with an emphasis on activities that affect the State of California, and Monterey County and have a potential impact on MST.
- b. Provide technical, political, and logistical support for MST to meet with appropriate stakeholders, federal officials, and legislators. This includes making recommendations and arranging meetings as necessary.
- c. Provide professional counsel on and analysis of federal transportation legislation, policies, regulations, and other activities that impact MST.
- d. Communicate directly with the elected representatives of the Congress and Senate and their staffs, as well as with the staffs of the various agencies within the Department of Transportation (DOT), regarding current and future federal transportation policies.
- e. Assist in the development and implementation of federal transportation legislation, policies and regulations favorable to MST.
- f. Provide assistance in preparing briefing information, notes, testimony, letters, or legislation, as needed, to advance the interests of MST before the Federal Legislature.
- g. Provide assistance, as needed, in the development of MST's federal legislative program prior to the beginning of each calendar year.
- h. Provide a brief written monthly update for the Board of Directors summarizing major Legislative actions and events occurring during the previous month. Provide

other written status reports to MST on key federal transportation issues and legislation, as appropriate.

- i. Maintain a level of awareness and knowledge of MST programs, activities and policies necessary to conduct all of the above.
- j. During the term of the agreement, maintain a business office in Washington, D.C.

C. WORK SCHEDULE

Performance under a contract pursuant to this RFP is estimated to commence on February 1, 2009, and conclude January 31, 2012. This period of performance may be extended for two additional one-year periods at the option of MST, at rates to be negotiated with the consultant.

II. INSTRUCTIONS TO PROPOSERS

A. Examination of Proposal Documents

By submitting a proposal, the Proposer represents that it has thoroughly examined and become familiar with the work required under this RFP, and that it is capable of performing quality work to achieve MST's objectives.

B. Addenda/Clarifications

Questions or comments regarding this RFP must be put in writing and must be received by MST no later than 3:00 P.M., December 19, 2008. Correspondence shall be addressed to Sandra Amorim, Purchasing Manager, Monterey-Salinas Transit, One Ryan Ranch Road, Monterey, CA 93940. Questions may be submitted via e-mail, and the e-mail address is samorim@mst.org. Responses from MST will be communicated in writing to all recipients of this RFP. Inquiries received after the date and time stated above will not be accepted and will be returned to the senders without response.

C. Submission of Proposals

All proposals shall be submitted to Monterey-Salinas Transit, Attention: Purchasing Manager, One Ryan Ranch Road, Monterey, CA 93940. Proposals must be delivered no later than close of business, January 5, 2009.

The Proposer shall submit 2 copies of its proposal in a sealed envelope, addressed as noted above, bearing the Proposer's name and address, and clearly marked as follows:

"RFP 09-06,
Federal Legislative Consultant Services"

D. Withdrawal of Proposals

A Proposer may withdraw its proposal at any time before the expiration of the time for submission of proposals as provided in this RFP by delivering to the Purchasing Manager a written request for withdrawal signed by, or on behalf of, the Proposer.

E. Rights of MST

This RFP does not commit MST to enter into a Contract, nor does it obligate MST to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract.

MST may investigate the qualifications of any Proposer under consideration, require confirmation of information furnished by the Proposer, and require additional evidence or qualifications to perform the Services described in this RFP.

MST reserves the right to:

1. Reject any or all proposals.
2. Issue subsequent Requests for Proposal.
3. Postpone opening for its own convenience.
4. Remedy technical errors in the Request for Proposal process.
5. Approve or disapprove the use of particular sub consultants.
6. Negotiate with any, all, or none of the Proposers. Solicit best and final offers from all or some of the Proposers.
7. Award a contract to one or more Proposers.
8. Accept other than the lowest offer. Waive informalities and irregularities in proposals.

F. Contract Type

It is anticipated that the agreement resulting from this solicitation, if awarded, will be a firm, fixed-price contract. The term of the agreement will be three years, with an option for two one-year extensions to the initial term. The extension options will be exercised at MST's sole discretion, at rates to be negotiated with the consultant.

Proposers shall be prepared to accept the terms and conditions of the Agreement, including Exhibit C, Insurance & Indemnification Requirements. If a Proposer desires to take exception to the Agreement, Proposer shall provide the following information as a section of the Proposal identified as "Exceptions to the Agreement": Proposer shall clearly identify each proposed change to the Agreement, including all relevant Attachments. Proposer shall furnish the reasons therefore as well as specific recommendations for alternative language. The above factors will be taken into account in evaluating proposals. Proposals that take substantial exceptions to the Agreement or proposed compensation terms may be determined by MST, at its sole discretion, to be unacceptable and no longer considered for award.

G. Collusion

By submitting a proposal, each Proposer represents and warrants that its proposal is genuine and not a sham or collusive or made in the interest of or on behalf of any person not named therein; that the Proposer has not directly or indirectly, induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and that the Proposer has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

I. Audit Report/Requirements

Proposers must agree to cooperate with the requirements in Paragraph 10 of FTA Circular 4220.1E. Every proposer that has been the subject of any audit report by any government or public agency or qualified independent CPA must attach with its proposal, the latest such audit report, including direct labor, materials, fringe benefits and general overhead.

If the contract falls under the requirement provided by the Federal of California Department of Transportation Local Program Procedures (LPP) 00-05, the successful proposer must agree to undergo the pre-award audit mandated by the LPP. The contract will not be awarded before the pre-award audit is completed.

Proposers must also agree to submit cost or pricing data in accordance with 48 CFR Part (FAR) 15.408 Table 15-2.

III. PROPOSER'S MINIMUM QUALIFICATIONS

- A.** The consultant shall have sufficient results-oriented experience in federal legislative activities, policies and regulations relating to transportation matters; a demonstrated ability as an effective legislative advocate; and a proven track record of respect and credibility with members of the legislature and with the Department of Transportation.
- B.** The consultant shall have sufficiently experienced staff members, who possess comprehensive knowledge of federal legislative activities, policies and regulation relating to transportation matters, and who will be assigned to manage the tasks discussed in the scope of work and to coordinate their work with MST staff and other involved agencies.
- C.** The consultant shall possess knowledge of regulations and codes, and shall be familiar with local conditions relating to transportation matters in and around MST.
- D.** The MST Board of Directors desires to award a firm, fixed-price contract resulting from the RFP. One of the criteria that will be used to evaluate proposals will be price. Consultants are requested to submit a pricing proposal that accurately reflects their costs in performing the services discussed in the Scope of Work.
- E.** The consultant shall comply with applicable federal, state, and local regulations

concerning equal employment opportunity requirements and take affirmative action to ensure equal employment opportunity as further described in MST's Small Business Enterprise (SBE) Policy.

IV. EVALUATION AND SELECTION

A. Evaluation Criteria: The following criteria will be used to evaluate proposals:

1. **Qualifications of the Firm:** Technical experience in performing work of a closely similar nature; experience working with transportation organizations or other public agencies; record of completing work on schedule; strength and stability of the firm; technical experience and strength and stability of proposed sub consultants, if any; and assessments by client references. **(25 points)**
2. **Staffing and Project Organization:** Qualifications of project staff, particularly key personnel, especially the project manager; key personnel's level of involvement in performing related work; logic of project organization; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel. **(20 points)**
3. **Demonstrated understanding of the project requirements and potential problem areas;** project approach, work plan, and quality assurance program. **(25 points)**
4. **Cost and Price:** Reasonableness of the total price and competitiveness of this amount with other offers received. Consultants are asked to submit a pricing proposal that accurately reflects their costs in performing the services discussed in the scope of work. **(30 points)**

B. Award

When the RFP evaluation has been completed based on the criteria listed above, negotiations will be conducted for the extent of services to be rendered and for the method of compensation. Because MST may award without conducting negotiations, the proposal submitted shall contain the Proposer's most favorable terms and conditions.

V. PROTESTS

Prior to the closing date for submittal of proposals, Proposer may submit to MST protests regarding the procurement process, or alleged improprieties in specifications or alleged restrictive specifications. Any such protests shall be filed no later than 10 working days prior to the scheduled closing date. If necessary, the closing date of the solicitation may be extended pending a resolution of the protest. Protests dealing with alleged improprieties in the procurement or the procurement process that can only be apparent after the closing date for receipt of proposals shall be filed within 5 working days of issuance of the Notice of Recommended Award. Protests shall contain a statement of the grounds for protests and supporting documentation. Protestor will be notified of MST's final decision prior to issuance of Award.

A Proposer may discuss the Procurement Documents with MST. Such discussions, however, do not relieve proposers from the responsibility of submitting written protests.

VI. SMALL BUSINESS ENTERPRISE POLICY

A. Policy

It is MST policy to ensure that Small Business Enterprises (SBEs), as defined in Federal Regulations at 13 CFR Part 121, have the maximum opportunity to participate in the performance of contracts and subcontracts.

B. SBE Goal

MST has not established a specific goal for this project due to the size of the project or unknown availability of subcontract opportunities.

If, however, the Proposer intends to use the services of sub consultants or purchase goods from suppliers during the performance of this project, Proposer shall afford maximum opportunities to SBEs in these areas.

In addition, any Disadvantaged Business Enterprise (DBE) certified under the California Uniform Certification Program is qualified to participate as a SBE.

VII. INSURANCE REQUIREMENTS

Insurance requirements for this project are set forth in Exhibit C – Insurance and Indemnity Requirements.

VIII. PROPOSAL FORMAT AND CONTENT

A. Format

Proposals shall be typed and be: 1) as brief as possible, and 2) not include any unnecessary promotional material. **Two copies of the proposal are required.**

For ease of handling, it is requested that standard 8 -1/2 x 11” paper be used with the simplest possible method of fastening, considering the size of the proposal.

The nature and form of response are at the discretion of those responding, but shall include the information listed below.

B. Content

1. **General Information:** Complete the attached General Information Form, and place in the front of all proposals submitted.

2. **Profile of Firm:** This section shall include a brief description of the firm's size as well as the local organizational structure. Include a discussion on the firm's financial stability, capacity and resources. Additionally, this section shall include a listing of any lawsuit or litigation and the result of that action resulting from (a) any public project undertaken by the Proposer or by its sub consultants where litigation is still pending or has occurred within the last five years or (b) any type of project where claims or settlements were paid by the consultant or its insurers within the last five years.
3. **Qualifications of the Firm:** This section shall include a brief description of the Proposer's and any sub consultant's qualifications and previous experience on similar or related projects. Description of pertinent project experience shall include a summary of the work performed, the total project cost, the percentage of work the firm was responsible for, the period over which the work was completed, and the name, title, and phone number of clients to be contacted for references. Give a brief statement of the firm's adherence to the schedule and budget for each project.
4. **Work Plan:** By presentation of a well-conceived work plan, this section of the proposal shall establish the Proposer's understanding of MST's objectives and work requirements and Proposer's ability to satisfy those objectives and requirements. Succinctly describe the proposed approach for addressing the required work, outlining the activities that would be undertaken in completing the various tasks and specifying who would perform them. Include a timetable for completing all work specified in the Scope of Work. The Proposer may also suggest technical or procedural innovations that have been used successfully on other projects and which may facilitate the completion of this project.
5. **Project Staffing:** This section shall discuss how the Proposer would propose to staff this project. Proposer project team members shall be identified by name, location, specific responsibilities on the project and the estimated person-hours of participation. An organizational chart for the project team and resumes for key Proposer personnel shall be included. Key Proposer personnel will be an important factor considered by the Review Board.
6. **Cost/Pricing Information:** This section shall include the Proposer's price for performing the services discussed in the scope of work. The **attached Price Proposal Form (Attachment B)** must be completed and submitted with the proposal. Proposals in which the costs do not reflect a reasonable relationship to the work to be conducted may be viewed as failing to comprehend the requirements of the scope of work, and, therefore, cause the proposal to be rejected as being non-responsive. **Small Business Enterprise Participation:** Complete the attached SBE Listing of Prime or Sub consultants (Attachment C) and place in the front of all proposals submitted.
5. **Exceptions to the Agreement:** This section shall include any exceptions the Proposer has taken to Exhibit A – Agreement for Services or Exhibit C - Insurance and Indemnity Requirements.

ATTACHMENT B (Continued)

PRICE PROPOSAL RECAP

(A) Proposed Fixed Monthly Retainer, Contract Year 1: _____ X 12 = _____ total for year 1

(B) Proposed Fixed Monthly Retainer, Contract Year 2: _____ X 12 = _____ total for year 2

(C) Proposed Fixed Monthly Retainer, Contract Year 3: _____ X 12 = _____ total for year 3

(D) Total overall sum, for proposed Fixed Monthly Retainers added up throughout the term of a three-year contract: _____

ATTACHMENT C

**REQUEST FOR PROPOSAL RFP 09-06
LISTING OF SBE PRIME OR SUBCONSULTANTS
(IF APPLICABLE)**

Firm (Prime): _____ Phone/ Fax: _____

Small Business Enterprise: ___ Yes ___ No Age of Firm _____

Street Address: _____ Name & Title: _____

City, State, Zip: _____ Signature/ Date: _____

Contract dollar value must exclude work performed by non-SBEs except materials or equipment purchased and used in this contract.

CREDIT FOR SBE VENDORS of materials or supplies is limited to 60% of its expenditures for materials and supplies required under this Contract and obtained from a SBE regular dealer. Credit for SBE manufacturers is given at 100% toward the SBE goal only where the SBE vendor manufactures or substantially alters the material prior to resale.

CREDIT FOR SBE BROKERS (Distributor or Representative) is limited to the fees and commissions of the amount paid. All other firms receive 100% credit, less work subcontracted by the SBE to non-SBE firms, towards the SBE goal.

CREDIT FOR SBE TRUCKING FIRMS is limited to amount performed by the SBEs own trucks and drivers and by SBE trucking subhaulers. A SBE trucking firm must itself own and operate at least one fully licensed, insured and operational truck used on the contract.

A SBE must be accepted as certified by MST.

Name & Address of Certified SBE	Certification Number	Agency Certifying	Age of Firm	Dollar Value Of Contract
1-				
2-				
3-				
4-				
5-				

Description of Work
1-
2-
3-
4-
5-

SBE GOALS ARE DETERMINED ON BASE PROPOSAL AMOUNT:

Total Contract Amount \$ _____
SBE Contract Amount: \$ _____

SBE Contract Amount _____ SBE Goal Achieved: _____ SBE Contract Goal: _____
----- X 100 = _____ %
Base Contract _____ No Specific Goal **IMPORTANT!**

EXHIBIT A

AGREEMENT BETWEEN
MONTEREY-SALINAS TRANSIT
AND
[CONSULTANT]
FOR FEDERAL LEGISLATIVE SERVICES

CONTRACT NO. _____

THIS AGREEMENT for Professional Services (“Agreement”), effective as of FEBRUARY 1, 2009 (“Effective Date”) is entered into between Monterey-Salinas Transit (MST), and [INSERT CONSULTANT’S NAME, ADDRESS, PHONE] (CONSULTANT).

1. **SERVICES TO BE PERFORMED:** CONSULTANT shall furnish all technical and professional labor, and materials to satisfactorily provide services as described in Exhibit _____ [Scope of Services per Section I of RFP 09-06].
2. **TERM OF THE AGREEMENT:** The term of the Agreement shall commence upon the Effective Date and continue through completion on or before _____.
3. **COMPENSATION:** CONSULTANT shall be paid for services performed hereunder in accordance with Exhibit B, which exhibit is attached and incorporated herein by this reference.
4. **PERFORMANCE OF THE SERVICES:**
 - 4.1 CONSULTANT represents that it is sufficiently experienced, properly qualified, registered, licensed, equipped, organized and financed to perform the Services under this Agreement.
 - 4.2 CONSULTANT shall perform the Services under this Agreement with that degree of skill and judgment normally exercised by firms performing services of a similar nature. In addition to other rights and remedies that MST may have, MST, at its option, may require CONSULTANT at CONSULTANT’s expense to re-perform any Services that fail to meet the above standard.
5. **ASSIGNMENT AND SUBCONTRACTS:**
 - 5.1 CONSULTANT shall not assign or transfer this Agreement or any portion thereof without the prior written consent of MST. Additionally, CONSULTANT shall not subcontract any part of the Services hereunder other than to those sub consultants that may be identified in Attachment C. Any assignment, transfer, change or subcontract in violation of this Agreement shall be void.

- 5.2 CONSULTANT shall be fully responsible and liable for the services, products and actions of all sub consultants and suppliers of any tier, and shall include in each subcontract any provisions necessary to make all the provisions of this contract fully effective.
6. **CHANGES:** By written notice from MST's Authorized Representative, MST may, from time to time, make changes within the general scope of this Agreement. If any such changes cause an increase or decrease in the price of this Agreement or in the time required for its performance, CONSULTANT shall promptly notify MST thereof and assert its claim for adjustment within ten days after the change is ordered, and an equitable adjustment shall be negotiated.
7. **INDEMNIFICATION AND INSURANCE:** Indemnification and Insurance requirements are set forth in Exhibit C, which is attached and incorporated herein by this reference.
8. **AUDIT AND RECORDS:**
- 8.1 CONSULTANT shall maintain, in accordance with generally accepted accounting principles and practices, complete books, accounts, records and data with respect to actual time devoted and costs incurred for Services under this Agreement. Such documentation shall be supported by properly executed payrolls, invoices, contracts and vouchers evidencing in detail the nature and propriety of any charges and sufficient to allow a proper audit of the Services. All checks, payrolls, invoices, contracts and other accounting documents pertaining in whole or in part to the Services shall be clearly identified and readily accessible.
- 8.2 For the duration of the Agreement, and for a period of three years thereafter, MST, its representatives and the federal auditor shall have the right to examine and audit during CONSULTANT normal business hours these books, accounts, records, data and other relevant information to the extent required to verify the costs incurred hereunder where such costs are the basis for billings under this Agreement.
- 8.3 CONSULTANT shall report indirect costs in accordance with the cost principles contained in 48CFR, Part 31, and follow the uniform administrative requirements set forth in 49 CFR, Part 18.
- 8.4 The provisions of this section shall be included in any subcontracts hereunder.
9. **SMALL BUSINESS ENTERPRISES:** In connection with its performance under this Agreement, although there is no specified goal, CONSULTANT agrees to cooperate with MST in meeting MST's overall goal of 6% annual utilization of Small Business Enterprises. In this regard CONSULTANT will use its best efforts to ensure that SBEs shall have an equitable opportunity to compete for subcontract work under this Agreement.

CONSULTANT shall submit an SBE Utilization Report, with each invoice submitted, if any sub consultant work is involved.

CONSULTANT shall submit a DBE/SBE Final Utilization Report, at the conclusion of the contract, indicating the total of any DBE or SBE utilization during the course of the Contract.

10. PROHIBITED INTERESTS:

- 10.1 Solicitation: CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach or violation of this warranty, MST shall have the right to rescind this Agreement without liability.
- 10.2 Interest of Public Officials: No Board Member, officer or employee of the MST during his or her tenure or for two years thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- 10.3 Interest of the CONSULTANT: The CONSULTANT covenants that neither it nor its officers, directors or agents, presently has any interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of Services required to be performed under this Agreement. The CONSULTANT further covenants that in the performance of this Agreement no person having any such interest shall knowingly be employed.

11. TERMINATION AND SUSPENSION:

- 11.1 MST may, by giving at least ten business days' written notice to CONSULTANT, terminate this Agreement, or suspend performance hereunder, in whole or in part at any time for MST's convenience. CONSULTANT shall be compensated in accordance with the terms of the Agreement for Services satisfactorily performed prior to the effective date and time of termination or suspension. CONSULTANT shall have no right to recover lost profits on the balance of the contract work.
- 11.2 MST, by written notice given to CONSULTANT, may declare default in CONSULTANT's performance of any term of this Agreement, specifying with particularity the basis for such default. CONSULTANT shall deliver a response thereto in writing to MST within two business days of receipt of the notice, setting forth a reasonable proposal to cure the default. If CONSULTANT fails to

deliver the foregoing response on time or fails to cure the default within ten business days after receipt of the notice (or within such additional time the Parties may agree upon in writing), MST may elect to terminate this Agreement for cause by serving written notice thereof to CONSULTANT.

11.3 In the event of such termination for cause, MST shall be relieved of any obligation of further payment to CONSULTANT and may proceed with the work. The additional cost to MST of completing the Services shall be deducted from any sum due the CONSULTANT and the balance, if any, shall be paid the CONSULTANT upon demand. The foregoing shall be in addition to any other legal or equitable remedies available to MST.

11.4 If, after termination for failure to fulfill contract obligations, it is determined that the Consultant was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of MST.

12. AUTHORIZED REPRESENTATIVES AND NOTICES: The Authorized Representatives assigned below have authority to authorize changes to the scope, terms and conditions of this Agreement, as set forth herein.

12.1 For MST:	For Consultant:
Carl G. Sedoryk	Name
General Manager/CEO	Title

12.2 Written notification to the other party shall be provided, in advance of changes in the name or address of the designated Authorized Representatives.

12.3 NOTICES: Notices shall be in writing and shall be addressed as follows:

For MST:	For CONSULTANT:
MST – Purchasing Manager	ADDRESS
One Ryan Ranch Road	ADDRESS
Monterey, CA 93940	ADDRESS

13. GENERAL PROVISIONS

13.1 **OWNERSHIP OF DATA:** All drawings, specifications, reports and other data developed by CONSULTANT, its assigned employees or sub consultants pursuant to this Agreement shall become the property of MST as prepared, whether delivered to MST or not. Unless otherwise provided herein, all such data shall be delivered to MST or its designee upon completion of the Agreement or at such other times as MST or its designee may request.

13.2 **NONDISCRIMINATION AND AFFIRMATIVE ACTION:** During performance of this Agreement CONSULTANT, its employees and sub consultants shall not unlawfully discriminate against any employee or applicant for employment

because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age or sex, and shall take affirmative action to assure that applicants are lawfully employed, and that employees are lawfully treated during their employment, without regard to their race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age or sex.

- 13.3 **CONFIDENTIALITY AND PUBLICITY:** Without the written consent of MST, CONSULTANT shall not disclose to third parties other than its employees or authorized sub consultants or disclose or use for any purpose other than performance of the Services any information provided to CONSULTANT by MST in connection with performance of this Agreement, or any information developed or obtained by CONSULTANT in the performance of this Agreement, unless: (1) the information is known to CONSULTANT prior to obtaining same from MST or performing Services under this Agreement; (2) the information is at the time of disclosure by CONSULTANT then in the public domain; or (3) the information is obtained by or from a third party who did not receive it, directly or indirectly, from MST and who has no obligation of confidentiality with respect thereto.
- 13.4 **NONWAIVER:** Failure of MST to insist upon strict performance of any terms or conditions of this Agreement or failure or delay in exercising any rights or remedies provided herein by law or its failure to properly notify CONSULTANT in the event of breach or its acceptance of or payment for any Services hereunder shall not release CONSULTANT from the representations or obligations of this Agreement and shall not be deemed a waiver of any right of MST to insist upon strict performance hereof or any of its rights or remedies hereunder.
- 13.5 **SEVERABILITY:** If any of the provisions or portions or applications thereof of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, MST and CONSULTANT shall negotiate an equitable adjustment in the provisions of the Agreement with a view toward affecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions or portions or applications thereof shall not be affected thereby.
- 13.6 **INDEPENDENT CONSULTANT:** CONSULTANT is an independent consultant and not the agent or employee of MST in performing its Services under this Agreement.
- 13.7 **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between MST and CONSULTANT relating to the subject matter hereof and supersedes any previous agreements or understandings, oral or written.

- 13.8 **AMENDMENT:** Except as expressly provided herein, the provisions of this Agreement shall not be altered, modified or amended except through the execution of written amendment executed by MST and CONSULTANT.
- 13.9 **COMPLIANCE WITH APPLICABLE LAW:** In the performance of Services hereunder, CONSULTANT and its sub consultants, shall comply with all applicable requirements of federal , federal and local law. The provision of this paragraph shall be included in any subcontracts hereunder.
- 13.10 **DOCUMENTS AND WRITTEN REPORTS.** In accordance with Government Code § 7550 *Preparation by nonemployees of federal or local agency; inclusion of contract and subcontract numbers and dollar amounts:* If CONSULTANT prepares any documents or written reports pursuant to the scope of work under this Agreement for Services, for which the total cost of preparation exceeds \$5,000, such documents or written reports shall contain a separate section that contains the numbers and dollar amounts of all contracts and subcontracts relating to their preparation.

Monterey-Salinas Transit

Consultant

By: _____

By: _____

EXHIBIT B

COMPENSATION

For CONSULTANT'S full and complete performance of its obligations under this Agreement, MST shall pay CONSULTANT compensation as set forth herein.

I. INVOICING: CONSULTANT shall invoice MST on a monthly basis for services performed during the preceding month. On each invoice, Base Work (Retainer Fee) and any Extra Work (Extraordinary Expenses) shall be charged separately. Furthermore, each invoice shall include a description of the work performed, and the number of hours allotted.

A. Professional services shall be invoiced in accordance with the following Rate Schedule:

MONTHLY RETAINER: \$ _____

The monthly retainer shall include all ordinary expenses, plus all transportation and lodging costs, if necessary.

- B. Project-related travel expenses, beyond the monthly retainer fee, which are directly identifiable to the performance of services under this Agreement shall be reimbursed at actual cost without mark-up. Airfare shall be at the lowest available coach fare. Vehicle mileage shall be reimbursed at the current IRS rate. Reimbursement for subsistence for such travel shall not exceed \$250 per day. All extraordinary expenses shall require appropriate backup documentation for reimbursement.
- C. Each invoice shall cite Agreement No. _____ and shall specify the time period covered by the invoice and the amount of payment requested.
- D. Invoices shall be mailed to the attention of Accounts Payable, One Ryan Ranch Road, Monterey, CA 93940-5795.
- E. **WAIVER-SERVICES NOT INVOICED WITHIN 6 MONTHS.**
CONTRACTOR SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO PAYMENT FOR SERVICES NOT INVOICED WITHIN 6 MONTHS OF THE DATE THE SERVICE WAS PERFORMED. For purposes of this provision, the date of the invoice shall be the date it is received by MST.
- F. Should MST contest any portion of an invoice, that portion shall be held for resolution, but the uncontested balance shall be processed for payment. MST may, at any time, conduct an audit of any and all records kept by CONSULTANT for the Services. Any overpayment uncovered in such an audit may be charged against the CONSULTANT's future invoices.

- II. PAYMENT:** Payment will be made to CONSULTANT within 30 days after receipt by MST of a proper invoice. CONSULTANT shall pay subconsultants, if any, for satisfactory performance of Services performed under this Agreement within 15 days of receipt of payment by MST for such services.

EXHIBIT C

**INSURANCE AND INDEMNITY REQUIREMENTS
for
PROFESSIONAL SERVICE CONTRACTS**

PROPOSERS' ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW. IT IS HIGHLY RECOMMENDED THAT PROPOSERS CONFER WITH THEIR INSURANCE CARRIERS OR BROKERS IN ADVANCE OF PROPOSAL SUBMISSION TO DETERMINE THE AVAILABILITY OF INSURANCE CERTIFICATES AND ENDORSEMENTS PRESCRIBED AND PROVIDED HEREIN.

I. INDEMNITY

The Consultant shall indemnify, defend, and hold harmless Monterey-Salinas Transit (hereinafter "MST"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, the negligent performance of this Agreement by Consultant and/or its agents or employees or sub consultants, excepting only loss, injury or damage caused by the negligence or willful misconduct of MST employees.

II. INSURANCE

Without limiting the Consultant's indemnification of MST, the Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees, or sub consultants. The cost of such insurance shall be included in the Consultant's bid.

A. Liability and Worker's Compensation Insurance

1. Minimum Scope of Coverage

Coverage shall be at least as broad as:

- a. Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001). Liability insurance written on a "claims made" basis is not acceptable.
- b. Insurance Services Office Business Auto Coverage form number CA 0001 covering Automobile Liability, code 1 "any auto".
- c. Workers' Compensation insurance as required by the Labor Code of the Federal of California, and Employers Liability insurance.

2. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

- a. General Liability \$1,000,000 combined single limit per occurrence for bodily injury, personal injury, and property damage. If a Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- b. Automobile Liability \$250,000 combined single limit per accident for bodily injury and property damage.

3. Self-Insured Retention

Any self-insured retention in excess of \$10,000 must be declared to and approved by MST. To apply for approval for a level of retention in excess of \$10,000 the proposer/bidder must provide a current financial statement documenting the ability to pay claims falling within the self-insured retention. At the option of MST, either: the insurer shall reduce or eliminate such self-insured retention as respects MST, its officers, officials, employees and volunteers; or the propose/bidder shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

B. Claims Made Provisions

If coverage is written on a "claims made" basis, the Certificate of Insurance shall clearly state so. In addition to all other coverage requirements, such policy shall provide that:

1. The policy must be in effect as of the date of this Agreement and the retroactive date shall be no later than the date of this Agreement.
2. If any policy is not renewed or the retroactive date of such policy is to be changed, the Consultant shall obtain or cause to be obtained the broadest extended reporting period coverage available in the commercial insurance market. This extended reporting provision shall be of at least two (2) years.
3. No prior acts exclusion to which coverage is subject that predates the date of this Agreement.
4. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

C. Other Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability

- a. MST, its officers, officials, employees and volunteers are to be covered as insured's as respects: liability arising out of activities performed by or on behalf of the Consultant, including MST's general supervision of the Consultant; products and completed operations of the Consultant and its sub consultants; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to MST, its officers, officials, employees, or volunteers.
- b. The Consultant's insurance coverage shall be primary insurance as respects MST, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by MST, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to MST, its officers, officials, employees, or volunteers.
- d. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability

The insurer shall agree to waive all rights of subrogation against MST, its officers, officials, employees, and volunteers for losses arising from work performed by the Consultant and its sub consultants for MST.

D. Acceptability of Insurers

Insurance and bonds are to be placed with insurers with a Best's rating of no less than B+VIII, unless MST has granted specific prior written approval.

E. Certificates of Insurance

Consultant shall furnish MST with a Certificate of Insurance. The certificates for each insurance policy are to be signed by an authorized representative of that insurer. The certificates will be issued on a standard ACORD Form or something substantially similar thereto.

The certificates will (1) identify the underwriters, the types of insurance, the insurance limits and the policy term, (2) specifically list the provisions enumerated for such insurance in Sections B and C. above, and (3) in the "Certificate Holder" box include:

Monterey-Salinas Transit
One Ryan Ranch Road
Monterey, CA 93940-5795

All certificates are to be received and approved by MST before work commences. MST reserves the rights to require complete, certified copies of all required insurance policies, at any time.

Each insurance policy required by this Exhibit shall provide that if the policy is canceled or coverage reduced, such cancellation or reduction shall not be effective for 30 days, except for non-payment of premium which shall be 10 days, after receipt by MST of written notice of such cancellation or reduction.

III. MAINTENANCE OF INSURANCE

If Consultant fails to maintain such insurance as is called for herein, MST, at its option, may suspend payment for work performed and/or may order the Consultant to suspend work at Consultant's expense until a new policy of insurance is in effect.