



**REQUEST FOR PROPOSALS
RFP # 10-06**

**“MOBILITY MANAGEMENT PLAN & PROGRAM
SERVICES”**

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

Date Issued:	December 1, 2009
Pre-Proposal Conference	December 29, 2009 at 1:00 PM
Deadline for receipt of written questions	January 5, 2010
MST responses and/or addenda issued by	January 11, 2010
Proposal Due Date	January 25, 2010 by 1:00 PM
Notice of Award	February 8, 2010

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SECTION 1. INTRODUCTION

1.1 Overview

Monterey-Salinas Transit (MST) is requesting proposals from qualified organizations to develop and implement a comprehensive mobility management plan and program. The winning proposal will provide a roadmap for establishing a coordinated transportation system that provides accessible and affordable transportation to persons with disabilities, seniors, and low-income students and workers, as well as integrating oversight of taxicab services throughout the County of Monterey. The required plan will also identify resources, break down anticipated costs for each component, and present a timeline for implementation based upon current conditions.

Bidders must demonstrate professional competency in social services transportation planning and program implementation in urban, suburban and rural areas with demographics similar to Monterey County. Under management oversight by MST staff, the successful bidder will be expected to: (1) develop mobility management service delivery strategies, and schedule and operate services for select groups noted above; and (2) provide day-to-day operations, licensing, and regulatory oversight for the Monterey County Taxi Authority. As an alternative to direct operation, the successful bidder may enter into contracts, subject to approval by MST, to provide for the provision of on-the-street operating services described herein.

In regards to a project budget, MST expects that the taxi authority functions of the contract would be self-sustaining via permitting and inspection fees to be paid by the taxi drivers, companies and municipalities themselves. The remainder of the mobility management functions would be supported by local, state and federal grant funds, including New Freedom and Jobs Access Reverse Commute (JARC) program funds awarded to MST. MST would seek an initial 5-year contract term with the selected bidder, with two (2) 2-year optional extensions.

1.2 Background

Monterey-Salinas Transit is a joint powers agency of the state of California 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 and to Santa Clara County in Gilroy, Morgan Hill and San Jose.

MST operates 50 routes within a service area comprised of an estimated 352,000 people and has a total of 76 buses and 35 minibuses in its active fleet, as well as 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.

MST provides a variety of fixed-route services to meet the unique needs of the rural, small and medium-sized communities it serves. A Board of Directors with a representative from each member jurisdiction governs the agency and appoints the General Manager/Chief Executive Officer.

Effective July 1, 2010, under recently-enacted state law, the agency will become the Monterey-Salinas Transit District (AB 644, Caballero, Chapter 460, Statutes of 2009).

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, San Jose, Carmel Valley and South Monterey County and to a variety of other destinations and attractions. In addition, intercity routes connect MST with the Santa Cruz Metropolitan Transit District at their Transit Center in Watsonville. Further, MST provides rural transit service to Carmel Valley along with seasonal service to Big Sur and the Monterey waterfront.

Monterey-Salinas Transit provides all public transit and ADA paratransit services in Monterey County (aside from a few nonprofits organizations which provide limited and exclusive paratransit services for some of their clients). In the past MST has focused on providing traditional fixed-route transit services as well as special services required by the Americans with Disabilities Act for paratransit-eligible individuals. Recently, MST's scope of responsibilities have expanded through its designation as the CTSA (Consolidated Transportation Service Agency) for Monterey County as well as the award of a series of jobs access and mobility management grants by the federal government through the multi-year transportation authorization program known as SAFETEA-LU.

With this RFP, MST seeks to maximize its newfound mobility management opportunities and responsibilities through a comprehensive program that will ultimately provide the best, most convenient, and environmentally responsible transportation options for the residents, visitors, stakeholders, and taxpayers of the Monterey County region.

SECTION 2.0 SCOPE OF WORK

MST's objective is to design and operate for Monterey County a comprehensive mobility management program, which would include operational and regulatory responsibilities, by analyzing system-wide needs and resources and, subsequently, implementing an array of options and services that would provide residents, visitors and providers with a complete suite of transit, transportation and taxi functions, modes, policies, procedures and enforcement mechanisms to successfully satisfy local needs and demands.

In their submittals, respondents to this Request for Proposals (RFP) should outline how they would address the following mobility management functions required by MST:

- 1. Monterey County Taxi Authority** – MST is in the process of being designated the Monterey County Taxi Authority. Through this RFP, MST is seeking assistance with the development and coordination for the operation of another mobility management facet of today's transportation needs – a local taxi authority. Currently underway is a legislative process that would, if successful, result in all local jurisdictions adopting one set of ordinances outlining the

creation, roles and responsibilities of a Monterey County taxi authority. (The Monterey County Regional Taxi Authority Joint Powers Agreement is presented in Appendix A. The rules and regulations of this proposed taxi authority are described in detail in Appendix B. A model taxi ordinance proposed for adoption by all Monterey County jurisdictions is provided in Appendix C.) While the Taxi Authority would be governed by a policy board comprised of elected and appointed officials, MST is seeking through this RFP to identify and contract with one or more qualified firm(s) to help with the following day-to-day operations, licensing and evaluation functions:

- a. Conduct or subcontract approximately 200 vehicle inspections on an annual basis with additional inspections required in the event of customer complaints).
- b. Conduct driver background checks (fingerprinting, DOJ, drug & alcohol, etc.)
- c. Operate as a one-stop permitting center to issue company, vehicle and driver permits and collect all fees.
- d. Collect business license fees and issue business licenses.
- e. Monitor insurance requirements and verify insurance coverage
- f. Ensure meters are calculating fares correctly.
- g. Assist the agency with integrating accessible cabs into local service (See Item #6 of this Work Scope).
- h. Ensure that cab companies accept senior scrip (or other mechanisms used for senior fare subsidies, and/or subsidies for other identified demographic groups) and participate in setting reduced fares for participation in mobility manager programs identified in the following Scope of Work items.
- i. Meet quarterly with law enforcement, Monterey Peninsula Airport officials and cab companies
- j. Coordinate with Taxi Authority steering committee, comprised of local stakeholders on a bi-weekly basis during start-up and on a quarterly basis following the first three months of full implementation. Report to the Taxi Authority board as requested.
- k. Report illegal taxicab activities to city/county law enforcement agencies. (While taxi authority staff will not have traffic stop powers, the county's taxi regulations will require drivers to stop and cooperate with Taxi Authority and municipal/county code enforcement staff.)

- l. Coordinate regular (e.g., quarterly) “secret shopper” quality-control evaluations of taxi services, cleanliness and operations and report results to the Taxi Authority steering committee.
 - m. Assist MST staff with public outreach on taxi services and educational efforts with law enforcement.
 - n. Establish a database that is accessible to member agencies to get real-time information about the status of licenses and permits. The domain name and all programming for this website shall become the property of MST, or MST will be granted a perpetual license to use said website through a mutually agreed upon arrangement.
 - o. Establish a website for providing licensing and permitting information and forms. The domain name for this website and all programming shall become the property of MST or MST will be granted a perpetual license to use said website through a mutually agreed upon arrangement. Establish a website for customer complaints regarding taxi operations and service levels. The domain name for this website and all programming shall become the property of MST and/or MST will be granted a perpetual license to use said website. The website developed for the taxi program may be expanded to include other service options identified below.
- 2. Paratransit -** During the last two fiscal years, paratransit demand in MST’s service area has increased by over 70% due, in large part, to the transfer of most dialysis trips from a MediCal-funded nonprofit (Central Coast Alliance for Health, CCAH) to MST’s RIDES program.

As the previously well-funded CCAH was not required to provide these dialysis trips, this non-profit chose to absorb much of the state’s recent MediCal budget cuts by transferring this function to MST. Under the federal Americans with Disabilities Act, MST was forced to accept these new dialysis patients at a cost of \$20 per unlinked trip while concurrently enduring its own 100% reduction of state support for transit funding as a result of the unprecedented California budget crisis.

In that regard, MST’s RIDES paratransit operational budget jumped by approximately 70% in one year, from \$2 million in FY 09 to \$3.4 million in FY 10, while on the capital side, MST has had to expand its paratransit fleet to meet demand by over 5 minibuses. Clearly, the scale of these operational and capital cost increases for the RIDES program is not sustainable in the long term. As such, MST is seeking professional assistance to work with MST’s contract paratransit provider MV Transportation, Inc., to develop and implement innovative strategies using advanced technologies and intelligent transportation systems to refine and streamline this program to reduce or better control the impact of increased paratransit demand and costs.

Strategies such as on-line booking of trips may also be appropriate as a cost reduction/control strategy (e.g., number of reservations). Respondents to

this RFP should propose a detailed description of how they would design and implement such strategies and programs. The successful bidder is expected to operate the programs proposed. In FY09, average daily ridership was 312 with an average trip length of approximately 30 minutes. Productivity (i.e., passengers per hour) was at 1.9. The fleet used for this service included 26 minibuses and 2 minivans.

The successful bidder should refer to the list of public vehicles (both existing and planned) as identified in Appendix D. This list of vehicles may be mixed and matched, as needed, to implement the proposed service delivery plan as recommended by the successful bidder, and as approved by MST.

- 3. MST RIDES ST Program -** MST's RIDES Special Transit program provides paratransit trips to eligible individuals in areas beyond the ADA-directed ¾-mile zone in areas of rural north Monterey County as well as between ¾ of a mile and 1 mile of the Highway 101 Corridor between Salinas and where MST's service area ends at King City.

In addition, the MST RIDES ST zone also encompasses all paratransit-eligible riders within one mile of Highway 101 between King City and the southern border of Monterey County. (See maps in Appendix D.) Given the rural nature of these RIDES ST trips, cost per passenger is relatively high. Through this RFP, MST is seeking proposals that would provide cost-effective options to meet these ex-urban and rural paratransit needs by means other than the MST RIDES program.

The successful bidder is expected to operate the programs proposed. In FY09, average daily ridership was 6.2 with an average trip length of approximately 55 minutes. Productivity (i.e., passengers per hour) was at approximately 1.0. The fleet used for this service included MST's paratransit minibuses. Refer to Appendix D for a complete list of vehicles available for this and other Mobility Management Services identified in this Work Scope.

- 4. Out-of-County RIDES trips to healthcare destinations -** MST has traditionally offered regular opportunities for paratransit-eligible individuals to access enhanced healthcare options in the Bay Area. Currently at approximately 3 to 5 per month, demand for these out of town trips is expected to increase as the local population ages. Because these long-distance trips are inherently expensive to provide, MST is seeking through this RFP strategies to continue to provide these premium services through the most economically means/mode possible. Destinations for these "out of county" paratransit trips include:

- a. University of California at San Francisco Medical Center
- b. Mount Zion Hospital San Francisco
- c. Veteran's Administration Hospital – Palo Alto Stanford Medical Center
- d. Santa Clara Medical Center

- 5. Taxi Vouchers/Scrip -** MST has implemented a pilot taxi voucher program for the Pacific Meadows senior residential neighborhood. In addition, the cities of Monterey, Seaside, Sand City and Del Rey Oaks offer a senior taxi scrip

program, which provides residents 65 years and older a 50% discount on travel within these jurisdictions on Yellow Cab.

The selected firm would be expected to assist in operating these programs and expanding them to other communities, including but not limited to clerical support for determining eligible participants and/or maintaining a data base of eligible participants, selling and distributing scrip, matching demand for rides with available modes and services (i.e., dispatching services), and other associated responsibilities such as validating that trips were actually made. Bidders are encouraged to recommend low-cost MDT and card-reader alternatives to improve the quality and reliability of service.

The Pacific Meadows pilot program currently has 60 participants. These 60 participants are approximately 20% of the senior population living in this area. On average, participating seniors make 110 of trips per month.

The senior population in Monterey County, by city, includes:

<u>Location</u>	<u>Total population</u>	<u>Population 65 +</u>	<u>Percentage 65+ of total</u>
Monterey County (2008 Estimate)	408,238	41,640	10.2%
Monterey County (2000 Census Actual)	401,762	40,299	10.0%
Carmel	4,081	1,258	30.8%
Castroville	6,724	374	5.6%
Chualar	1,444	51	3.5%
Del Rey Oaks	1,650	262	15.9%
Gonzales	7,525	431	5.7%
Greenfield	12,583	629	5.0%
King City	11,094	686	6.2%
Marina	25,101	1,978	7.9%
Monterey	29,674	4,410	14.9%
Moss Landing	300	33	11.0%
Pacific Grove	15,522	3,037	19.6%
Prunedale	16,432	1,651	10.0%
Salinas	151,060	10,673	7.1%
Sand City	261	13	5.0%
Seaside	31,696	2,684	8.5%
Soledad	11,263	670	5.9%

- 6. Accessible Taxi Services** - MST's RIDES paratransit program offers clients partial reimbursement for same-day trips made on local taxis. Currently, demand for this service averages approximately 60 trips per month. However, local taxi fleets totaling approximately 200 vehicles are inaccessible to many individuals with mobility-aid devices, including wheelchairs.

Thanks to generous New Freedoms grants from the Federal Transit Administration, MST will soon be able to purchase, deploy and operate 4 accessible taxis in Monterey County. (MST has also applied for further grant funds that, if awarded, would be used to purchase an additional 4 accessible taxis.)

These new accessible taxis will provide same-day transportation services above and beyond what is currently offered and required by the Americans with Disabilities Act to those needing extra assistance to complete their trip to/from work, school, shopping, or any other destination as requested.

Respondents to this RFP shall detail in their submittals how these accessible taxis would be integrated into the local transportation network and made available to residents and visitors needing these services.

7. **Senior Shuttles** - MST's service area includes many senior residential areas that are conducive to specialized transit lines that cater directly to the needs and demands of individuals that may be retired or are working less as they age. Proposers to the RFP should identify how senior transportation needs can be grouped by residential locations and shared-demand destinations to maximize the efficiency of existing and anticipated transportation modes and resources.

The successful bidder will be expected to provide a detailed analysis of these needs in the first three months following implementation of paratransit services. An estimate of resources (days and hours of operation, number of vehicles) to provide these grouped services should be provided for price proposal submission, based on the strategies proposed by the bidder. The successful bidder will be responsible for scheduling and dispatching these trips, as well as operation.

8. **Social Service Shuttles** - Similar to senior shuttles above, social service clients and special-needs populations of a variety of ages often have mobility needs that are conducive to shared-ride arrangements that can include a variety of modes.

For example, MST has been approached by agencies such as the Salvation Army to provide transportation for after school programs and Hope Services, Inc., to provide transportation for developmentally disabled workers to job sites.

Through this RFP, MST is seeking assistance from qualified firms to assist with efficiently scheduling and deploying transportation services to meet the needs of social service populations. The successful bidder will be expected to provide a detailed analysis of these needs in the first three months following implementation of paratransit services. An estimate of resources (days and hours of operation, number of vehicles) to provide these grouped services should be provided for price proposal submission, based on the strategies proposed by

the bidder. The successful bidder will be responsible for scheduling and dispatching these trips, as well as operation.

2.1 TECHNICAL SPECIFICATIONS

MST expects the firm(s) selected to have demonstrated its ability to deliver the analyses and services necessary for the project as defined in this RFP. Information which demonstrates availability of staff and resources required to complete the project as defined in these sections in a timely manner should be included in this proposal. Prior work in the field of mobility management should be profiled. The final work product must reflect a full and complete effort on the part of the successful firm(s) to provide MST with a comprehensive Mobility Action Plan and Program that will be used to deliver high-quality ongoing results for items 1 through 8 above as MST's mobility manager.

Specific sections and information required include the following:

- 1. Technical Approach & Proposed Plan** - For each program identified in the Scope of Work provide a description of the strategy proposed, days and hours of operation, type of staffing (titles/roles and approximate FTEs) proposed, and systems and technology to be deployed.

Identify anticipated productivity levels and cost per passenger and cost per passenger mile anticipated. Identify a performance level that if achieved, would be worthy of a \$50,000 bonus per year. Identify the performance level that would be worthy of a \$75,000 bonus per year. Telephone response and hold times for the entire Mobility Manager should be identified – at what levels will you increase staffing since the volume of calls may not be known in advance. Also identify how you plan to meet the “recommended practices” being finalized for the APTA Accessibility Standards program.

PHASING: MST expects that items 1 through 8 would be phased in over the course of two years. According to current conditions, item 1 would be implemented first, followed by items 2, 3 and 4. The remaining tasks would follow as funding and logistics allow.

An estimated start date for each program should be identified. Activities leading up to full implementation should also be identified, with a schedule.

- 2. Qualifications & Experience** - The experience and qualifications of the proposed team should be provided including a brief overview of each company proposed. For each firm proposed, please provide one to five project descriptions and references in the areas of: (1) Taxi Regulation; (2) Paratransit ADA Service Provision; (3) Social Service Agency coordination; (4) Scheduling and provision of dialysis service; (5) Taxi Voucher Program administration; and (6) other skills and experience relevant to requirements and proposed approach. For each project description/reference provided, please include the start and end date of the project, client contact, telephone number and email address. State

the contract amount and identify key staff assigned to the project if they are also proposed for this assignment.

- 3. Proposed Staffing.** This section of the proposal should list the names, brief relevant qualifications, and roles of key staff as well as other supporting positions. Level of commitment should be stated in terms of % of time committed to the project. Resumes should not to exceed 2 pages in length and are required for all salaried employees proposed for this project.
- 4. Price Proposal.** Rates for various service delivery programs. Rates to be stated in terms of Rate Per Passenger, Rate Per Hour and Rate Per Mile. All three are required, along with assumptions on the number of units (i.e., passengers, hours, miles) to arrive at the price. This gives a basis for comparison between providers and business models. Escalation factors for each year following full implementation should be provided.

SECTION 3. INSTRUCTIONS TO PROPOSERS

3.1 PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held on **December 29, 2009 at 1:00 p.m.** at MST's Administrative Office, One Ryan Ranch Road, Monterey, California. All Prospective Proposers are strongly encouraged to attend the pre-proposal conference.

3.2 EXAMINATION OF PROPOSAL DOCUMENTS

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

3.3 ADDENDA

Any MST changes to the requirements will be made by written addendum to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into the terms and conditions of any resulting Agreement. MST will not be bound to any verbal or oral modifications to or deviations from the requirements set forth in this RFP.

3.4 CLARIFICATIONS

A. Examination of Documents

Should a potential Proposer require clarifications of this RFP, the Proposer shall notify MST in writing in accordance with Section B.2. below. Should it be found that the point in question is not clearly and fully set forth, MST will issue a written addendum clarifying the matter, which will be sent to all persons who have requested the RFP.

B. Submitting Questions and/or Requests for Clarification:

1. All questions, clarifications or comments must be received in writing by MST no later than 5:00 p.m., **January 5, 2010**, and be addressed to Purchasing Manager, Monterey Salinas Transit, One Ryan Ranch Road, Monterey, California 93940-5795. MST will also accept questions sent via e-mail to samorim@mst.org. E-mail is the preferred method for receipt of questions.

2. Requests for clarifications, questions and comments must be clearly labeled, "RFP # 10-06 Mobility Management Program & Plan Consultant Services". MST is not responsible for failure to respond to a request that

has not been labeled as such. Questions/Clarification requests received after January 5, 2010, may or may not be considered by MST.

C. MST Responses

Responses from MST, will be in the form of a written Addendum, if appropriate, to provide information to all potential Proposers, and will be postmarked no later than **January 11, 2010**.

3.5 SUBMISSION OF PROPOSAL

A. Date and Time

Proposals must be submitted on or before 1:00 p.m., Pacific Daylight Time, **January 25, 2010**.

Proposals received after the above-specified date and time will not be considered and will be returned unopened.

B. Address

Proposals must be clearly marked on the exterior as "MST RFP # 10-06 Mobility Management Plan & Program Consultant Services" and addressed to:

Monterey Salinas Transit
ATTN: Purchasing Manager
One Ryan Ranch Road
Monterey, California 93940-5795

Facsimile (FAX) proposals will not be accepted or considered.

C. Identification of Proposals

Proposer shall submit one (1) original and two (2) copies of its proposal in a sealed package, addressed as shown above, bearing the Proposer's name and return address.

D. Acceptance of Proposal

1. MST reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.

2. MST reserves the right to withdraw this RFP at any time without prior notice and MST makes no representations that any contract will be awarded to any Proposer responding to this RFP.

3. MST reserves the right to postpone proposal openings for its own convenience.

E. Failure to Respond

MST reserves the right to remove from its mailing lists for future RFPs, for an undetermined period of time, the name of any Proposer for failure to accept a contract, failure to respond to two (2) consecutive RFPs and/or unsatisfactory performance. Please note that a "No Bid" or a "Decline to Bid" is considered a response.

3.6 PRE-CONTRACTUAL EXPENSES

Pre-contractual expenses are defined as expenses incurred by Proposer in any of, but not limited to, the following:

1. Preparing its proposal in response to this RFP.
2. Submitting proposal to MST.
3. Negotiating with MST any matter related to this proposal.
4. Any other expenses incurred by Proposer prior to date of contract award.

MST shall not, in any event, be liable for any pre-contractual expenses incurred by Proposer in the preparation of its proposal. Proposer shall not include any such expenses as part of its proposal.

3.7 JOINT OFFERS

Where two or more Proposers desire to submit a single proposal in response to this RFP, they should do so on a prime Consultant/sub-Consultant basis rather than as a joint venture. MST's intent is to contract with a single firm. That firm may have agreements with other firms. This information must be disclosed as part of the RFP response.

3.8 PROTEST PROCEDURES

MST has established a set of written protest procedures. These procedures can be found in the STANDARD TERMS and CONDITIONS section. Any protests filed by a Proposer in connection with this RFP must be submitted in accordance with MST's written procedures.

SECTION 4. PROPOSAL REQUIREMENTS AND CONTENT

A. PROPOSAL REQUIREMENTS

Interested Proposers shall submit proposals in two (2) separate sealed envelopes within the proposal package. **Sealed envelopes containing TECHNICAL NARRATIONS only shall be clearly marked as “PART I TECHNICAL NARRATIONS ONLY” Part I will contain one (1) original and two (2) copies of technical narration, excluding cost. Sealed envelopes containing COST/PRICE information shall be clearly marked as “PART II COST/PRICE information”. Part II, consisting of one (1) original and two (2) copies will contain only information relating to cost.**

Specifically, proposals shall include the following information presented in clear, comprehensive, and concise narrative statements.

1. General Requirements

- a. Proposers are requested to follow the RFP format, cross-referencing responses to specific RFP subsections.
- b. Proposers must respond to all subsections under Part I Technical Specifications Proposal and Part II Cost Proposal specifications. **Cost Proposal and pricing information are not to be included in the Technical Proposal.**

B. Part I Technical Proposal

Shall contain the following sections:

- 1. Proposal Transmittal Letter including email address.
- 2. Proof of insurance and/or other financial resources.
- 3. Narrative discussion and response to each Technical Specification as described in SECTION 2 SCOPE OF WORK/SERVICES.
- 4. Completed ATTACHMENT # 7 COMPLIANCE AND OR EXCEPTION AND ATTACHMENT # 9 PROPOSER QUALIFICATIONS AND REFERENCES, accompanied by appropriate responses and documentation.

C. Part II Cost Proposal

Submit a fully developed cost for services required to complete and fulfill the scope of work/services in this RFP, along with a suppliers timeline and payment milestones as work/services are delivered.

D. PROPOSAL FORMAT AND CONTENT

1. Presentation

Proposals shall be typed, and submitted on 8 1/2” x 11” size paper, using a single method of fastening. They should not include any unnecessarily

elaborate or promotional materials; lengthy narrative is discouraged. They should not exceed fifty (50) pages in length not including questionnaire or any Exhibits or Certificates/Affidavits.

2. Letter of Transmittal

A Letter of Transmittal shall be addressed to Purchasing Manager and must, at a minimum, contain the following:

- a. Identification of Proposer, including name and mailing address.
- b. Proposed working relationship between Proposer and subConsultants, if applicable.
- c. Acknowledgment of receipt of all RFP addenda, if any.
- d. Name, title, address and telephone number of contact person during period of proposal evaluation.
- e. A statement to the effect that the proposal shall remain valid for a period of not less than 90 days from the date of submittal.
- f. Signature of a person authorized to bind Proposer to the terms of the proposal.

3. Technical Proposal

This section of the proposal should establish the ability of Proposer to satisfactorily perform the required work by reasons of: experience in performing work of a similar nature; demonstrated competence in the services to be provided; strength and stability of the firm; staffing capability; work load; record of meeting deliverables on a timely manner on similar projects; and supportive client references.

a. Qualifications, Related Experience and References of Proposer

Proposer shall:

- (1) Provide a brief resume, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; and number of employees.
- (2) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP.
- (3) Provide minimum three (3) references.

b. Exceptions/Deviations

State any exceptions to or deviations from the requirements of this RFP, segregating "technical" exceptions from "contractual" exceptions. Where Proposer wishes to propose alternative approaches to meeting MST's technical or contractual requirements, these should be thoroughly explained to allow adequate evaluation by MST. Clearly identify any exceptions/deviations and attach the narrative with Attachment # 7.

Such exceptions/deviations will be considered in evaluating proposals and shall, if acceptable to MST, be incorporated into the final contractual agreement.

E. REQUIRED COMPONENTS OF PROPOSAL

To be considered a responsive proposal, Proposer must submit all of the following:

1. Completed Letter of Transmittals with all requested information
2. Required Forms/Certifications/Affidavits/Exhibits.

SECTION 5. EVALUATION CRITERIA, PROPOSAL EVALUATION AND AWARD

A. Evaluation Criteria

An Evaluation Committee comprised of MST Staff will evaluate all proposals received as specified. Part 1 Technical Narrative Proposals will be evaluated with the primary focus on Technical Evaluation Criteria only. Price will not be a factor during the Technical Narrative evaluation process. For additional details, see B. Proposal Evaluation Process below.

MST will evaluate Technical Narrative proposals using the following criteria and corresponding weight:

<i>Criterion</i>	<i>Value</i>
a. Organizational management and business plan: Proposers understanding of the project and MST's operating environment.	30%
b. Past performance and quality of services: Previous experience with projects in real estate consulting and transit-oriented development.	20%
c. Quality Assurance: Ability of the proposed task plan to meet MST's objectives.	20%
d. Qualification of key personnel: Samples of Comparable Work	20%
e. Reference Check: Results of reference check.	10%

1. Technical Evaluation Criteria.

Technical Evaluation Criteria will be considered in descending order of importance with the exception of Technical Evaluation Criteria a, b, and c which are to be considered equal in value. The value of "d" and "e" descend in order of importance:

a. **Organizational management and business plan** demonstrating understanding of technical requirements and comprehension of the services to be provided.

- 1) General description of the Proposer, including primary business, other affiliated business or services, type of organization (joint venture, corporation, sole proprietor, etc.), and other descriptive material.
- 2) Proposer's professional and technical qualifications, experience and communication skills that will be brought to this contract. Tell us how you will manage and apply deliverables.

- 3) Furnish a procedural plan on how work will be processed to enable MST to evaluate your performance.
- 4) Adequacy of Proposer's submitted technical proposal. Evaluators will look to see how well Proposer's submittals address the following: Does proposal present and address all requested elements of the RFP? Are individual elements expressed fully and clearly with required supporting documentation?
- 5) Demonstrated ability to provide drafts and power point presentations to MST staff, MST Board and other public audiences.

b. Past performance and quality of services. Proposer Qualifications and References (Attachment # 9) should be completed listing three (3) current references for similar projects, and three (3) for completed projects. Public agency organizational references should be provided where possible.

c. Quality Assurance.

- 1) Provide narrative descriptions of the approaches and procedures to be used to meet overall Scope of Service requirements.
- 2) Provide a sample Quality Assurance plan featuring communication with MST resolution processes, follow-up procedures, and other accountable measures in compliance with the RFP Quality Assurance clause. See "D". Quality Assurance, below for detail.
- 3) Submit a typical scope of services timeline schedule – presenting a clear understanding of MST requirements and deliverables.
- 4) Describe outstanding or prior lawsuits, claims, liens or judgments.

d. Qualification of key personnel.

Work Study Samples: Two (2) executive overview sample studies developed for Proposer's prior or current customers most closely paralleling the RFP, Scope of Services. Note these sample-studies will not be returned.

B. Proposal Evaluation Process.

The intent of this proposal is to award a Contract to a qualified firm to perform a full service recommendation/review of MST's Mobility Management Plan and Program, and the implementation of comprehensive program. Proposals will be evaluated based upon the following criteria:

1. Evaluation is an assessment of both the proposal and the Proposer's ability to accomplish the prospective Scope of Services and to comply with contract terms and conditions.
2. All proposals are first evaluated and ranked on Technical Evaluation Criteria responses.
3. Proposals determined technically acceptable are re-evaluated with cost as a consideration.
4. Using a combination of both technical and cost evaluations, proposals are ranked to establish a competitive range.
5. MST may negotiate with all responsible proposers in the competitive range. Or, at its sole discretion, hold clarification discussions with only one of those responsible proposers in the competitive range. Proposers should be aware, that award may be made without interviews or further discussion.

C. Award

1. MST reserves the right to award without written or oral discussions, or negotiations. Proposers are encouraged to initially submit their best technical and price offer. MST's intent is to award its total requirements to one Proposer. Negotiations may or may not be conducted with Proposers. Therefore, any proposal submitted should contain Proposer's most favorable terms and conditions, since the selection and award may be made without subsequent discussion and/or interview(s) with any Proposer.
2. MST will award to the proposer whose proposal is most advantageous to MST, considering cost and other criteria.
3. The intent is to award a single contract to the responsible Proposer presenting the lowest cost, responsive proposal and a qualified offer. MST may negotiate contract terms with the selected firm prior to award, and expressly reserves the right to negotiate with several Proposers simultaneously and, thereafter, to award a contract to the Proposer offering the most favorable terms to MST. The contract awarded will follow the outline of the "Sample Contract" presented in Exhibit # 1, of this RFP, as modified to reflect negotiated changes and applicable provisions of this RFP.
4. All proposals may be rejected if such action is determined to be in the best interest of MST.
5. When contract award is approved, unsuccessful proposers will be notified of the award in a timely manner.

D. Quality Assurance

Within 10 days of contract award, Consultant shall establish a quality control program to ensure that the requirements of the contract are performed and provided as specified and shall state how quality of performance will be monitored. This program shall include procedures to be approved by MST'S Project Manager before implementation, and shall include a self-inspection method covering all the services to be performed under the contract.

The program shall also include a method for monitoring, identifying, and correcting deficiencies in the quality of services furnished to MST before levels of performance become unsatisfactory. MST'S Program Manager shall be notified of all corrective actions taken through a Consultant's report.

E. Contract Administration

MST'S Project Manager will administer the operational aspects of the contract. Changes to the Scope of Services, contract cost, quantity, quality or delivery schedules shall be coordinated with the Project Manager and will be made official by a properly executed modification. Any proposed change or modification and all correspondence that in any way concerns the terms and conditions of this contract shall be submitted directly to the Project Manager at MST.

Consultant shall immediately notify the Project Manager of any occurrence or condition that interferes with the full performance of the contract. If notification is through telephone exchange the Consultant is required to follow with a written notification within twenty-four (24) hours of the occurrence.

F. Project Manager

The Project Manager will be the primary point of contact for MST in coordinating contract management with the Consultant. Technical project questions, issues and requests for clarifications should be directed to:

Director of Administration
Mr. Hunter Harvath, AICP One Ryan Ranch Road Monterey, CA 93940 (831) 393-8129

All issues, decisions or potential contract changes in conflict with any term and/or condition of the contract are to be coordinated with the Purchasing Manager prior to a final determination.

SECTION 6 STANDARD TERMS AND CONDITIONS

1. PROPOSAL ACCEPTANCE PERIOD

Proposals are valid for a period of 90 days after opening.

2. RIGHTS RESERVED

2.1 Rejection

MST reserves the right to reject any or all proposals or any part thereof, or to accept any proposal or any part thereof, or to waive any informality in any proposal, deemed to be the best interest of MST.

2.2 Cover

Should the successful Proposer fail to comply with the conditions of this proposal or fail to complete the requirements of the proposal, MST reserves the right to complete the required work, at the expense of the Consultant.

2.3 Severability

If any provision, or any portion of any provision, of any contract resulting from this proposal shall be held invalid, illegal or unenforceable, the remaining provisions or portions of any provisions shall be valid and enforceable to the extent possible.

3. PROHIBITED INTERESTS

3.1 By submitting a proposal, the Proposer represents and warrants that neither the MST General Manager/CEO, nor any MST employee is in any manner interested directly or indirectly in the proposal or in the Contract, which may be awarded under it, or in any expected profits to arise.

3.2 No member, officer, or employee of MST or any public entity during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in the Contract to be awarded.

4. CONTRACT

Proposer's signed proposal and written acceptance by MST shall constitute a Contract.

5. PROPOSER AGREEMENT

Submission of a signed proposal will be interpreted to mean that Proposer has hereby agreed to all the terms and conditions set forth in this document.

6. STATEMENT OF EXPERIENCE AND QUALIFICATIONS

The Proposer may be required upon request of the MST General Manager/CEO to prove to his/her satisfaction that their firm has the skill and experience and the necessary facilities and financial resources to perform in a satisfactory manner.

7.0 WAIVER

The Proposer shall represent and warrant that it has sufficiently informed itself in all matters affecting the performance of the work called for in the scope of this proposal; that it has checked its proposal for errors and omissions; that the prices stated in its proposal are correct and as intended by it and are a complete and correct statement of its prices for performing the work required by the Contract documents.

8. COMPLIANCE WITH LAWS

ADHERENCE TO ALL LOCAL, STATE, AND FEDERAL LAWS AND REQUIREMENTS. The Consultant shall adhere to all applicable federal, state, and local laws, codes and ordinances, including, but not limited to, those promulgated by CAL-OSHA, FED-OSHA, EPA, the California State Department of Health Services, and MST Environmental Health Department.

9. LAWS GOVERNING CONTRACT

This Proposal and any resulting contract shall be governed and construed in accordance with the laws of the state of California. The parties stipulate that this contract was entered into in the county of Monterey, in state of California. The parties further stipulate that the county of Monterey, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from. All parties to this proposal and any resulting contract agreed that Venue shall be within County of Monterey, California. Each party will perform its obligations hereunder in accordance with all applicable laws, rules, and regulations now or hereafter in effect.

10. ATTORNEY FEES

In the event that suit is brought to enforce or interpret any part of this proposal or resulting contract, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, a reasonable attorney's fee, including expert witness fees, as may be fixed by the court. These fees and cost shall be taxed as costs in that proceeding, and shall not necessitate the filing of a separate attempt to recover. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment. A party not entitled to recover its costs shall not recover attorney's fees. No sum for attorney's fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to recover its costs or attorney's fees.

11. LIQUIDATED DAMAGES – DEDUCTIONS FROM UNPAID BILLINGS – REMEDIES FOR NON-PERFORMANCE

If the Consultant fails to deliver and/or perform the services within the time specified in the payment milestones of the contract, the actual damages to MST for the delay will be difficult or impossible to assess. In lieu of actual damages, the Consultant shall pay to MST as fixed, and agreed, liquidated damages for each deficiency listed below.

As described under Standard Terms and Conditions in Section 6, Item 13.2, Termination for Default/Breach, MST may terminate this contract in whole or in part. In that event, the Consultant shall be liable for such liquidated damages accruing until such time as MST may reasonably obtain delivery or re-performance of similar deliverables and/or services. The Consultant shall not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of the Consultant.

Prior to the imposition of liquidated damages the Consultant shall meet with MST's Project Manager to review the contemplated implementation of a Liquidated Damage charge and deduction. The Consultant shall be provided with the opportunity to present any mitigating information/evidence to substantiate any claim that the deficiency in performance was beyond the control and/or without fault or negligence of the Consultant. The final authority to impose liquidated damages shall be the Project Manager.

NOTE: Liquidated damages will not be imposed during the first thirty (30) day period of the contract term.

12.0 EFFECT OF EXTENSION OF TIME

Granting, or acceptance, of extensions of time to complete the work or furnish the labor, supplies, materials, or equipment, will not operate as a release to Consultant.

13.0 NOTIFICATION

13.1 If the Consultant believes that the action of MST, lack of action by MST, or any other reason, will result in or necessitate the revision of the contract, MST must be notified immediately. This will be considered the initial notice and shall be in writing. Such contract revisions might include, but are not limited to: the amount agreed upon for payment to Consultant; the period of time allowed for contract performance; the types of materials specified; or the scope of work or services required.

If within two working days of the immediate notification, the identified issue has not been resolved between MST and the Consultant, the Consultant shall provide a second written notice. At a minimum the written notice shall provide a description of the nature of the issue, the time, date, and location at which the problem was discovered, and the name of the MST representative to whom initial notice was given.

13.2 Within seven calendar days of the date of the initial written notice, the Consultant shall provide in writing the following information to MST:

a. The date of occurrence and the nature and circumstances of the issue for which the initial notice was given.

b. Name, title, and activity of each MST representative knowledgeable of the issue.

c. Identity of any documents and the substance of any oral communication related to the issue.

d. The basis for an assertion that work required is a change from the original contract work or schedule.

e. Identity of particular elements of contract performance for which additional compensation may be sought, including:

(1) Pay item(s) that has been or may be affected by the issue.

(2) Labor or materials, or both that will be added, deleted, or wasted by the problem and what equipment will be idled or required.

(3) Delay and disruption in the manner and sequence of performance that has been or will be caused.

(4) Adjustments to contract price(s), delivery schedule(s), staging, and contract time estimated due to the issue.

(5) Estimate of the time within which MST must respond to the notice to minimize cost, delay, or disruption of the issue.

(6) The Consultant's written certification, under oath, attesting to the following:

(a) The request is made in good faith.

(b) Supporting data is accurate and complete to the Consultant's best knowledge and belief.

(c) The amount requested accurately reflects the Consultant's actual cost incurred.

13.3 The failure of the Consultant to comply with the requirement of this section constitutes a waiver of entitlement to additional compensation and/or time extension to complete work.

13.4 Within ten calendar days after the Consultant's submission, MST will respond in writing to the Consultant to:

- a. Confirm that a proposed change request is necessary and, when necessary, give appropriate direction for further performance.
- b. Deny that the contract has been revised and, when necessary, direct the Consultant to proceed with the contract work.
- c. Advise the Consultant that adequate information has not been submitted to decide whether/if paragraphs a. and b. above apply, and indicate the needed information and date it is to be received by MST for further review. MST will respond to such additional information within ten calendar days of receipt from the Consultant.

14.0 CHANGES BY CONSULTANT

If the Consultant, on account of conditions developing during the performance of the Contract, finds it impracticable to comply strictly with the requirements of this contract, an application for modification of requirements must be made in writing. MST will respond in writing as to the acceptability of any Consultant-proposed changes.

15.0 CHANGES BY MST

If requirements are identified which are not specified in this document, the Consultant shall, if ordered in writing by MST, perform such work at the Consultant's fair market prices.

If requirements specified in the Contract are required to be omitted from the work, the Consultant shall, if ordered by MST, omit the performance of such work. A deduction shall be made from the amount to be paid to the Consultant in an amount that MST and Consultant shall determine and mutually agree to be the reasonable value of such work. It is understood, however, that the amount of work required by the Contract shall not, in accordance with the above provisions referring to additions and omissions, be increased or diminished to substantially alter the general character or extent of the Contract.

16.0 APPROVAL BY THE GENERAL MANAGER/CEO

All work shall be executed under the direction and supervision of the General Manager/CEO or authorized agent(s), on whose inspection of work shall be accepted or rejected. The General Manager/CEO shall have full power to accept or reject work performed under the Contract, which does not conform to the terms and conditions set forth in the Contract documents.

17.0 DAMAGES

The Consultant shall sustain all loss or damage arising from any unforeseen obstruction or difficulties, either natural or artificial, during the performance of this Contract, on the part of the Consultant or any agent or person employed by it.

18.0 SELL OR ASSIGN

The Consultant shall not have the right to sell, assign, or transfer any obligations resulting from this proposal without the specific written consent of MST.

20.0 COVENANT AGAINST GRATUITIES

Consultant shall not offer or provide gifts, favors, entertainment, or any other gratuities of monetary value to any official, employee, or agent of MST during the period of this Contract or for a period of one year after.

21.0 RIGHTS AND REMEDIES OF MST

The rights and remedies of MST provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

22.0 BINDING EFFECT

All of the terms, provisions and conditions of this Contract shall be binding upon the both parties and their respective successors, assigns, and legal representatives.

23.0 WAGE AND PRICE REGULATIONS

If the Federal Government should reinstate wage-price regulations, which are applicable to this Contract, the Consultant shall comply with the provisions of such laws and regulations.

24.0 DOCUMENTS DEEMED PART OF THE CONTRACT

The Contract includes a Contract signature sheet together with any Attachments and any Exhibits, all of which are incorporated into the contract and shall be construed together to form the contract between the two parties.

Such documents include:

- a. Contract signed by both parties
- b. MST RFP # 10-06, "Mobility Management Plan & Program Consultant Services", consisting of:
 - (1) Addenda to MST RFP # 10-06, if any
 - (2) Scope of Work
 - (3) Required Certifications/Forms
 - (4) Standard Terms and Conditions
 - (5) Special Terms and Conditions
 - (6) Proposal, as submitted by Proposer

In the event of conflict between any of the above documents, the precedence for clarification shall be in the order listed.

SECTION 7 SPECIAL TERMS AND CONDITIONS

1.0 FTA FUNDING REQUIREMENT

This project may be financed in part by the Federal Transit Administration. Accordingly, federal requirements apply to this Contract and if those requirements change then the changed requirements shall apply to the project as required. MST and the Consultant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to MST, Consultant, or any other party pertaining to any matter resulting from the underlying contract. The Consultant agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subConsultant who will be subject to its provisions.

MST and the Consultant recognize that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 49 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies, " 49 CFR Part 31, apply to actions pertaining to this Contract. MST and the Consultant also agree to comply with the requirements of 49 U.S.C. 5323 (h) (2) by refraining from the use of any FTA assistance to support procurements using exclusionary or discriminatory specifications. MST also agrees to refrain from using state or local geographic restrictions unless otherwise allowed by FTA. Consultant agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subConsultant who will be subject to its provisions.

2.0 FEDERAL CHANGES

Consultant shall at all times comply with all applicable FTA regulation, policies, procedures and directives, including without limitation those listed directly or by reference in the current Master Agreement (Form FTA MA (2) between MST and FTA, as amended. Consultant's failure to so comply shall constitute a breach of contract.

3.0 MAINTENANCE, AUDIT AND INSPECTION OF RECORDS

The Consultant shall permit the authorized representatives of MST, the United States Department of Transportation and the Comptroller General of the United States to inspect, audit, make copies and transcriptions of all work, materials, payrolls and other data and records of the Consultant relating to its performance under the Contract. The Consultant shall maintain all such records for a period of three (3) years after MST makes final payment under this Contract.

4.0 DISADVANTAGED BUSINESS ENTERPRISES

MST has not established a Disadvantaged Business Enterprise (DBE) Availability Advisory Percentage for this Agreement. This Agreement is subject to Title 49, Part 26 of the Code of Federal Regulations entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." Bidders who obtain DBE participation on this contract will assist the California Department of Transportation in meeting its federally mandated statewide overall DBE goal.

DBE and other small businesses, as defined in Title 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The Consultant or subConsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out the applicable requirements of 49 CFR, Part 26 in the award and administration of U.S. Department of Transportation assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate.

Any subcontract entered into as a result of this Agreement shall contain all of the provision of this section.

5.0 Title VI Compliance

5.1 The Consultant shall comply with all requirements of the Civil Rights Act of 1964, as amended; the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation Title 49, Code of Federal Regulations, Part 21, as amended; and any implementing requirements of FTA. All of these requirements are incorporated by reference and made a part of this Contract. The Consultant also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

5.2 Equal Employment Opportunity

The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, gender, disability, age, national origin, ancestry, marital status, pregnancy, medical condition, or sexual orientation. The Consultant shall take affirmative action to insure that applicants are employed, and the employees are treated during their employment, without regard to their race, color, religion, gender, disability, age, national origin, ancestry, marital status, pregnancy, medical condition, or sexual orientation. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant shall comply with any implementing regulations FTA may issue.

5.3 Access Requirements for Individuals with Disabilities

In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. 12112, the Consultant agrees that it will comply with the requirements of U.S. Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630. These requirements pertain to employment of persons with disabilities. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

6.0 ENERGY CONSERVATION REQUIREMENTS

The Consultant agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

7.0 ENVIRONMENTAL REQUIREMENTS

7.1 The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended 33 U.S.C. 1251 et seq. The Consultant agrees to report each violation to MST and understands and agrees that MST will report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Consultant also agrees to include these requirements in each subcontract exceeding \$25,000 financed in whole or in part with Federal assistance provided by FTA.

7.2 The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended 42 U.S.C. 7401 et seq. The Consultant agrees to report each violation to MST and understands and agrees that MST will report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Consultant also agrees to include these requirements in each subcontract exceeding \$25,000 financed in whole or in part with Federal assistance provided by FTA.

8.0 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

The Consultant shall submit with proposal, documentation showing that neither the Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. For this purpose, the Consultant must complete and Execute the form entitled "Certification Regarding Debarment, Suspension, and Other Responsibility Matters," found in SECTION VI FORMS. Consultant also agrees to include this provision in any subcontract exceeding \$25,000 and forward the certification to MST with the proposal.

9.0 NON-COLLUSION AFFIDAVIT

Proposer will be required to submit with their proposal a Non-Collusion Affidavit.

10.0 PENALTY FOR COLLUSION

If it is found that the person, firm or corporation to whom a Contract has been awarded has colluded with any other party or parties, then the Contract shall be null and void and the Consultant shall be liable to MST for all loss or damage that MST may suffer. The MST Board of Directors may advertise for a new Contract for required services.

11.0 RESTRICTIONS ON LOBBYING

11.1 Consultants who apply or propose for an award of \$25,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of MST, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to MST.

11.2 Each proposer is required to review the above referenced regulations and complete and submit a Certification of Compliance with Federal Lobbying Regulations.

11.3 Pursuant to federal regulations, the proposer is required to have all subConsultants (at any tier) providing more than \$25,000 towards the Contract also complete with this Certification, to be included with the proposal.

12.0 TERMINATION

12.1 Termination for Convenience

MST may terminate this Contract, in whole or in part, at any time by written notice to the Consultant when it is in MST's best interest. The Consultant shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Consultant shall promptly submit its termination claim to MST to be paid. If the Consultant has any property in its possession belonging to MST, the Consultant will account for the same, and dispose of it in the manner MST directs.

12.2 Termination for Default/Breach

If the Consultant fails to perform the services within the time specified in this contract or any extension or if the Consultant fails to comply with any other provisions of this contract, MST may terminate this contract for default. MST shall terminate by delivering to the Consultant a Notice of Termination specifying the default. The Consultant will only be paid the contract price for work services delivered and accepted, or services performed in accordance with the manner or performance required in this Contract.

12.3 Termination for Force Majeure

MST may terminate this Contract upon written notice from the Consultant for unforeseen causes beyond the control and without the fault or negligence of the Consultant. Such causes are those of acts of God, acts of the public enemy, governmental acts, fires and epidemics whose causes irrecoverably disrupt or render impossible the Consultant's performance. An "act of God" shall mean an earthquake, flood, cyclone, or other cataclysmic phenomenon of nature beyond the power of the Consultant to foresee or make preparation in defense against.

12.4 Opportunity to Cure

MST in its sole discretion may, in the case of a termination for breach or default, allow the Consultant within fourteen (14) calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Consultant fails to remedy to MST's satisfaction the breach or default, within fourteen (14) calendar days after receipt by Consultant of written notice from MST, MST shall have the right to terminate the Contract without any further obligation to the Consultant. Any such termination for default shall not in any way operate to preclude MST from also pursuing all available remedies against Consultant and its sureties for said breach or default.

12.5 Waiver of Remedies for any Breach

In the event that MST elects to waive its remedies for any breach by Consultant of any covenant, term or condition of this Contract, such waiver by MST shall not limit MST's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

13.0 DISPUTE RESOLUTION

Disputes arising in the performance of this Contract, which are not resolved by agreement of the parties, shall be decided in writing by the General Manager of MST. This decision shall be final and conclusive unless within fourteen (14) calendar days from the date of receipt of its copy, the Consultant mails or otherwise furnishes a written appeal to the General Manager. In connection with any such appeal, the Consultant shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the General Manager shall be binding upon the Consultant and the Consultant shall abide by the decision.

Unless otherwise directed by MST, Consultant shall continue performance under this Contract while matters in dispute are being resolved.

14.0 PROTEST PROCEDURES

14.1 General Procedures

a. Any proposer or Consultant whose direct economic interest would be affected by the award of the Contract or the failure to award the Contract may file a protest, claim or dispute with MST pursuant to these protest procedures prior to filing any protest, claim or dispute with the FTA.

b. Claims or disputes, where applicable, shall be in writing and filed with MST directed to the General Manager, One Ryan Ranch Road, Monterey, CA 93940. FAILURE TO COMPLY WITH ANY OF THE REQUIREMENTS MAY RESULT IN REJECTION OF THE PROTEST.

14.2 Protest Before Proposal Opening

Protests shall be submitted in writing prior to the opening of proposals, unless the aggrieved person did not know and could not have known of the facts giving rise to such protest prior to the opening.

In that case, the protest shall be submitted within five (5) calendar days after such aggrieved person knows or should have known of the facts giving rise to the protest. The protest shall clearly identify:

14.2.1 The name, address, and telephone number of the protester.

14.2.2 The grounds for the protest, any and all documentation to support the protest and the relief sought.

14.2.3 Steps that have been taken to date in an attempt to correct the alleged problem or concern.

14.3 Protest After Contract Award

a. Any individual or entity may file a protest with MST alleging a violation of applicable federal, state law and/or MST policy or procedure relative to seeking, evaluating and/or intent to award a procurement Contract. In addition, any individual or entity may file a protest with MST alleging that MST has failed to follow its Procurement Protest Procedures. Such protest must be filed no later than five (5) calendar days from the notice of intent to award or non-award of the procurement Contract.

b. A protest, dispute, or claim with respect to the award of a Contract through solicitation of proposals shall be submitted in writing within five (5) days of notification of such award to the General Manager/CEO for a decision. All claims shall clearly identify:

(1) The name, address, and telephone number of the protester.

- (2) The grounds for the protest, any and all documentation to support the protest and the relief sought.
- (3) Steps that have been taken to date in an attempt to correct the alleged problem or concern.

c. A written decision by the MST General Manager/CEO stating the grounds for allowing or denying the protest will be mailed to the protestor prior to execution of the Contract. Such decision shall be final unless the Board of Directors accepts an appeal of the General Manager/CEO's decision.

14.4 FTA Protest Procedures

FTA will only review protests regarding the alleged failure of MST to have written protest procedures, or the alleged failure to follow such procedures. An alleged violation on other grounds falls under the jurisdiction of the appropriate State or local administrative or judicial authorities. Alleged violations of a specific Federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with the Federal regulation. FTA will only review protest submitted by an intercede party as defined in FTA 4220.1E. FTA's decision on any appeal will be final.

SECTION 8 FORMS CERTIFICATIONS

The following FTA and MST forms/certifications are to be executed by each Proposer and enclosed with the proposal. Proposals received without these forms/certifications completed will not be considered.

Contact by mail, Telephone or e-mail MST's Purchasing Manager, for questions regarding forms and/or certifications.

One Ryan Ranch Road
Monterey, California 93940
Telephone (831) 393-8127
Fax (831) 899-3954
E-mail: samorim@mst.org

The person signing the certification shall state his address and official capacity.

IMPORTANT NOTICE

PROPOSALS DOCUMENTS TO BE RETURNED

To be considered responsive, the following forms, certificates and/or statements must be completed and submitted on or before the Submittal Deadline. Compliance with these requirements is mandatory for contract award.

- a. Application for DBE and/or California Unified Certification DBE status Certification (if applicable) ATTACHMENT 1
- b. Certificate of Primary Consultant Regarding Debarment ATTACHMENT 2
- c. Lobbying Certificate ATTACHMENT 3
- c. MST Bidders/Proposers list/form, ATTACHMENT 4
- d. Proposer's Statement Regarding Insurance Coverage, ATTACHMENT 5
- e. Insurance Requirements, ATTACHMENT 6
- f. Certificate of Compliance or Exception, ATTACHMENT 7
- g. Affidavit of Non-Collusion, ATTACHMENT 8
- h. Proposer Qualification and References, ATTACHMENT 9
- i. Waiver of Subrogation, ATTACHMENT 10

- j. Part II Cost Proposal, including ATTACHMENT 11 Payment Milestones and Time Lines
- f. Part I Technical Proposal complete addressing all questions in Section 2, Scope of Work
- g. Sample Contract (Exhibit #1 - Proposer to provide written exception(s) to any of the terms and/or conditions of sample contract and return proposal submittal.)

Failures to complete, sign (where required), and return the above proposal documents with your proposal may render it non-responsive, with the exception of Attachment 1, DBE Application, and Attachment 6, Insurance Requirements

SECTION 9: LISTING OF ATTACHMENTS AND EXHIBITS

ATTACHMENT # 1 DBE APPLICATION

If supplier desires to qualify for Disadvantage Business Enterprise (DBE) status the web address for California Unified Certification Program (UCP) is:

<http://www.dot.ca.gov/hq/bep/ucp.htm>

If you are a DBE please provide a copy of your UCP certificate.

AFFIDAVIT FOR DISADVANTAGED BUSINESS ENTERPRISE

STATE OF _____:

COUNTY (CITY) OF _____:

I HEREBY DECLARE AND AFFIRM THAT I AM THE _____ (Title) and duly authorized representative of _____ (name of corporation/firm) whose address is _____. I hereby declare and affirm that my firm is a certified Disadvantaged Business Enterprise or Women-Owned Business Enterprise as defined and approved by California Unified Certification Program. The above, named firm will provide MST with a copy of the document from the California Unified Certification Program so affirming their DBE status.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

_____(AFFIANT)_____(DATE)

STATE OF _____:

COUNTY (CITY) OF _____:

On this _____ day of _____, 2010

ATTACHMENT # 2

Certificate of Primary Consultant Regarding Debarment

DEBARMENT AND SUSPENSION CERTIFICATE

CERTIFICATION OF POTENTIAL CONSULTANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

If unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

The primary participant, _____ certifies or
(firm name/principal)
affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. sections 3801 et seq. are applicable thereto.

Signature and Title of Authorized Official

Date

ATTACHMENT # 3 LOBBYING CERTIFICATE

CERTIFICATION REGARDING LOBBYING

The undersigned [Consultant] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)].

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Consultant understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Consultant's Authorized Official _____

Name and Title of Consultant's Authorized Official _____

Date _____

ATTACHMENT # 4 MST BIDDERS/PROPOSERS LIST

Monterey-Salinas Transit BIDDERS/PROPOSERS LIST

All bidders/proposers are required to provide the following information for all DBE and non-DBE Consultants, who provided a proposal, bid or quote. This information is also required from the proposed prime Consultant, and must be submitted with their bid/proposal. Monterey-Salinas Transit (MST) will use this information to maintain and update a "Bidders/Proposers" List to assist in the overall annual goal DBE goal setting process. *To the extent permitted by law, all information submitted will be held in strict confidence and will not be shared without your consent.*

Firm Name _____

Address: _____

Phone: _____ **Fax:** _____

Contact Person: _____ **No. of Yrs. In Business** _____

Is the firm currently certified as a DBE by California Unified Certification Program?

No Yes **Certification #** _____

Type of work/services/materials provided by firm? _____

What were your firm's Gross Annual receipts for last year?

- Less than \$1 million
- Less than \$5 million
- Less than \$10 million
- Less than \$15 million
- More than \$15 million

This form can be duplicated if necessary to report all bidders (DBEs and non-DBEs) information.

ATTACHMENT # 5 PROPOSERS INSURANCE STATEMENT

PROPOSER'S STATEMENT REGARDING INSURANCE COVERAGE To Be Submitted With Proposal

PROPOSER HEREBY CERTIFIES that the Proposer has reviewed and understands the insurance coverage requirements specified in the Request For Proposals No. 10-06 to provide Mobility Management Plan & Program.” Should the Proposer be awarded the contract for the work, Proposer further certifies that the Proposer can meet the specified requirements for insurance, including insurance coverage of the subConsultants, and agrees to name MST as Additional Insured for the work specified.

Name of Proposer (Person, Firm, or Corporation)

Signature of Proposer's Authorized Representative

Name & Title of Authorized Representative

Date of Signing

ATTACHMENT # 6 INSURANCE REQUIREMENTS

General:

Consultant, at its sole cost and expense, for the full term of this Contract (and any extensions thereof), shall obtain and maintain at minimum all of the following insurance coverage. Such insurance coverage shall be primary coverage as respects MST and any insurance or self-insurance maintained by MST shall be excess of Consultant's insurance coverage and shall not contribute to it.

Types of Insurance and Minimum Limits

Consultant shall obtain and maintain during the term of this Contract:

Worker's Compensation and Employer's Liability Insurance in conformance with the laws of the State of California (not required for Consultant's or subConsultants having no employees) with limits of not less than one million dollars (\$1,000,000) per occurrence. "WAIVER OF SUBROGATION" to be completed and submitted with Workers' Compensation insurance documents

Consultants vehicles used in the performance of this Contract, including owned, non-owned (e.g. owned by Consultant's employees), leased or hired vehicles, shall each be covered with Commercial Automobile, Liability Insurance in the minimum amount of one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

Consultant shall obtain and maintain Comprehensive General Liability Insurance coverage in the minimum amount of one million dollars (\$1,000,000) combined single limit, including bodily injury, personal injury, and property damage. Such insurance coverage shall include, without limitation:

Other Insurance Provisions

As to all insurance coverage required herein, any deductible or self-insured retention exceeding \$5,000.00 shall be disclosed to and be subject to written approval by MST.

If any insurance coverage required hereunder is provided on a "claims made" rather than "occurrence" form, Consultant shall maintain such insurance coverage for five (5) years after expiration of the term (and any extensions) of this Contract.

All required Automobile Liability Insurance and Comprehensive or Commercial General Liability Insurance shall contain the following endorsement as a part of each policy: "MST is hereby added as an additional insured as respects the operations of the named insured."

All the insurance required herein shall contain the following clause: "It is agreed that this insurance shall not be canceled until thirty (30) days after MST shall have been given written notice of such cancellation or reduction."

Consultant shall notify MST in writing at least thirty (30) days in advance of any reduction in any insurance policy required under this Contract.

Consultant agrees to provide MST at or before the effective date of this Contract with a certificate of insurance of the coverage required.

If CONSULTANT, for any reason, fails to maintain insurance coverage, which is required pursuant to this CONTRACT, the same shall be deemed a material breach of contract. MST, at its sole option, may terminate this CONTRACT and obtain damages from the CONSULTANT resulting from said breach. Alternatively, MST may purchase such required insurance coverage, and without further notice to CONSULTANT, MST may deduct the cost therefore from CONSULTANT'S invoices charges for services rendered.

ATTACHMENT # 7

COMPLIANCE OR EXCEPTION TO THE TERMS AND CONDITIONS OF RFP #10-06

A. COMPLIANCE:

This is to certify that Proposer agrees and shall comply with the terms and conditions of the RFP.

Firm Name: _____

Proposer
Signature: _____

Title: _____

Date: _____

B. EXCEPTION:

This is to certify that Proposer takes exception to the following terms and conditions of the RFP. Proposer must identify and list the terms and conditions by Section number, page number and title. Proposer must identify what its exception is.

Firm Name: _____

Proposer
Signature: _____

Title: _____

Date: _____

Proposer shall list and attach to this form proposer's exception(s):

ATTACHMENT # 8

AFFIDAVIT AND INFORMATION REQUIRED OF BIDDERS

AFFIDAVIT OF NON-COLLUSION

I hereby swear (or affirm) under penalty for perjury:

1. That I am the bidder or an officer or employee of the bidding corporation having authority to sign on its behalf (if the bidder is a corporation);
2. That the attached bid or bids has been arrived at by the bidder independently and have been submitted without collusion and without any agreement, understanding, or planned course of action with any other vendor of materials, supplies, equipment, or service described in the invitation to bid, designed to limit independent bids or competition;
3. That the contents of the bid or bids has not been communicated by the bidder or its employees or agents to any person not an employee or agent of the bidder or its surety on any bond furnished with the bid or bids, and will not be communicated to any such person prior to the official opening of the bid or bids; and,
4. That I have fully informed myself regarding the accuracy of the statement made in this affidavit.

SIGNED _____

FIRM NAME _____

Subscribed and sworn to before me this _____ day of _____, 2010

Notary Public

My commission expires _____, _____

Bidder's E.I. Number _____
(Number used on employer's Quarterly Federal Tax Return)

ATTACHMENT # 9

PROPOSER QUALIFICATIONS AND REFERENCES

The PROPOSER is required to state what work of similar magnitude or character they have done. Give references to enable MST to judge experience, skill and business standing and provide information to assess the ability to perform the services as completely and as rapidly as is required under the terms of the contract. All questions must be answered and the data given must be clear and comprehensive. Provide the nature of the work performed, for whom, amount of contract, dates of work, and the name of a point of contact, architect, engineer, or other supervising person for Transit Agency, Firm or other Public Agency. If necessary, questions may be answered on separate attached sheets.

A. GENERAL PROPOSER INFORMATION:

When organized? _____

If a Corporation, where incorporated? _____

Provide Dun and Bradstreet Number and rating. _____

How many years in business under your current firm or trade name? _____

Has the firm ever defaulted on a contract? _____ If so, where and why?

How was it resolved? _____

Has there ever been a failure to complete any work? _____ If so, where and why?

How was it resolved?

ATTACHMENT # 9 PROPOSER QUALIFICATIONS AND REFERENCES CONTINUED

Any claims for labor code violations? _____

B. List three (3) current projects to include the, contract value, scheduled completion date, and the contact person and telephone number.

C. List three (3) similar work experiences to this contract requirement. Provide contract value, date completed, and a contact name and phone number.

**D. Is there any legal action pending pertinent to this contract work? _____
If yes, please explain:**

E. The undersigned hereby authorizes and requests any person, firm, or corporation to furnish any credit history and financial condition or other information required by MST in verification of the information provided in this statement of PROPOSERS qualifications. I hereby certify that the above information is true and correct to the best of my knowledge and that MST may rely on the information provided.

THIS STATEMENT MUST BE NOTARIZED.

Attach the "California All-Purpose Acknowledgement" duly notarized.

NAME OF CONSULTANT: _____

BY: _____
Signature Title

Type/Print Name Date:

ATTACHMENT # 10 WAIVER OF SUBROGATION

ENDORSEMENT TO BE ATTACHED TO WORKERS' COMPENSATION POLICY

WAIVER OF SUBROGATION

Policy Number: _____

Effective Date: _____ Expiration Date: _____

Named Assured and Address: _____

This is to certify that the policy indicated above, issued by the

Name and Principle Office of Insurance Company

To the Assured named above, is endorsed as follows:

It is understood and agreed the Company waives any right of subrogation against Monterey-Salinas Transit, which might arise by reason of any payment under the policy for work performed by Assured under Contract Number _____.

Insurance Company

By: _____

I am an officer ____ employee ____ agent ____

Of the above company (indicate which).

Date: _____ AGENTS MUST FURNISH CALIFORNIA LICENSE
NUMBER: _____

CAUTION: The person executing this Certification is caution to make certain that he/she has the authority to execute this Certificate on behalf of the Insurance Company

ATTACHMENT # 11

PROPOSER PAYMENT MILESTONES AND TIME LINE

Payments to Consultant shall be made in accordance with the following milestone payment and time line schedule, submitted by proposer. The percentages listed indicates, the percent of the total Contract amount (See SECTION 4, "C." Part II Cost Proposal) that will be paid to the Consultant upon successful and full completion of corresponding milestone. Payments will be made in accordance with the invoice payment provisions as stated in the contract. Please see Section 2 Scope of Work/Services for complete explanation deliverables for milestones. **Place this completed document in Part II of your Cost Proposal.** List each specific milestone that will be necessary to meet MST objectives as stated in Section 2 Scope of Work/Services.

A.) Place fully developed cost for services required to complete scope of work/services here: \$_____

<u>Milestones</u>	<u>Amounts</u>
1.) CONSULTANT TO FILL IN above) 100% completed (Place time to complete deliverables here.) Example: One and half (1&1/2) month, after NTP*	\$(25% of total Contract amount, see "A"
2.) CONSULTANT TO FILL IN above) 100%completed (Place time to complete deliverables, here.) Example: One & half (1 &1/2) months after Milestone Item 1 is completed	\$(25% of total Contract amount, see "A"
3.) CONSULTANT TO FILL IN above) 100%completed (Place time to complete deliverables, here.) Example: One & half (1 &1/2) months after Milestone Item 2 is completed	\$(25% of total Contract amount, see "A"
4.) CONSULTANT TO FILL IN above) 100%completed (Place time to complete deliverables, here.)	\$(25% of total Contract amount, see "A"

Example: One & half (1 &1/2) months after Milestone Item 3 is completed

Note: Standard Contract Holdback
above)

\$(10% of total Contract amount, see "A"

100%payable (Fifteen days (15) after MST Final Acceptance)

PENALTIES:

Failure of the Consultant to complete the work, services or deliverables within the time allowed will result in the Consultant paying to MST a fixed, and agreed, liquidated damages for each deficiency. For details see SECTION 6 GENERAL TERMS AND CONDITIONS item number 11.0 LIQUIDATED DAMAGES – DEDUCTIONS FROM UNPAID BILLINGS – REMEDIES FOR NON-PERFORMANCE.

* NTP = Notice To Proceed letter

EXHIBIT # 1

DRAFT CONTRACT

Following is a draft contract, which, once executed, becomes an agreement between Consultant selected and Monterey-Salinas Transit. This sample serves as a draft document and basis for finalizing agreements between the two parties.

DRAFT CONTRACT FOR "Mobility Management Plan & Program Consultant Services"

THIS CONTRACT is made by and between Monterey-Salinas Transit, a joint powers agency hereinafter called "MST", and (Name of Consultant), herein after called "CONSULTANT". For reference purposes, the effective date of this Contract is on date of executed Contract.

MST has caused specifications, and other contract documents, hereinafter referred to as "Scope of Work", to be prepared for certain work on the referenced project; and this will include, the RFP # 10-06 and its salient sections as listed below:

1. SCOPE OF WORK

THE PARTIES AGREE AS FOLLOWS:

Consultant shall furnish MST all materials and services in full accordance with Request for Proposal No. 10-06 prepared and issued by MST entitled "**Mobility Management Plan & Program Consultant Services**", dated MONTH DATE, 2009.

(IN THIS SECTION OF THE CONTRACT, ANY ADDITIONAL HIGHLIGHTS, DETAILS, OR NEGOTIATED CHANGES SHALL BE CALLED OUT.)

2. COMPONENT PARTS

This Contract shall consist of the following documents, each of which is on file with MST, and is incorporated into and made a part of this Contract by reference:

- A. This Contract
- B. Request for Proposal No. 10-06 and all Addenda
- C. Submitted Fee Schedule

3. PERIOD OF PERFORMANCE

Services under this Contract shall commence (Month day year), and continue through (Month day year). Consultant shall not be held liable for delays resulting from problems of scheduling on the part of MST.

4. CONTRACT PRICE

MST agrees to pay the Consultant rates in accordance with their submitted Fee Schedule (ranging between _____ and _____ per hour), with a not-to-exceed (NTE) contract budgeted amount of _____, for services performed in accordance with this Contract. MST and the Consultant must mutually agree upon any adjustments in payment.

5. INVOICES

5.1 PAYMENT PROCEDURES: All payments to Consultant for services rendered shall be paid in arrears, after the service has been provided. Consultant shall invoice MST upon completion of each of the three milestones as listed in Attachment 11. Consultant on each invoice shall provide documentation showing dollar amount paid to their DBE sub-Consultant upon completion of each of the three milestones as listed in Attachment 11, if applicable. MST shall reimburse Consultant within thirty (30) calendar days of receipt of all Consultant invoices. The submission of incomplete or inaccurate invoices by Consultant may delay payments to Consultant. Acceptance of invoice(s) is within MST sole discretion.

5.1.1 In the event MST disputes any amount on Consultant's invoice, MST shall provide written notice of the disputed amount and shall withhold the amount from the payment of the invoice but shall pay the undisputed amount on a timely basis. MST and Consultant shall then meet to resolve any disputed amounts.

5.2 Invoices shall be mailed to:

5.2.1 Monterey-Salinas Transit
One Ryan Ranch Road
Monterey, CA 93940-5795
ATTN: Account Payable

5.2.2 MST shall mail payments to:
Consultant
Street Address
City, State, Zip
ATTN: Accounts Receivable

6. COST REPORTING

The Consultant shall notify MST's Project in writing whenever it has reason to believe that the total allocable costs have reached 75% of the of the total contract budgeted amount. Additionally, the Consultant shall notify MST immediately if the projected costs of performance of additional requested tasks would cause the budgeted contract amount to be exceeded. The Consultant is not authorized to exceed the budgeted contract amount unless or until a contract modification has been issued, which increases the price.

7. NOTICE

Any notice or correspondence required or permitted to be given under this Contract shall be deemed given when personally delivered to recipient thereof or mailed by registered or certified mail, return receipt requested, postage prepaid, to the appropriate recipient thereof. In the case of Consultant, Street Address, City, State, Zip Code. In the case of MST, deliver to One Ryan Ranch Road, Monterey CA 93940, or any other address which either party may subsequently designate in writing to the other party.

8. INSURANCE

8.1 General:

Consultant, at its sole cost and expense, for the full term of this Contract (and any extensions thereof), shall obtain and maintain at minimum all of the following insurance coverage. Such insurance coverage shall be primary coverage as respects MST and any insurance or self-insurance maintained by MST shall be excess of Consultant's insurance coverage and shall not contribute to it.

8.2 Types of Insurance and Minimum Limits

Consultant shall obtain and maintain during the term of this Contract:

- (a) Worker's Compensation and Employer's Liability Insurance in conformance with the laws of the State of California (not required for Consultant's or subConsultants having no employees) with limits of not less than one million dollars (\$1,000,000) per occurrence. "WAIVER OF SUBROGATION" to be completed and submitted with Workers' Compensation insurance documents
- (b) Consultant's vehicles used in the performance of this Contract, including owned, non-owned (e.g. owned by Consultant's employees), leased or hired vehicles, shall each be covered with Commercial Automobile, Liability Insurance in the minimum amount of one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.

- (c) Consultant shall obtain and maintain Comprehensive General Liability Insurance coverage in the minimum amount of one million dollars (\$1,000,000) combined single limit, including bodily injury, personal injury, and property damage. Such insurance coverage shall include, without limitation:

8.3 Other Insurance Provisions

- (a) As to all insurance coverage required herein, any deductible or self-insured retention exceeding \$5,000.00 shall be disclosed to and be subject to written approval by MST.
- (b) If any insurance coverage required hereunder is provided on a "claims made" rather than "occurrence" form, Consultant shall maintain such insurance coverage for five (5) years after expiration of the term (and any extensions) of this Contract.
- (c) All required Automobile Liability Insurance and Comprehensive or Commercial General Liability Insurance shall contain the following endorsement as a part of each policy: "MST is hereby added as an additional insured as respects the operations of the named insured."
- (d) All the insurance required herein shall contain the following clause: "It is agreed that this insurance shall not be canceled until thirty (30) days after MST shall have been given written notice of such cancellation or reduction."
- (e) Consultant shall notify MST in writing at least thirty (30) days in advance of any reduction in any insurance policy required under this Contract.
- (f) Consultant agrees to provide MST at or before the effective date of this Contract with a certificate of insurance of the coverage required.
- (g) If Consultant, for any reason, fails to maintain insurance coverage, which is required pursuant to this CONTRACT, the same shall be deemed a material breach of contract. MST, at its sole option, may terminate this CONTRACT and obtain damages from the Consultant resulting from said breach. Alternatively, MST may purchase such required insurance coverage, and without further notice to Consultant, MST may deduct the cost of such required insurance coverage from Consultant's invoices charges for services rendered.

9. INDEMNIFICATION

Consultant shall to the fullest extent permitted by law, at its sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless MST and its agents, representatives, and employees from and against all claims, actions, judgments, costs, penalties, liabilities, damages, losses, and expenses,

10. NON-DISCRIMINATION ASSURANCE

Consultant shall not discriminate on the basis of race, creed, color, national origin, gender, or sexual orientation or in the performance of this Contract. Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as MST deems appropriate. Consultant shall obtain the same assurances from its joint venture partners, and sub Consultants by including this assurance in all subcontracts entered into under this Contract.

11. GOVERNING LAW

This Contract shall be in accordance with the laws of the State of California. Parties further stipulate that this Contract was entered into in the State of California and the state is the only appropriate forum for any litigation as a result of breach of contract. Venue shall be within County of Monterey, California.

12. TERMINATION

This contract may be terminated for a number of reasons as discussed below:

- 12.1 Termination for Convenience. MST may terminate this contract, in whole or in part, at any time by written notice to Consultant when it is in MST's best interest. The Consultant shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Consultant shall promptly submit its termination claim to MST.
- 12.2 Termination for Default, Breach or Cause. If the Consultant does not deliver supplies, materials or services in accordance with the scope of work, or if the Consultant fails to perform in the manner called for in the contract, or if the Consultant fails to comply with any other provisions of the contract, MST may terminate this contract for default. Termination shall be effected by serving a notice of termination to the Consultant setting forth the manner in which the Consultant is in default.

The Consultant will only be paid the contract price for supplies, materials and services delivered and accepted, or services performed in accordance with the

manner of performance set forth in the contract. If it is later determined by MST that the Consultant had an excusable reason for not performing, such as a strike, fire, flood, or events which are not the fault of or are beyond the control of the Consultant, MST, after setting up a new delivery or performance schedule, may allow the Consultant to continue work, or may treat the termination as a termination for convenience.

If the termination is for default, MST may fix the fee to be paid the Consultant in proportion to the value of work performed up to the time of termination. The Consultant shall promptly submit its termination claim to MST and the parties shall negotiate the termination settlement to be paid the Consultant.

- 12.3 Opportunity to Cure. MST, shall, in the case of a termination for breach or default, allow the Consultant up to five (5) calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Consultant fails to furnish or remedy to MST's satisfaction, the breach or default or any of the terms or conditions of this Contract within five (5) calendar days after receipt by Consultant or written notice from MST setting forth the nature of said breach or default, MST shall have the right to terminate the Contract without any further obligation to Consultant.

Any such termination for default shall not in any way preclude MST from also pursuing all available remedies against Consultant and its sureties for said breach or default.

- 12.4 Waiver of Remedies for any Breach. In the event that MST elects to waive its remedies for any breach by Consultant of any term or condition of this Contract; such waiver by MST shall not limit MST's remedies for any succeeding breach of that or of any other terms or conditions of this Contract.

Upon receipt of any notice from MST to cancel and/or terminate work under this contract, the Consultant shall:

Immediately discontinue all services affected, unless the notice directs otherwise.

If the termination is for the convenience of MST, MST will make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Consultant to fulfill the contract obligations, MST may complete the work required by the contract or otherwise arrange for its completion and the Consultant shall be liable for any reasonable additional cost incurred by MST.

13. DISPUTE RESOLUTION

Disputes arising in the performance of this contract, which are not resolved by agreement of the parties, shall be decided in writing by the MST General Manager/CEO. This decision shall be final and conclusive unless within fourteen (14) calendar days from the date of receipt of its copy, the Consultant mails or otherwise furnishes a written appeal to the MST General Manager/CEO.

In connection with any such appeal, the Consultant shall be afforded an opportunity to be heard by the MST Board of Directors and to offer evidence in support of its position. The decision of the MST Board of Directors shall be binding upon the Consultant and the Consultant shall abide by the decision.

14. LITIGATION

In the event of any dispute that results in litigation or arbitration arising from or related to the services provided under this Contract, the prevailing party will be entitled to recovery of all reasonable costs incurred, including that party's time, court costs, attorney fees, expenses for expert witnesses (whether or not called to testify), expenses for accountants or appraisers (whether or not called to testify), and other related expenses. Recovery of these expenses shall be as additional costs awarded to the prevailing party and shall not require initiation of a separate legal proceeding.

Unless otherwise directed by MST, Consultant shall continue performance under this Contract while matters in dispute are being resolved.

15. LIQUIDATED DAMAGES - DEDUCTIONS FROM UNPAID BILLINGS – REMEDIES FOR NON-PERFORMANCE

Since the actual damages to MST for the delay of work/services and/or failure to perform scope of work duties will be difficult or impossible to assess. It is agreed that if the contract is terminated by MST, because the Consultant fail to deliver and/or perform the services within the time specified in the contract. That the Consultant shall be liable for thirty percent (30%) of the total value of the contract as fixed and liquidated damages. The Consultant shall not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault or negligence of the Consultant.

Prior to the imposition of termination and liquidated damages the Consultant shall meet with MST'S Project Manager, to review the contemplated implementation of termination and Liquidated Damage. The Consultant shall be provided with the opportunity to present any mitigating information/evidence to substantiate any claim that the deficiency in performance was beyond the control and/or without fault or negligence of the Consultant. The final authority to terminate the Consultant and to impose liquidated damages shall be the Project Manager

16. DIVERSITY PROGRAM FOR CONTRACTS

The Consultant is advised that MST, recipient of federal financial assistance from the Federal Transit Administration (FTA) is committed to and has adopted a Diversity Program for Contracts in accordance with federal regulations 49 CFR Part 26, issued by U.S. DOT.

It is the policy of MST to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts and to create a level playing field on which Disadvantaged Business Enterprises (DBEs) can compete fairly for contracts and subcontracts relating to MST's professional services activities. To this end, MST has developed procedures to remove barriers to assist DBEs to develop and compete successfully outside of the DBE program. In connection with the performance of this contract, the Consultant will cooperate with MST in meeting these commitments and objectives.

17. PROMPT PAYMENT TO SUBCONSULTANTS

The Consultant agrees to pay each subConsultant under this contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the Consultant receives from Monterey-Salinas Transit. The Consultant agrees further to return retainage payments to each subConsultant within 30 days after the subConsultant's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Monterey-Salinas Transit. This clause applies to both DBE and non-DBE subConsultants.

18. SIGNATURE AUTHORITY:

Person name by signing this contract represents that he/she has the authority to bind Consultant to the terms and conditions of this contract.

20. AUTHENTICATION:

IN WITNESS WHEREOF, the parties have duly executed two (2) identical counterparts of this instrument, each of which shall be for all purposes deemed an original thereof, on the dates set forth below.

MONTEREY-SALINAS TRANSIT

CONSULTANT

By: _____

By: _____

Carl Sedoryk
General Manager/CEO

NAME
TITLE

Date: _____

Date: _____

By _____

David C. Laredo
MST General Council

Date: _____