

NOTICE

REQUEST FOR PROPOSALS (RFP)



*THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY (TAMC)
INVITES VENDORS TO SUBMIT THEIR PROPOSALS FOR:*

Conducting a Triennial Transit Performance Audit for Monterey County Transit operators and the Transportation Agency for Monterey County for the period ending June 30, 2010, as required by the Transportation Development Act (Section 99246 of the California Public Utilities Code).

You are invited to submit your proposal and a sealed cost proposal for the services to complete the above project. Submissions are due to the Transportation Agency for Monterey County, 55-B Plaza Circle, Salinas, CA 93901-2901 by

12:00 pm on October 15, 2010

For a copy or further information, contact Andy Cook at (831) 775-0903 or via email at andy@tamcmonterey.org. The full document may also be downloaded from the TAMC website at: www.tamcmonterey.org/bids_prop/index.html

TAMC
Transportation Agency for Monterey County
55 B Plaza Circle, Salinas, CA. 93901-2902

DATE: August 26, 2010
TO: Interested Consultants
FROM: Debbie Hale, Executive Director
SUBJECT: Monterey County Triennial Transit Performance Audit

INVITATION

You are invited to submit a proposal for the referenced services together with a sealed hourly rate schedule and an estimate of hours per task by named individual to complete the project. Please include your estimate of other direct costs charged to this project.

The selection process shall be based solely upon the determination of the most qualified consultant or consultant team and shall not be based solely upon project cost information. After the ranking and interviews are complete, the number one selection shall receive the contract for the appraisal, and the number two selection will receive the review appraisal contract. Should the most qualified consultant or consultant team and the Transportation Agency fail to successfully negotiate a final scope of work and a mutually agreed upon fee schedule for these consulting services, then the Agency reserves the right to enter negotiations with the next most qualified candidate for performance of the work.

BACKGROUND

It will be the responsibility of the consultant or consultant team to conduct performance audits of the Transportation Agency for Monterey County and of the four transit operators in Monterey County. The Transportation Agency is statutorily required by Section 99246 of the California Public Utilities Code to designate entities other than itself to make a performance audit of its activities and the activities of each operator to whom it allocates funds. The intent of this Request for Proposals (RFP) is to procure performance audits of the following entities for the three-year period ending June 30, 2010:

1. MONTEREY-SALINAS TRANSIT (MST)

During the three year audit period, MST was a Joint Powers Agency providing fixed route public transit service to the Cities of Salinas, Carmel-by-the-Sea, Monterey, Seaside, Del Rey Oaks, Marina, and Pacific Grove, as well as the unincorporated area of Monterey County within $\frac{3}{4}$ mile of fixed route corridors. The County of Monterey also contracts with MST for additional "Special Transit"

complementary ADA service between ¾ mile and 1 mile of fixed route transit in the unincorporated area. On July 1, 2010, the MST Joint Powers Agency was dissolved pursuant to California Assembly Bill 644 and replaced by the Monterey-Salinas Transit District, which expanded MST membership to include the cities of Gonzales, Soledad, Greenfield and King City in South Monterey County, as well as right of first priority for the use of Local Transportation Funds apportioned to those jurisdictions.

With an annual operating budget for fixed route public transit service of \$25 million dollars and 235 employees; MST provides about 4.5 million passenger trips a year, operating 100 vehicles on 50 routes. With an annual operating budget for paratransit service for persons with disabilities of \$2.3 million, MST provides about 114,000 passenger trips a year, operating 25 wheelchair-lift equipped vehicles under contract to provide a demand response ADA (Americans with Disabilities Act) compliant service.

Pending issues of concern to MST include: shortages in operating and capital funding, complying with the requirements of the Americans with Disabilities Act, planning for the reuse of Fort Ord, assessing the need for new services within Monterey County. Through implementation of Intelligent Transportation Systems (ITS) technology and the recent purchase of new buses, MST continually strives to improve customer service.

Call Hunter Harvath at (831) 393-8129 to obtain further information on MST or to request a copy of their Short Range Transit Plan (SRTP).

2. **SOLEDAD SHUTTLE**

This general public demand response system is operated by the City of Soledad (population 27,929 including Soledad Correctional Facility). The service operated one vehicle (plus one back-up vehicle) and carried 15,155 passengers at an operating cost of \$101,359 in FY 2009.

For further details, you may also wish to contact the Soledad City Manager, Adela Gonzales, at (831) 678-3963.

3. **GREENFIELD AUTOLIFT**

This general public demand response system is operated by the City of Greenfield (population 17,898). The service operated one vehicle (plus one back-up vehicle) and carried 18,348 passengers at an operating cost of \$89,328 in FY 2009.

For further details, you may also wish to contact the Greenfield City Manager, Roger Wong, at (831) 674-5591.

4. **KING CITY TRANSIT**

This general public demand response system is operated by the City of King (population 12,140). The service operated one vehicle (plus one back-up vehicle) and carried 6,464 passengers at an operating cost of \$79,428 in FY 2006.

For further details, you may also wish to contact the King City Manager, Michael Powers, at (831) 386-5917.

5. **TRANSPORTATION AGENCY FOR MONTEREY COUNTY (TAMC)**

TAMC serves as the Regional Transportation Planning Agency, the Congestion Management Agency, the Local Transportation Commission, and the Service Authority for Freeways and

Expressways. Agency voting members include the 5 County Supervisors and 12 City Representatives. Non-voting ex-officio members include the Association of Monterey Bay Area Governments (AMBAG), Caltrans, the Monterey Bay Unified Air Pollution Control District (MBUAPCD), Monterey-Salinas Transit, and the Monterey Peninsula Airport District. The agency receives technical and citizen advice from the following committees: Technical Advisory Committee, Social Services Transportation Advisory Council, Bicycle and Pedestrian Facilities Advisory Committee, and Rail Policy Committee. TAMC staffs all of the above committees.

The Agency's executive director is Debra L. Hale. The remaining TAMC staff includes a deputy executive director, an administrative services manager, a finance officer/analyst, an administrative assistant, a clerical assistant, five transportation planners, and one transportation planning engineer. An Agency organization chart is enclosed for reference. On July 1, 2000, TAMC separated from the Monterey County Public Works Department, and became a stand-alone public entity with its own employees and separate offices. The TAMC office is located at the 55-B Plaza Circle, Salinas, California.

The 2010-2011 fiscal year operating budget for TAMC is \$2,516,892, of which \$1,869,813 is for labor, employee benefits, and the remainder is for materials and supplies and capital outlay. In addition, TAMC has a Capital Program of \$34,908,425 for the 2010-2011 fiscal year.

For further information on the agency's operations, please call Rita Goel, Administrative Services Manager at (831) 775-4404.

Submitted proposals should contain a proposed scope of work (draft scope included as **Attachment 1**) and project schedule for the appraisal process. A final scope of work will be made a part of the professional services agreement between the Transportation Agency and the consultant. A copy of the Agency's standard agreement is included in **Attachment 2**. A single document will be prepared between the Consultant and the Transportation Agency consistent with the provisions of these attachments.

It is particularly important that the consultant have the capability to work closely with the Transportation Agency for Monterey County staff. The consultant or consultant team must be prepared to undertake whatever liaison and meetings are required to satisfy this requirement.

SELECTION PROCESS

The Transportation Agency for Monterey County staff will review the written proposals. This review may be followed by an oral interview between a review committee and the consultants that respond best to the RFP. Based on the recommendations of the review committee, Agency staff will meet with the most qualified consultant or consultant team and will attempt to negotiate a final scope of work and a fee schedule for the project. The final scope of work will include a full description of each task, a description of deliverable products, and a schedule of the due dates for the deliverable products and other important milestones. Upon completion of negotiations to the satisfaction of the selection panel, the consultants or consultant team will be recommended to the Transportation Agency Board for final selection and contract approval.

Factors to be considered in selecting the consultant(s) are indicated below:

- 1) Qualifications of the consultant and team members to be used on the project;
- 2) Understanding of the project and the proposed management approach;
- 3) Previous relevant experience;
- 4) Familiarity with the local conditions in Monterey County;
- 5) Ability to complete the project in a timely fashion; and
- 6) Results from the interview, if applicable.

SUBMITTAL REQUIREMENTS

All interested firms are required to submit four (4) copies of their proposal to perform the requested consulting services. The Proposal must include the names and qualifications of all personnel to be employed on the project. The Proposal shall provide a short description of the firm's experience with similar projects. A list of past clients shall be included.

The proposal must include one cost proposal submitted in a separate, sealed envelope. The cost proposal must contain an estimate of hours by task and the billing rates for each named individual performing work on the project and a breakdown of other direct costs.

All proposals must be submitted to:

**Transportation Agency of Monterey County,
55-B Plaza Circle, Salinas, California 93901-2901
c/o Andy Cook, Associate Transportation Planner**

Proposal Submittal Deadline: **October 15, 2010 (12:00pm)**.

PROPOSED SCHEDULE

September 26, 2010	Distribute RFP
Oct 15, 2010 (12:00pm)	Deadline for Submittal of Proposals
October 18 - 22, 2010	Review and Rank Proposals
Nov 1 – 5, 2010	Consultant Interviews (if needed)
December 1, 2010	Proposed Consultant Contract Approval by TAMC Board
May 1, 2011	Draft Performance Audit Reports Due to TAMC
June 1, 2011	Final Performance Audit Reports Due to TAMC
June 23, 2011	Final Performance Audit Reports Approved by TAMC Board
June 30, 2011	State Deadline for Performance Audit Reports

MISCELLANEOUS

A. Modification or Withdrawal of Submittals

Any proposals received prior to the date and time specified above for receipt may be withdrawn or modified by written request of the proposer. To be considered, however, the modified Proposal must be received by the time and date specified above.

B. Property Rights

Any proposals received within the prescribed deadline become the property of TAMC and all rights to the contents therein become those of TAMC.

C. Confidentiality

Before award of the contract, all proposals will be designated confidential to the extent permitted by the California Public Records Act. After award of the contract (or if not awarded, after rejection of all proposals), all responses will be regarded as public records and will be subject to review by the public. Any language purporting to render all or portions of the proposal confidential will be regarded as non-effective and will be disregarded.

D. Amendments to Request for Proposals

TAMC reserves the right to amend the request for proposals by addendum before the final proposal submittal date.

E. Non-Commitment of TAMC

This request for proposals does not commit TAMC to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services.

All products used or developed in the execution of any contract resulting from this request for proposals will remain in the public domain at the completion of the contract.

F. Conflict of Interest

The prospective consultant shall disclose any financial, business or other relationship with TAMC that may have an impact upon the outcome of this contract or TAMC construction project. The prospective consultant shall also list current clients who may have a financial interest in the outcome of this contract or upcoming TAMC projects on the Monterey Branch Line. In particular, the prospective consultant shall disclose any financial interest or relationship with any construction company that might submit a bid on TAMC projects along the Monterey Branch Line in the next five years.

G. Nondiscrimination

The prospective consultant must certify compliance with nondiscrimination requirements of TAMC pertaining to the development, implementation and maintenance of a nondiscrimination program. The prospective consultant's signature affixed to and dated on the cover letters shall constitute a certification under penalty of perjury under the laws of the State of California that the proposer has, unless exempted, complied with the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

H. Final Selection and Protests

The RFP process is considered concluded when a letter is sent to all participating consultants indicating which consultant will be recommended for Board approval. The firm recommended is not a final selection and no contract is certain until approved by the TAMC Board of Directors.

Protesters shall submit a detailed written statement of protest to:

Transportation Agency for Monterey County
55-B Plaza Circle
Salinas, CA 93901

no later than five (5) days prior to the Board meeting to enable proper consideration by the Board.

QUESTIONS

If you need assistance or have any questions, please call:
Andy Cook, Associate Transportation Planner, at (831) 775-0903.

Attachments: 1 – Scope of Work
2 – Sample TAMC Standard Agreement

Scope of Work for Triennial Transit Performance Audit

The audit shall be conducted in accord with relevant sections of the Transportation Development Act. For further guidance, the auditor may wish to consult the Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities issued by the California Department of Transportation. A copy of the Guidebook may be obtained by calling the Office of State Transit Programs, Department of Transportation, Division of Mass Transportation at (916) 654-9446. The web site link is: <http://www.dot.ca.gov/hq/MassTrans>

The Scope-of-Work consists of the seven tasks given below:

TASK 1-INTERVIEWS and SITE VISITS

Upon contract award, the TAMC project manager will provide the consultant with a contact list for the operators. Several weeks before the site visit, the consultant will submit a written data request to TAMC; TAMC will forward the request to the operators for all items not already on file at TAMC (fiscal audits; prior triennial audits; adopted plans; quarterly performance summaries).

Local agencies will be asked to respond to the initial requests within two weeks for material that is readily available. Other items, warranting more time for preparation, will be discussed at the kick off meeting. TAMC will schedule the kick off meeting with the consultant and at least one representative from each operator. The meeting will be divided into segments to cover each operator separately. As much as possible, the consultant will have reviewed the background information received before conducting the more detailed on site interviews with each agency. TAMC staff will coordinate the participants' schedules to minimize the number of trips by the consultant.

TASK 2-COMPLIANCE with REGULATORY REQUIREMENTS

The consultant will review and determine each agency's compliance with the Transportation Development Act (TDA) and applicable sections of the California Code of Regulations. As a minimum, the Code sections for which compliance is to be verified are those specified within the January 1998 "Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Agencies". The consultant will also take into account any more recent provisions from the updated TDA manual issued by the California Department of Transportation. Should the consultant identify areas of noncompliance, a finding regarding the non-compliance should be made explicitly for each year of noncompliance.

TASK 3-STATUS OF PRIOR PERFORMANCE RECOMMENDATIONS

The consultant will review the most recent prior performance audits for each operator and assess each agency's implementation of the prior audit recommendations. The consultant will determine whether the prior recommendations were fully or partly implemented. The consultant will also

review those recommendations, which have not yet been implemented, and for each one determine whether they are:

- No longer applicable due to changes that took place since the last audit;
- Infeasible; or
- Still valid, and worthy of implementation.

If a prior recommendation has not been implemented but still has merit, the consultant should include the prior recommendation(s) or a modified version in the current audit report (Tasks 6 and 7). The consultant will also identify recommendations already implemented or in progress. For those, the consultant should assess the benefits already achieved by follow up to the prior recommendations. Significant accomplishments and/or failures in implementing prior recommendations should be recognized and appropriate corrective actions identified in this Task. Such findings and relevant recommendations for corrective actions will be summarized in the audit report with a near-term implementation schedule.

TASK 4- REQUIRED PERFORMANCE INDICATORS

This task is divided into two subtasks:

4(a) Data Collection and Reporting

The consultant will review and validate the collection of operating and financial data needed for deriving the five TDA-required performance indicators. Those indicators are respectively:

- Operating cost per vehicle service hour
- Operating cost per rider
- Riders per vehicle service hour
- Riders per vehicle service mile and
- Hours per employee.

In addition the consultant will review the methods used to collect the farebox revenues and account for other supplemental revenues used in the derivation of annual farebox recovery ratios. This in-depth review will be done for each mode and each service part of the systems being audited. The consultant will assess whether any changes in data collection or related actions by the operators or their contractors are needed to ensure TDA compliance. This subtask will assess the operators' ability to accurately calculate the five TDA indicators (plus the farebox recovery ratio) and to monitor their year-to-year trends.

4(b) Quantitative Trends

The consultant will analyze performance indicators and present quantitative trends with detailed tables and supporting charts. Those will be accompanied by a short synopsis on the interpretation of those trends for early review by the operators. The consultant will analyze recent trends (three audit years) and compare those with the previous three years (data from prior triennial performance audits); as applicable the consultant will identify potential issues or concerns in need of further interpretation with the functional review (Task 5).

The consultant will also quantify and review the trends in the annual farebox recovery ratio and address compliance with the applicable TDA-required minimum. In the case of non-compliance, the consultant will develop near-term recommendations for increasing the farebox recovery ratio and integrate those recommendations into the final audit reports. As relevant to service areas, riders' groups or service components of all operators being audited, the consultant might define, calculate and analyze other indicators (besides the 5 TDA-required ones) financial or operating data appropriate to better interpret local or program-specific performance trends. Such data should help the agencies and the region understand the root of potential problem areas and identify needed improvements. Other elements should also be considered to identify specific factors impacting the overall trends (such as fare changes, operating contract terms, administrative transfers etc.).

TASK 5-FUNCTIONAL REVIEWS

The consultant will review each operator's function. The functional review will include interviews with each operator's management, staff, and governing board, plus TAMC staff as well as other operators or administrators involved in the transit or paratransit programs in overlapping service areas. Aspects of the system performance will be examined based on:

- Operator and TAMC interviews dealing with operators' functions (such as administration, operations, dispatch, maintenance, customer relations, public involvement, planning, grants, marketing);
- Review and analysis of major changes in the audit period;
- Significant achievements in the audit period or to date;
- Roles of advisory committee(s) and methods used for local public participation;
- Reports, such as prior audits, users' surveys, Short-Range Transit Plans, staff reports and City Council/Board agendas;
- Prior or recent findings on TDA indicators and actions taken to address performance issues;
- Review of fare structure, collection methods and reporting of subsidies;
- Derivation of farebox recovery ratios and adequacy of operating cost exemptions;
- Compliance with state and Federal regulations on discount fares and on the use of eligible matching funds;
- Follow up actions to prior audit recommendations as reported to TAMC and verified by the auditor;
- Review of operators' compliance with other statutory and regulatory requirements tied to grant sources;
- Consideration of proposed near-term changes per the ongoing transit efficiencies reviews done by staff and policy-makers at the sub-regional level; and
- Other areas relevant to the auditor's review.

Insight into inefficient or ineffective performance should lead to further investigation by the consultant. This may include collecting additional data from the operators, computing or reviewing supplemental performance indicators. The final report should offer any recommendations on how to remedy areas of inefficient or ineffective performance and give the

supporting rationale for each recommendation. In all areas the consultant should make clear and concise recommendations with a specific timeline for implementation (by year and quarter) and identify who will be responsible for the follow up actions.

TASK 6-DRAFT AUDIT FINDINGS and RECOMMENDATIONS with DRAFT REPORTS

The consultant will prepare five (5) separate draft audit reports for each operator and the Transportation Agency. One key objective of the triennial performance audit is to help management, the administrators, the operators and their contractors to improve operations, increase efficiency and cost-effectiveness. Thus, the performance audit should strive to present audit findings, conclusions, and recommendations in a positive and easy-to-understand manner. Listed below are the recommended elements of the performance audit report:

A-Table of Contents – Listing of the chapter headings and major sections in the performance audit report, tables and figures with associated page numbers;

B-Executive Summary – A synopsis of key findings and recommendations (i.e. to be used as a standalone product for wider distribution, Power Point slides and web posting);

C-Introduction – Background information useful in understanding the entity being audited and how each audit was conducted. This part might include:

- Information about the transit operator’s recent history, organization, budget, staffing, and nature of the services provided;
- Overview of regulatory requirements relevant to the audit;
- Description of the approach and methods used in conducting the audit; and
- Limitations regarding how the audit was performed, or caveats in the data supplied by the operator with any assumptions made by the consultant in presenting such data.

D-Audit Findings – This part of the audit report should present findings for each major area of the performance review such as:

- Results of the compliance review (Task 2);
- Status of prior audit report recommendations (Task 3);
- Verification and interpretation of performance audit indicators (Tasks 4-a and 4-b);
- Results of the functional review of each operator and organization (Task 5); and
- Other pertinent information such as changes during the audit period that impacted services and performance: fare structure; service coverage; route frequency or days of service; service mix; operating rules; funding sources; managerial and contract terms; state or Federal reporting requirements; and implications of the on-going transit efficiency reviews (Task 5).

E-Conclusions and Recommendations – A summary of the major findings and recommendations. The consultant will develop and recommend specific strategies and present concrete ways to address any performance issues. The consultant will summarize proposed

follow up actions with a schedule and identify the party (-ies) responsible to take such actions with a specific timeline for implementation.

TASK 7-FINAL REPORTS- Report Production, Presentations and Final Deliverables

The auditor will provide the five (5) draft reports to the operators and Transportation Agency staff for initial reviews to ensure accuracy of the factual information and quantitative data. The consultant will make adjustments as needed. The consultant will integrate comments on the first drafts following a 2-week review period and send PDF files of the final draft audit reports to TAMC. The consultant will be available to answer questions on the final draft audit findings and when the final drafts are considered by the Transportation Agency Board.

Based on the scope, the proposal should give a budget allocation among the seven tasks and for each system. The budget should also itemize other direct costs for material expenses and travel to sites in Monterey County by the designated personnel. Anticipated trips are summarized as follows:

- **Task 1-** Kick-off meeting, including initial interviews of operators and Transportation Agency (Transportation Agency, MST, City of Greenfield, and City of King, City of Soledad). Site visits of transit operators (MST, Greenfield, King City) - MST assumed responsibility for the City of Soledad service in July, 2010, therefore, Transportation Agency staff believes a Soledad site visit is not necessary as part of the project.
- **Task 5-** Follow up meetings re-functional reviews (via teleconference if possible).
- **Task 7-** Meeting attendance at TAMC Board (1 day)-one (1) trip.

Throughout the project TAMC staff will schedule the consultant’s visits with the operators and the final presentations and attempt to minimize the number of trips to Monterey County.

PROJECT MILESTONES

September 26, 2010	Distribute RFP
Oct 15, 2010 (12:00pm)	Deadline for Submittal of Proposals
October 18 - 22, 2010	Review and Rank Proposals
Nov 1 – 5, 2010	Consultant Interviews (if needed)
December 1, 2010	Proposed Consultant Contract Approval by TAMC Board
May 1, 2011	Draft Performance Audit Reports Due to TAMC
June 1, 2011	Final Draft Performance Audit Reports Due to TAMC
June 23, 2011	Final Draft Performance Audit Reports Approved by Board
June 30, 2011	State Deadline for Performance Audit Reports

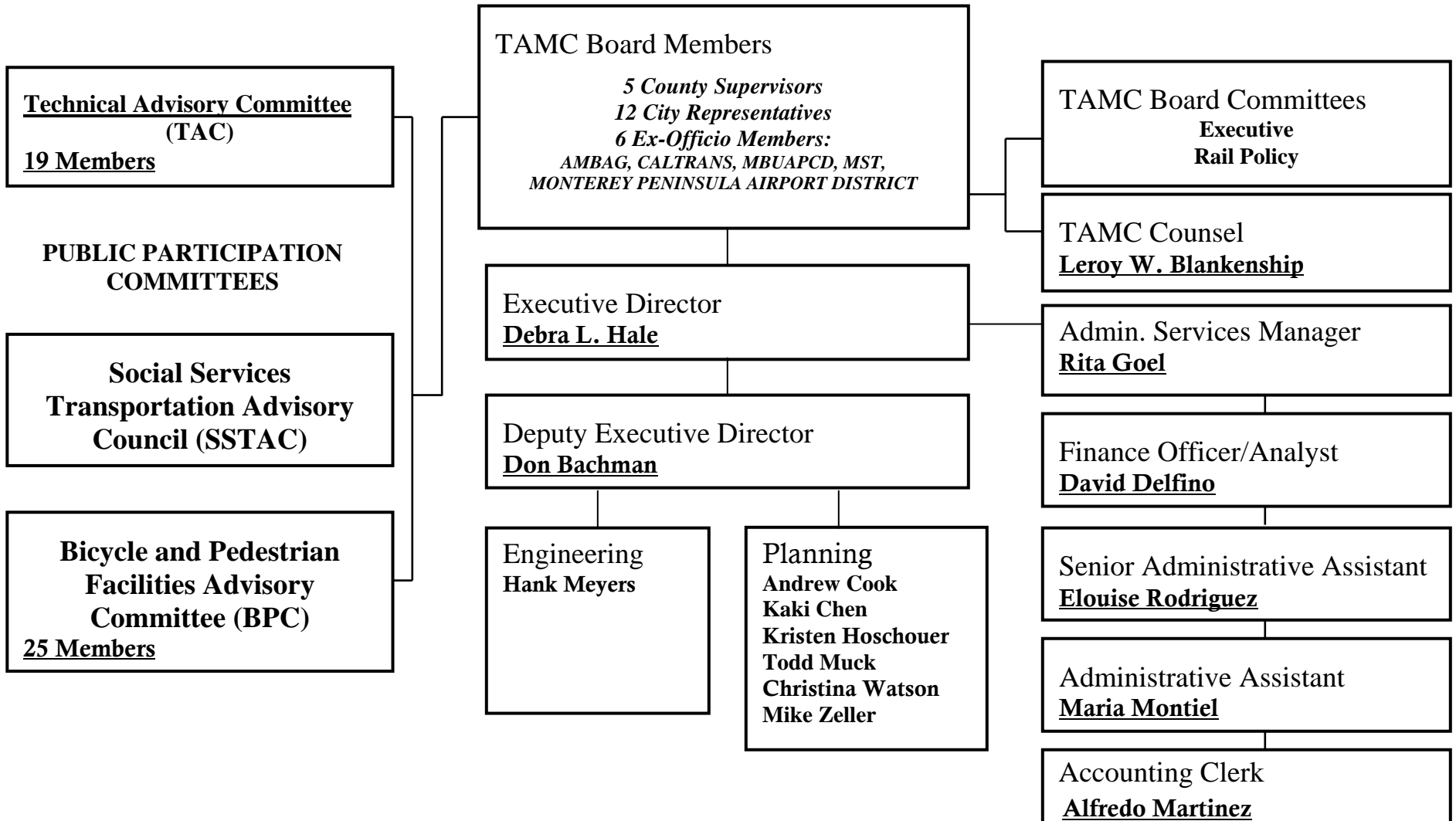
TRANSPORTATION AGENCY for MONTEREY COUNTY (TAMC)

LOCAL TRANSPORTATION COMMISSION (LTC)

REGIONAL TRANSPORTATION PLANNING AGENCY (RTPA)

TRAFFIC CONGESTION MANAGEMENT AGENCY (CMA)

SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS (SAFE)



TRANSPORTATION AGENCY FOR MONTEREY COUNTY
AND (CONSULTANT'S NAME)
AGREEMENT FOR PROFESSIONAL SERVICES

This is an agreement between the Transportation Agency for Monterey County, hereinafter called "TAMC," and [consultant's name], a [indicate legal status of entity, e.g., a California corporation, an individual dba ... , a California partnership, etc.], [consultant's address], hereinafter called "Consultant."

The parties agree as follows:

1. Employment of Consultant. TAMC hereby engages Consultant and Consultant hereby agrees to perform the services set forth in Exhibit A, in conformity with the terms of this Agreement. Consultant will complete all work in accordance with the work schedule set forth in Exhibit A.
 - (a) The work is generally described as follows:
 - (b) Consultant represents that Consultant and its agents, subcontractors and employees performing work hereunder are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required by this Agreement.
 - (c) Consultant, its agents, subcontractors, and employees, shall perform all work in a safe, skillful, and professional manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
 - (d) Consultant shall furnish, at its own expense, all materials and equipment necessary to carry out the terms of this Agreement, except as otherwise provided herein. Consultant shall not use TAMC premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations hereunder.
 - (e) Consultant's project manager shall be the person specified in Exhibit A. If Consultant desires to change the project manager, Consultant shall get written approval from TAMC of the new project manager.
2. Term of Agreement. The term of this Agreement shall begin upon execution hereof by Consultant and TAMC and, unless earlier terminated as provided herein, shall remain in force until _____.

3. Payments to Consultant; maximum liability. Subject to the limitations set forth herein, TAMC shall pay to Consultant the amounts provided in, Exhibit B upon receipt of deliverables in Exhibit A. Each payment by TAMC shall be for a specific deliverable outlined in Exhibit A. The maximum amount payable to the Consultant is set forth in Exhibit B.
4. Invoices by Consultant; Payment.
 - (a) Consultant shall submit to TAMC an invoice, in a format approved by TAMC, upon completion of each deliverable listed in Exhibit A, setting forth the amounts claimed by Consultant, the deliverables for which payment is requested, together with an itemized basis for such amounts, and setting forth such other pertinent information TAMC may require. In no event shall such invoice be submitted later than 30 days after completion of Consultant's work hereunder. It is understood and agreed that Consultant shall complete all work described in Exhibit A for an amount not exceeding that set forth above, notwithstanding Consultant's submission of periodic invoices.
 - (b) If, as of the date of execution of this Agreement, Consultant has already received payment from TAMC for work which is the subject of this Agreement, such amounts shall be deemed to have been paid under this Agreement and shall be credited toward TAMC's maximum liability set forth above.
 - (c) Consultant shall be reimbursed for travel expenses not to exceed the State of California approved travel reimbursement rates, which are to be included as part of the \$_____ maximum contract amount.
5. Indemnification. Consultant shall indemnify, defend, and save harmless TAMC and its officers, agents, and employees, from and against the following:
 - (a) any and all third party liabilities and claims for compensation (together with any expenses related thereto, including but not limited to damages, court costs, and attorneys' fees) on account of Consultant's non-payment for any work, services, materials, or supplies furnished or provided by such third parties to or for Consultant or Consultant's subcontractors in connection with the performance of this Agreement; and
 - (b) any and all claims, liabilities, and losses whatsoever (together with any expenses related thereto, including but not limited to damages, court costs, and attorneys' fees) occurring or resulting to any person, firm, or corporation for damage, injury or death, to the extent that such claims, liabilities, or losses arise out of, are alleged to arise out of, or are connected with any wrongful, willful, or negligent act or omission by Consultant in the performance of this Agreement. Consultant's performance of this Agreement shall include Consultant's action or inaction and the action or inaction of Consultant's officers, employees, agents, and subcontractors.
6. Insurance.
 - (a) Without limiting Consultant's duty to indemnify as set forth in this agreement, Consultant shall maintain, at no additional cost to TAMC, throughout the term of this Agreement a policy or policies of insurance with the following coverage and minimum limits of liability:

Commercial general liability insurance, including but not limited to premises, personal injury, products, and completed operations, with a combined single limit of \$1,000,000 per occurrence.

Professional liability insurance in the amount of not less than \$1,000,000 per claim and \$3,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims made" basis rather than an "occurrence" basis, Consultant shall, upon the expiration or termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or termination of this Agreement.

Comprehensive automobile liability insurance covering all motor vehicles, including owned, leased, hired and non-owned vehicles used in providing services under this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence.

- (b) All insurance required under this Agreement shall be with a company acceptable to TAMC and authorized by law to transact insurance business in the State of California. Unless otherwise provided herein, all such insurance shall be written on an occurrence basis; or, if any policy cannot be written on an occurrence basis, such policy shall continue in effect for a period of two years following the date of Consultant's completion of performance hereunder.
 - (c) Each policy of insurance required under this Agreement shall provide that TAMC shall be given written notice at least thirty days in advance of any change, cancellation or non-renewal thereof. Each policy shall provide identical coverage for each subcontractor performing work under this Agreement, or be accompanied by a certificate of insurance for each subcontractor showing identical insurance coverage.
 - (d) Commercial general liability and automobile liability policies shall provide an endorsement naming TAMC, its officers, agents, and employees, as additional insureds and shall further provide that such insurance is primary to any insurance or self-insurance maintained by TAMC, and that no insurance of any additional insured shall be called upon to contribute to a loss covered by Consultant's insurance.
7. Workers' Compensation Insurance. If during the performance of this contract, Consultant employs one or more employees, then Consultant shall maintain a workers' compensation plan covering all of its employees as required by Labor Code Sec. 3700, either (a) through workers' compensation insurance issued by an insurance company, with coverage meeting the statutory limits and with a minimum of \$1,000,000.00 per occurrence for employer's liability, or (b) through a plan of self-insurance certified by the State Director of Industrial Relations, with equivalent coverage. If Consultant elects to be self-insured, the certificate of insurance otherwise required by this agreement shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations. The provisions of this paragraph apply to any subcontractor employing one or more employees, and Consultant shall be responsible for all subcontractors' compliance herewith.

8. Certificate of Insurance. Prior to the execution of this agreement by TAMC, Consultant shall file certificates of insurance with TAMC's contract administrator evidencing that Consultant has in effect the insurance required by this Agreement. Consultant shall file a new or amended certificate promptly after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify any indemnification provision of this Agreement.
9. Maintenance of Records. Consultant shall prepare, maintain and preserve all reports and records that may be required by federal, State, and local rules and regulations relating to services performed under this Agreement. Consultant shall retain all such records for at least five years from the date of final payment, or until any litigation relating to this Agreement is concluded, whichever is later.
10. Right to Audit at Any Time. TAMC officials shall have the right, at any time during regular working hours and on reasonable advance notice, to examine, monitor and audit all work performed and all records, documents, conditions, activities and procedures of Consultant or its subcontractors relating to this Agreement. Government Code Section 8546.7 provides that an audit by the State Auditor General may be performed up to three years after the final payment under any contract involving the expenditure of public funds in excess of \$10,000.
11. Confidentiality; Return of Records. Consultant and its officers, employees, agents, and subcontractors shall comply with all federal, State and local laws providing for the confidentiality of records and other information. Consultant shall not disclose any confidential information received from TAMC or prepared in connection with the performance of this Agreement without the express permission of TAMC. Consultant shall promptly transmit to TAMC all requests for disclosure of any such confidential information. Consultant shall not use any confidential information gained through the performance of this Agreement except for the purpose of carrying out Consultant's obligations hereunder. When this Agreement expires or terminates, Consultant shall return to TAMC all records, which Consultant utilized or received from TAMC to perform services under this Agreement.
12. Termination. TAMC may terminate this Agreement by giving written notice of termination to Consultant at least thirty (30) days prior to the effective date of termination, which date shall be specified in any such notice. In the event of such termination, the amount payable hereunder shall be reduced in proportion to the services provided prior to the effective date of termination. TAMC may terminate this Agreement at any time for good cause effective immediately upon written notice to Consultant. "Good cause" includes, without limitation, the failure of Consultant to perform the required services at the time and in the manner provided herein. If TAMC terminates this Agreement for good cause, TAMC may be relieved of the payment of any consideration to Consultant, and TAMC may proceed with the work in any manner, which it deems proper. Costs incurred by TAMC thereby shall be deducted from any sum otherwise due Consultant.

13. Amendments and Modifications. No modification or amendment of this agreement shall be valid unless it is set forth in writing and executed by the parties hereto.
14. Non-discrimination. Throughout the performance of this Agreement, Consultant will not unlawfully discriminate, harass or allow harassment, against any person because of sex, race, color, religious creed, sex, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition, marital status, age (over 40), denial of family and medical care leave, denial of pregnancy disability leave, or sexual orientation, either in Consultant's employment practices or in the furnishing of services to recipients. Consultant shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. Consultant shall comply fully with all federal, State and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to any target population designated herein shall not be deemed prohibited discrimination.
15. Independent Contractor. In its performance under this Agreement, Consultant is at all times acting and performing as an independent contractor and not as an employee of TAMC or any of its member jurisdictions. No offer or obligation of employment is intended in any manner, and Consultant shall not become entitled by virtue of this Agreement to receive any form of benefits accorded to employees including without limitation leave time, health insurance, workers' compensation coverage, disability benefits, and retirement contributions. Consultant shall be solely liable for and obligated to pay directly all applicable taxes, including without limitation federal and State income taxes and social security arising out of Consultant's performance of this Agreement. In connection therewith, Consultant shall defend, indemnify, and hold harmless TAMC from any and all liability, which TAMC may incur because of Consultant's failure to make such payments.
16. Delegation of Duties; Subcontracting. Consultant is engaged by TAMC for its unique qualifications and abilities. Consultant may not, therefore, delegate any of its basic duties under this Agreement, except to the extent that delegation to consultant's employees is contemplated herein. No work shall be subcontracted without the written consent of TAMC, except as provided in this Agreement or its attachments. Notwithstanding any subcontract, Consultant shall continue to be liable to TAMC for the performance of all work hereunder. Any work performed by a subcontractor shall be done in conformance with this Agreement, and TAMC shall pay Consultant for the work but not for any markup, including subcontract management, supervision, administrative and other expenses, or reimbursable costs. Consultant shall not assign, sell, mortgage or otherwise transfer its interest or obligations in this Agreement without TAMC prior written consent.
17. Agency's Rights in Work Product. All original materials prepared by Consultant in connection with its work hereunder -- including but not limited to computer codes, customized computer routines developed using proprietary or commercial software packages, reports, documents, maps, graphs, charts, photographs and photographic negatives -- shall be the property of TAMC and shall be delivered to TAMC prior to final payment. Consultant may utilize any existing materials developed by Consultant prior to

commencement of work under this Agreement, which materials shall remain the property of Consultant.

18. Compliance with Terms of Federal or State Grant. If any part of this Agreement has been or will be funded pursuant to a grant from the federal or State government in which TAMC is the grantee, Consultant shall comply with all provisions of such grant applicable to Consultant's work hereunder, and said provisions shall be deemed a part of this Agreement as though fully set forth herein.
19. Conflict of Interest. Consultant warrants that it presently has no interest and shall not acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with its full and complete performance of all services under this Agreement.
20. Governing Laws. This Agreement shall be construed and enforced according to the laws of the State of California, and the parties hereby agree that the County of Monterey shall be the proper venue for any dispute arising hereunder.
21. Construction of Agreement. The parties agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any exhibit or amendment. To that end, it is understood and agreed that this Agreement has been arrived at through negotiation, and that neither party is to be deemed the party which prepared this Agreement within the meaning of Civil Code Section 1654. Section and paragraph headings appearing herein are for convenience only and shall not be used to interpret the terms of this Agreement.
22. Waiver. Any waiver of any term or condition hereof must be in writing. No such waiver shall be construed as a waiver of any other term or condition herein.
23. Successors and Assigns. This Agreement and all rights, privileges, duties and obligations hereunder, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns and heirs.
24. Time is of the Essence. The parties mutually acknowledge and agree that time is of the essence with respect to every provision hereof in which time is an element. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act, nor shall any such extension create a precedent for any further or future extension.
25. Contract Administrators. Consultant's designated principal responsible for administering Consultant's work under this Agreement shall be [NAME and TITLE]; TAMC's designated administrator of this Agreement shall be [NAME and TITLE].
26. Notices. Notices required under this Agreement shall be delivered personally or by electronic facsimile, or by first class or certified mail with postage prepaid. Notice shall be

deemed effective upon personal delivery or facsimile transmission, or on the third day after deposit with the U.S. Postal Service. Consultant shall give TAMC prompt notice of any change of address. Unless otherwise changed according to these notice provisions, notices shall be addressed as follows:

To TAMC:

To Consultant:

Tel:

Tel:

Fax:

Fax:

27. Non-exclusive Agreement. This Agreement is non-exclusive and both parties reserve the right to contract with other entities for the same or similar services.

28. Execution of Agreement. Any individual executing this Agreement on behalf of an entity represents and warrants that he or she has the requisite authority to enter into this Agreement on behalf of such entity and to bind the entity to the terms and conditions hereof. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

29. Exhibits. The following Exhibits are attached hereto and incorporated by reference:
 - Exhibit A – Scope of Work and Work Schedule
 - Exhibit B – Fixed Fee Schedule
 - Exhibit C – A completed federal W-9 form, Request for Taxpayer identification Number and Certification.

30. Entire Agreement. This document, including all exhibits hereto, constitutes the entire agreement between the parties, and supersedes any and all prior written or oral negotiations and representations between the parties concerning all matters relating to the subject of this Agreement.

IN WITNESS WHEREOF, TAMC and Consultant execute this agreement as follows:

TAMC

CONSULTANT

By _____
Debra L. Hale (Signature)

Executive Director

Dated: _____

Consultant's Business Name*

By: _____

(Name/Title: Chair, Pres., or V.P.)*

Dated: _____

By: _____
(Signature)

(Name/Title: Secy., CFO, or Treas.)*

Dated: _____

INSTRUCTIONS: If Consultant is a corporation (including limited liability and nonprofit corporations), the full legal name of the corporation shall be set forth together with the signatures of two specified officers. If Consultant is a partnership, the name of the partnership shall be set forth together with the signature of a partner with authority to execute this Agreement on behalf of the partnership. If Consultant is contracting in an individual capacity, the individual shall set forth the name of his or her business, if any, and shall personally sign the Agreement.

Approved as to form:

TAMC Counsel

Dated: _____