



REQUEST FOR QUALIFICATIONS

THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY (TAMC) INVITES
CONSULTANTS TO SUBMIT STATEMENTS OF QUALIFICATIONS FOR:

TRAFFIC ENGINEERING ON-CALL SERVICES

You are invited to submit your qualifications for the on-call services to complete the above work.

Submittals are due via email to the project manager, Doug Bipse, TE at doug@tamcmonterey.org by:

12:00 pm Pacific Daylight Time on Thursday, January 12, 2023

Copies of the RFQ and the detailed information regarding the submittal requirements are attached and on the TAMC website, <https://www.tamcmonterey.org/bids-and-proposals>.

You may email the project manager, noted above, for further information. Email inquiries, including the submittal of the Statement of Qualifications, should include the RFQ subject in the email subject line.

BACKGROUND

The Transportation Agency for Monterey County (“TAMC” or the “Agency”) is a state-designated public agency with regional transportation planning responsibilities. TAMC’s Board of Directors includes twenty-three voting members who consist of local officials from each of its twelve incorporated cities and all five county supervisorial districts. The mission of TAMC is to proactively fund and plan a transportation system that enhances mobility, safety, access, environmental quality, and economic activities by investing in regional transportation projects for Monterey County residents, businesses, and visitors.

TAMC is often involved with project delivery and grant applications that highlight “complete streets” features. Complete streets enhance safety and create more sustainable transportation options that decrease dependence on driving and improve public health by encouraging active transportation like walking and biking. Caltrans recently approved a policy for all new transportation projects it funds or oversees to include complete streets features with the goal to expand the availability of sustainable transportation options to help meet the state’s climate, health, and equity goals. The Agency is committed to collaborate with Caltrans to plan, fund, and deliver complete streets projects along the designated highway network managed by Caltrans. The Agency is also committed to supporting member agencies as they develop plans and grant applications for complete streets projects throughout Monterey County.

PROJECT DESCRIPTION

This request for qualifications (RFQ) will be used by TAMC to select an on-call traffic engineering team to assist the delivery of complete streets projects, as detailed in Attachment A: Scope of Services. In general, this contract anticipates the need for on-call traffic engineering and ancillary consulting services to:

- develop conceptual designs for stand-alone projects that feature complete streets concepts (e.g., roundabouts, curb extensions, raised crosswalks, bike facilities),
- conduct benefit-cost ratio analysis and produce exhibits (e.g., vicinity/location maps, benefit-cost ratios, project renderings) for grant applications with a focus on complete streets concepts,
- develop concepts and designs that create unique, interesting places that reflect the diverse values, culture, and heritage of the local community,
- facilitate community / stakeholders engagement efforts planned to build consensus around conceptual designs including work providing data and graphics that demonstrate

the ability of complete streets design features to effectively address specific safety issues and stakeholder concerns,

- provide plan review of designs involving complete streets features with a special emphasis on projects involving Caltrans review or approval (e.g., roundabout designs on state highways),
- collect traffic data and conduct traffic analysis on existing and future scenarios to assure adequate operations and design standards are met, and
- prepare bid packages (plans, specifications, and cost estimates) for small-scale projects that include complete streets features.
- Conduct civil engineering (e.g., survey and base mapping) for small scale complete streets projects

This work predominantly involves traffic engineering on-call services, but also involves ancillary services involved in project delivery, such as civil engineering, meeting facilitation, graphical design, and mobility planning. It is important that the consultant have the capability to work closely with TAMC staff. The consultant team must be prepared to undertake whatever liaison and meetings are required to satisfy this requirement.

TAMC expects to enter into an on-call agreement with one consultant team, but it reserves the right to use a second on-call agreement if the highest-ranking team cannot adequately provide each of the skills needed to ensure efficient project delivery. If more than one on-call consultant team is selected for this work, on occasion the TAMC project manager may use a task description to request competitive bids for some work orders (e.g., projects with federal funding that require competitive bids). A copy of the template agreement anticipated to be used by TAMC is Attachment B. A single document will be prepared between the Consultant and TAMC consistent with the provisions of Attachment A and Attachment B.

PROJECT BUDGET AND CONTRACT TERM

The allocated budget for this work is \$500,000 over the three-year contract period. The term of the contract will be three years.

SELECTION PROCESS

TAMC will establish a committee to review the Statements of Qualifications. This review may be followed by an oral interview between a review committee and the firms that respond best to the RFQ. Based on the recommendations of the review committee, TAMC staff will issue a “Notice of Intent to Award” notice to all responders, indicating staff’s intent to negotiate with

the specific firms considered to be the most qualified consultant teams. Further, the Agency may, or may not, also negotiate contract terms with selected consultants prior to award, and expressly reserves the right to negotiate with several consultants simultaneously and, thereafter, to award a contract to the consultant team(s) offering the most favorable terms to the Agency. Submittals, therefore, should contain the consultant's most favorable terms and conditions, because the selection and award may be made without further discussion with any consultant. The most responsive and competitive submittals will be considered by the Executive Director, or the Board of Directors (as applicable) for consideration and selection. The Agency reserves the right to accept or reject any and all submittals, to waive minor irregularities, and to request additional information or revisions to offers, and to negotiate with any or all consultants at any stage of the evaluation.

The evaluations will be based upon the following criteria:

<p><u>Experience with complete streets projects:</u> Do the team members have the skill set and resources needed to successfully deliver complete streets projects? Do key team members demonstrate experience and in-depth knowledge of current trends in complete streets designs? How have team members worked with Caltrans staff preparing or reviewing complete streets designs?</p>	<p>25 points</p>
<p><u>Quality of graphical representations of complete streets designs:</u> What is the quality of the conceptual designs and project renderings submitted? Do exhibits illustrate how the team identified and addressed project stakeholder’s concerns? Do the exhibits convey to the community how the project will successfully address specific technical issues (e.g., excessive speed, intersection conflicts)? Do the exhibits reflect a high level of project understanding and illustrate how complete streets designs addressed specific issues?</p>	<p>25 points</p>
<p><u>General approach to conflict management and consensus building:</u> Does the team include facilitators with good experience building consensus through community / stakeholders engagement? What approaches, techniques and tools have the team members used to build consensus? Does the team understand typical challenges that arise designing projects in exurban and rural communities?</p>	<p>20 points</p>
<p><u>Demonstrated Success in delivering projects:</u> Has the team delivered projects proposed in challenging communities? Do past projects reflect a cost-effective approach to developing/reviewing complete streets designs on schedule and budget? Can the team maintain the project scope while addressing stakeholder concerns?</p>	<p>15 points</p>
<p><u>Successful projects that reflect local context and foster livable communities:</u> Has the team been able to produce projects that incorporate natural features, historic structures, public art, and placemaking. Have projects addressed underserved communities in a way that enhances an area while reflecting the community values? Have projects fostered livable communities and created a sense of place?</p>	<p>15 points</p>
<p><u>Total possible points</u></p>	<p>100 points</p>

QUESTION & ANSWERS, REQUESTS FOR CLARIFICATION OR EXCEPTIONS, ADDENDA

This Request for Qualifications and any addenda will be posted on the Agency's website (<https://www.tamcmonterey.org/bids-and-proposals>). Questions and answers regarding the request for qualifications will also be posted on the website. All potential bidders are responsible for checking the website for any addenda to the bid documents, and the proposal must cite any addenda to be responsive. To receive email notifications of addenda to this Request for Qualifications, prospective proposers must submit an email request to the Project Manager.

Any requests for clarification or exceptions to requirements in this Request for Qualifications must be received by the Agency no later than 12:00 pm Pacific Daylight Time (PDT), on Tuesday, January 10, 2023, to guarantee response or consideration. Responses to questions concerning this Request for Qualifications posed before this deadline will be posted on the Agency's website (www.tamcmonterey.org).

SUBMITTAL REQUIREMENTS AND FORMAT

All interested firms are required to submit one digital copy of their Statement of Qualifications to perform the requested on-call consulting services. Links can be provided in the Statement of Qualifications to graphics and/or simulations.

There is no limit to the number of pages submitted for the Statement of Qualifications. However, the proposed team is asked to target the main section of the document to be no more than 25 pages, while other reference material may be included in appendices. It is recommended that the main section of the Statement of Qualifications include, at a minimum, the following information in any order:

1. a short introduction discussing the team's approach to project delivery reflecting the need to manage expectations while maintaining the project scope, schedule and cost.
2. a chart representing the proposed organizational structure of the team that clearly identifies the expected roles and that illustrate the team's skill set needed to provide the scope of services listed in Appendix A (e.g., traffic engineering, graphical design, grant writing, meeting facilitation, and civil engineering).
3. the qualifications of the proposed Project Manager who will act as the lead advocate for the agency, and a list of the names and resumes of key personnel of the proposed team to be assigned to the contract (resumes of other team members can be included in the appendix).
4. at least three examples of work related to complete streets designs that includes:
 - a short description of the project purpose and the scope of work completed by the proposed team (i.e., the team's role on the overall project)
 - exhibits, plans, simulations, renderings, conceptual designs, or other illustrative graphics that reflect contract deliverables that showcase project success.
 - proposed cost and final cost for the work completed for this scope of work.

- a discussion on measures taken to manage expectations, address challenges, and maintain the scope, schedule, and project cost.
- 5. at least two examples of projects that showcase the approach and tools team members used to conduct public outreach and reach consensus on challenging projects that included complete streets designs through community / stakeholders engagement (note: the same projects used for item 4 can be used for items 5, 6, 7 and 8).
- 6. At least three examples with discussions and graphical representations that illustrate the team's ability to incorporate local culture and other context into grant exhibits, plans, and/or conceptual designs for projects intended to create human attachment and belonging to the place created by the project.
- 7. a description of the team's experience of third-party reviews involving the design of roundabouts or other complete streets features. Emphasize projects involving the review of plans developed by Caltrans staff or requiring approval by Caltrans staff.
- 8. At least three references that can validate the team's ability to deliver high-quality complete streets projects on schedule, within budget, and according to the scope of work.

The examples provided shall be limited to work that primarily reflects the tasks completed by the main contributing members of the proposed team (as defined by items 2 and 3 above).

Information that is not directly related to the evaluation scoring should be kept to a minimum or included in the appendix.

The proposal shall not include a fee. The Agency will request a cost proposal from the preferred firm(s) after the evaluation. The consultant should have a cost proposal prepared, but it will not be requested until after the evaluation and ranking.

The Statement of Qualifications shall include a list of any proposed changes to the sample agency contract.

PROPOSED AWARD SCHEDULE

TAMC Board authorization to staff to release RFQ	December 7, 2022
Release of Request for Qualifications	December 12, 2022
Deadline for proposer questions/clarifications	January 10, 2023 - 12:00 pm PDT
Electronic proposals due to TAMC	January 12, 2023 - 12:00 pm PDT
TAMC Board consideration of contract approval	February 22, 2023

QUESTIONS

This Request for Qualifications includes a brief project description and summary of tasks. There will not be a pre-submittal meeting for this RFQ. If you need assistance or have any questions, please email or call the Project Manager, Doug Bilsse, doug@tamcmonterey.org; (831) 775-4413.

LEGAL INFORMATION

A. Modification or Withdrawal of Submittals

Any submittals 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 submittal must be received by the time and date specified above.

B. Property Rights

Any submittals 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 Proposal), all responses will be regarded as public records and will be subjected to review by the public. Any language purporting to render all or portions of any submittals as confidential will be regarded as non-effective and will be disregarded.

D. Amendments to Request for Qualifications

TAMC reserves the right to amend the Request for Proposals by addendum before the final submittal date.

E. Non-Commitment of TAMC

This Request for Qualifications does not commit TAMC to award a contract, to pay any costs incurred in the preparation of a submittal 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 Qualifications 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 TAMC projects that will

follow. In particular, the prospective consultant shall disclose any financial interest or relationship with any construction company that might submit a bid on TAMC projects.

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 selection process is considered concluded when a "Tentative Award" email is sent to all participating consultants indicating which consultant will be recommended approval. The firm recommended is not a final selection and no contract is certain until approved by the TAMC Executive Director, or Board of Directors, as applicable.

Protestants shall email a detailed statement of protest to the project manager no later than five business days after receipt of the Tentative Award email described above.

Attachments:

- A. Scope of Services
- B. Sample TAMC Standard Agreement for Professional Services

ATTACHMENT A

Scope of Services

Provide traffic engineering and ancillary on-call services for the Transportation Agency for Monterey County (TAMC) with the goal of facilitating the delivery of complete streets projects including:

- provide traffic engineering services including, but not limited to, development of conceptual designs and alternatives analysis of projects that include complete streets features,
- review project plans prepared by other parties (i.e., conduct third-party design reviews)
- provide data and illustrations that support the effectiveness of complete streets designs addressing safety, congestion and other potential stakeholder concerns,
- provide civil engineering services needed to submit bid packages for small-scale complete streets projects including, but not limited to, conducting surveys, preparing base maps, plans, specifications, and cost estimates,
- provide project management services needed to track project delivery according to scope, schedule and budget,
- assist in the planning of public outreach events and facilitate community / stakeholders engagement meetings intended to build consensus with the project stakeholders,
- conduct mobility planning that incorporates stakeholder input into project designs and graphical presentations that reflect community context,
- assist with the preparation of grant applications including, but not limited to, rough cost estimates, benefit-cost ratio analysis, and project renderings,
- collect traffic data and prepare/review analysis related to performance measures of complete streets design features.

ATTACHMENT B

Sample Agency Contract

**TRANSPORTATION AGENCY FOR MONTEREY COUNTY
AND _____
AGREEMENT FOR PROFESSIONAL SERVICES
FOR: TRAFFIC ENGINEERING ON-CALL SERVICES**

EFFECTIVE: [DATE]

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], [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 on-call 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: on-call traffic engineering and ancillary services towards the delivery of complete streets projects.
 - (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. Consultant shall ensure for itself and for any subcontractors under this Agreement that the applicable requirements of Labor Code Section 1725.5, concerning the registration of contractors for public works, shall be in force and maintained for the term of this Agreement.

- (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 the TAMC Executive Director of the new project manager.
- (f) Consultant shall submit progress reports at least once a month. The report should be sufficiently detailed for the TAMC Project Manager to determine, if Consultant is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- (g) Consultant's Project Manager shall meet with TAMC's Project Manager, as needed, to discuss progress on the contract.
2. Term of Agreement. The term of this Agreement shall begin upon [DATE], contingent upon approval by the TAMC Board of Directors, and Consultant shall commence work only after a Notice to Proceed has been issued by TAMC's Project Manager specified in Paragraph 28. Unless earlier terminated as provided herein, this Agreement shall remain in force until [DATE]. Consultant acknowledges that this Agreement is not binding until it is fully executed and approved by TAMC.
3. Payments to Consultant; maximum liability. Subject to the limitations set forth herein, TAMC shall pay to Consultant the amounts according to information provided in Exhibit B: Cost of Services, upon receipt and acceptance of deliverables listed therein. Each payment by TAMC shall be for a specific deliverable outlined in Exhibit A: Scope of Work and Schedule. The maximum amount payable to the Consultant under this Agreement is set forth in Exhibit B: Cost of Services and shall not exceed the amount of _____ Dollars (\$XXXX). If there is any conflict between the terms of this Agreement and the terms of either Exhibit A (Scope of Work) or Exhibit B (Cost of Services), the terms of this Agreement shall prevail. TAMC does not guarantee any minimum amount of dollars to be spent under this Agreement.
4. Method of Payment/Allowable Costs and Payment. The method of payment for this Agreement will be based upon specific rates of compensation as negotiated through Task Orders.

- (a) Consultant will be reimbursed for hours worked at the hourly rates specified in Consultant's approved Cost Proposal, Exhibit B to this Agreement, which rates shall be inclusive of direct salary costs, employee benefits, overhead and fees, if any. These rates are not adjustable for the performance period set forth in this Agreement.
- (b) In addition, Consultant will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the Cost Proposal and in the executed Task Order.
- (c) Consultant agrees to be on call to perform work as described in Section 1(a) until the term of the Agreement expires.
- (d) Work on specific projects shall be directed via Task Orders.
- (e) Once a specific project to be performed under this Agreement is identified by TAMC, TAMC's Project Manager will prepare a draft Task Order less the cost estimate. The draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and a TAMC Task Manager. The draft Task Order will be delivered to Consultant for review. Consultant shall return the draft Task Order within ten (10) calendar days, along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee (if any), and a total dollar amount for the Task. After agreement has been reached on the negotiable items and total not to exceed cost, a finalized Task Order with the finalized Task Order Budget shall be signed by both TAMC and Consultant.
- (f) If no agreement on the Task Order is reached within a reasonable amount of time, TAMC may present the draft Task Order to a different consultant with which TAMC has an on-call agreement, or may take such other actions as TAMC deems appropriate to accomplish the Task.
- (g) Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in Consultant's approved Cost Proposal.
- (h) Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.

- (i) When milestone cost estimates are included in the approved Cost Estimate, Consultant shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- (j) Progress payments for each Task Order will be made monthly in arrears, based on services provided and actual costs incurred.
- (k) Consultant shall not commence performance of work or services until this Agreement has been approved by TAMC, and notification to proceed has been issued by TAMC's Contract Administrator. No payment will be made prior to approval, or for any work performed prior to approval of this Agreement.
- (l) A Task Order is of no force or effect until returned to TAMC and signed by an authorized representative of TAMC. No expenditures are authorized on a project or task, and work shall not commence until a Task Order for that project/task has been executed by TAMC.
- (m) Consultant will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by TAMC's Contract Administrator of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this Agreement number and project title and Task Order number. Credits due TAMC that include any equipment purchased under the provisions of Paragraph 27 (Equipment, Supplies or Consultant Services Purchases) must be reimbursed by Consultant prior to the expiration or termination of this Agreement.
- (n) The final invoice should be submitted within 60 calendar days after completion of Consultant's work. Invoices shall be mailed to TAMC's Contract Administrator at the address contained in Paragraph 35 (Notices).
- (o) The period of performance for Task Orders shall be in accordance with the dates specified in the Task Order. No Task Order will be written which extends beyond the expiration of this Agreement.
- (p) The total amount payable by TAMC for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by a written

amendment.

- (q) If the Consultant fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- (r) Task Orders may not be used to amend this Agreement and may not exceed the scope of work, or the term, of this Agreement.
- (s) The total amount payable by TAMC under all Task Orders resulting from this Agreement shall not exceed \$640,000. It is understood and agreed that there is no guarantee, either expressed or implied, that this dollar amount will be authorized under this Agreement through Task Orders.
- (t) All subcontracts under this Agreement in excess of \$25,000 shall contain the above provisions.

5. Retention of Funds.

- (a) Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.
- (b) No retainage will be withheld by TAMC from progress payments due the prime Consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

6. Termination.

- (a) TAMC reserves the right to terminate this Agreement upon thirty (30) calendar days' written notice to Consultant with the reasons for termination stated in the notice.
- (b) TAMC may also 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. Notwithstanding TAMC's right to terminate for good cause effective immediately upon written notice thereof, TAMC shall provide prior notice to Consultant of any ground for termination then being considered, and also provide Consultant with a good faith opportunity to avoid termination, as reasonably determined by TAMC in its absolute discretion. 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.
- (c) The maximum amount for which TAMC shall be liable if this Agreement is terminated is zero (0) dollars.
- (d) Termination of this Agreement shall not terminate Consultant's duty to defend, indemnify and hold harmless TAMC, as provided in Paragraphs 7 and 17.

7. Cost Principles and Administrative Requirements.

- (a) Consultant agrees that the contract Cost Principles and Procedures, 48 Code of Federal Regulations (CFR), Chapter 1, Part 31.000 *et seq.*, Federal Acquisition Regulations System, shall be used to determine the cost allowability of individual items.
- (b) Consultant also agrees to comply with federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Costs Principles and Audit Requirements.
- (c) Any costs for which payment has been made to Consultant under this Agreement that are determined by subsequent audit to be unallowable under 2 CFR Part 200 and 48 CFR Part 31, are subject to repayment by Consultant to TAMC.

- (d) Consultants and subconsultants shall maintain accounting systems related to the work to be performed pursuant to this Agreement that conform to Generally Accepted Accounting Principles (GAAP).
- (e) All subcontracts in excess of \$25,000 shall contain the above provisions.

8. Indemnification.

To the fullest extent permitted by law, including California Civil Code Sections 2782 and 2782.6, Consultant shall defend (with legal counsel reasonably acceptable to TAMC), indemnify and hold harmless TAMC, its officers, agents, and employees, from and against any and all claims, losses, costs, damages, injuries (including injury to or death of an employee of Consultant or its subcontractors), expenses and liabilities of every kind, nature and description (including incidental and consequential damages, court costs, attorneys' fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) that arise out of, pertain to, or relate to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Consultant, any subcontractor, anyone directly or indirectly employed by them, or anyone that they control (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify TAMC, its officers, agents, and employees, shall not apply to the extent that such Liabilities are caused in part by the sole negligence, active negligence, or willful misconduct of TAMC, its officers, agents, and employees. To the extent there is an obligation to indemnify under this Paragraph, Consultant shall be responsible for incidental and consequential damages resulting directly or indirectly, in whole or in part, from Consultant's negligence, recklessness, or willful misconduct. Notwithstanding any other provision of this Agreement, Consultant's obligation to defend, indemnify and hold harmless TAMC shall survive the termination or expiration of the Agreement for a term to include the applicable statute of limitations related to the Consultant's performance pursuant to the Agreement.

9. 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 (check if applicable):

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

Professional liability insurance in the amount of not less than One Million Dollars (\$1,000,000) per claim and Three Million Dollars (\$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 surviving term of Consultant's obligation to defend, indemnify and hold harmless TAMC as set forth in Paragraph 7.

Comprehensive automobile 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 One Million Dollars (\$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 in this Agreement, 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.
 - d. Commercial general 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.
 - e. TAMC shall not be responsible for any premiums or assessments on the policy.
10. Workers' Compensation Insurance. If during the performance of this Agreement, Consultant employs one or more employees, then Consultant shall maintain a workers' compensation plan covering all of its employees as required by Labor Code Section 3700, either (a) through workers' compensation insurance issued by an insurance company, with coverage meeting the statutory limits and with a minimum of One Million Dollars (\$1,000,000) 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 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.

11. Safety Provisions.

- (a) Consultant shall comply with Division of Occupational Safety and Health (CAL-OSHA) regulations applicable to Consultant regarding necessary safety equipment or procedures. Consultant shall comply with safety instructions issued by TAMC Safety Officer and other TAMC representatives. Consultant personnel shall wear hard hats and safety vests at all times while working on a construction project site.
- (b) If applicable to work to be performed by Consultant identified in the Scope of Work (Exhibit A), and pursuant to the authority contained in Section 591 of the Vehicle Code, TAMC has determined that such areas are within the limits of the project and are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- (c) Any subcontract entered into as a result of this Agreement, shall contain all of the provisions of this Section.
- (d) Consultant must have a CAL-OSHA permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

12. Certificate of Insurance and Taxpayer Identification. Prior to the execution of this Agreement by TAMC, Consultant shall submit a completed federal W-9 form, Request for Taxpayer Identification Number and Certification, and 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.

13. Retention of Records/Audit. For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the Agreement pursuant to Government Code 8546.7, Consultant, subconsultants, and TAMC shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the Agreement. The state, State Auditor, TAMC, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of Consultant and its certified public accountants (CPA) work papers that are pertinent to the Agreement and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

14. Audit Review Procedures.

- a) Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by TAMC'S Chief Financial Officer.
- b) Not later than 30 days after issuance of the final audit report, Consultant may request a review by TAMC'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- c) Neither the pendency of a dispute nor its consideration by TAMC will excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

(The following AUDIT CLAUSE must be inserted into all contracts of \$150,000 or greater)

- d) Consultant and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is Consultant's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by Consultant and approved by TAMC contract manager to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if directed by TAMC at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or

to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the Agreement and disallowance of prior reimbursed costs.

(An additional AUDIT CLAUSE must be inserted into all contracts of \$3,500,000 or greater; confer with legal counsel for language.)

15. Inspection of Work. Consultant and any subconsultant shall permit TAMC to review and inspect the project activities and files at all reasonable times during the performance period of this Agreement.
16. 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.
17. 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.
18. Statement of Compliance/Non-Discrimination.
 - a) Consultant's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
 - b) During the performance of this Agreement, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

- c) Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- d) Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.
19. Harassment. TAMC maintains a strict policy prohibiting unlawful harassment, including sexual harassment, in any form, including verbal, physical and visual harassment by any employee, supervisor, manager, officer or Board member, or agent of the employer. Vendors, contractors, and consultants shall not engage in conduct that has an effect of unreasonably interfering with a TAMC employee's work performance or creates an intimidating, hostile or offensive work environment.
20. 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.

21. Delegation of Duties; Subcontracting.

- a) Nothing contained in this Agreement or otherwise, shall create any contractual relation between TAMC and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to TAMC for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from TAMC'S obligation to make payments to the Consultant.
- b) Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization by TAMC's Contract Administrator, except that, which is expressly identified in the approved Budget/Cost Proposal.
- c) Consultant shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to Consultant by TAMC.
- d) Any substitution of subconsultant(s) must be approved in writing by TAMC's Contract Administrator prior to the start of work by the subconsultant(s).
- e) Any work performed by a subconsultant shall be done in conformance with this Agreement, and TAMC shall pay Consultant for the work but not for any markup, including subcontract management, supervisions, administrative and other expenses, or reimbursable costs.

22. Ownership of Data.

- a) Upon completion of all work under this Agreement, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this Agreement will automatically be vested in TAMC; and no further agreement will be necessary to transfer ownership to TAMC. Consultant shall furnish TAMC all necessary copies of data needed to complete the review and approval process.
- b) It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the connection with the project for which this Agreement has been entered into.
- c) Consultant is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by TAMC of the machine-readable information and data provided by Consultant under this Agreement; further, Consultant is not liable for claims, liabilities, or losses arising out of, or connected with any use by TAMC of the

project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as many be authorized in writing by Consultant.

- d) Applicable patent rights provisions regarding rights to inventions shall be included in the Agreements as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- e) TAMC may permit copywriting reports or other agreement products. If copyrights are permitted, FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish or otherwise use the data, and may authorize others to use the work for government purposes.
- f) Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

23. Confidentiality of Data.

- a) All financial, statistical, personal, technical, or other data and information relative to TAMC's operations, which are designated confidential by TAMC and made available to Consultant in order to carry out this Agreement, shall be protected by Consultant from unauthorized use and disclosure.
- b) Permission to disclose information on one occasion, or public hearing held by TAMC relating to the Agreement, shall not authorize Consultant to further disclose such information, or disseminate the same on any other occasion.
- c) Consultant shall not comment publicly to the press or any other media regarding the Agreement or TAMC's actions on the same, except to TAMC's staff, Consultant's own personnel involved in the performance of this Agreement, at public hearings or in response to questions from a Legislative committee.
- d) Consultant shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this Agreement without prior review of the contents thereof by TAMC, and receipt of TAMC'S written permission.
- e) Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Article.

24. 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.

25. Use of United States –flag Vessels. If this Agreement relates to a federally-funded construction contract, the Consultant agrees:
- a) To utilize privately owned United State-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Agreement, to the extent such vessels are available at fair and reasonable rates for Unites States-flag commercial vessels.
 - b) To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the TAMC Project Manager (through the prime contractor in the case of subcontractor bills-of lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
 - c) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Agreement.
- D) Prevailing Wages. Consultant shall comply with all prevailing wage requirements, including California Labor Code Section 1770, et seq., and any Federal or local laws or ordinances, that may be applicable to the work to be performed pursuant to this Agreement.
- E) Conflict of Interest.
- (a) Consultant shall disclose any financial, business, or other relationship with TAMC that may have an impact upon the outcome of this Agreement, or any ensuing TAMC construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing TAMC construction project, which will follow.
 - (b) Consultant hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this Agreement.

- (c) Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.
- F) 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.
- G) 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.
- H) 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.
- I) 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.
- J) 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.
- K) Contract Administrators. Consultant's designated principal responsible for administering Consultant's work under this Agreement shall be set forth in Exhibit A; TAMC's designated administrator of this Agreement shall be Debra L. Hale, Executive Director. TAMC's Project Manager under this Agreement shall be [NAME]. TAMC's Finance Officer is Dave Delfino.

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

TAMC	[CONSULTANT]
By: _____	By: _____
Todd Muck	Name: _____
Executive Director	Title: _____
Dated: _____	Dated: _____
	By: _____
	Name: _____
	Title: _____
	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 (e.g., (1) chairperson of the board, the president or any vice president and (2) the secretary, any assistant secretary, the chief financial officer or any assistant treasurer). 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: _____

For TAMC internal use:

Work Element number to be used for the contract: _____

ATTACHMENT A

Scope of Services

Provide traffic engineering and ancillary on-call services for the Transportation Agency for Monterey County (TAMC) with the goal of delivering complete streets projects including:

- provide traffic engineering services including, but not limited to, development of conceptual designs,
- provide project management services needed to track project delivery according to scope, schedule and budget,
- review project plans prepared by other parties (i.e., conduct third-party design reviews)
- collect traffic data and prepare analysis related to performance measures of complete streets design features
- provide data and illustrations that support the effectiveness of complete streets designs addressing safety, congestion and other potential stake holder concerns,
- provide civil engineering services needed to submit bid packages for small-scale complete streets projects including, but not limited to, conducting surveys and preparing base maps
- assist in the planning of public outreach events and facilitate community / stakeholders engagement meetings intended to build consensus with the project stakeholders
- conduct mobility planning that incorporates stakeholder input into project designs and graphical presentations that reflect community context
- assist with the preparation of grant applications including, but not limited to, benefit-cost ratio analysis and project renderings.

Consultant Project Manager:

EXHIBIT B: Cost of Services

The maximum amount payable to the Consultant under this Agreement shall not exceed the amount of five-hundred thousand Dollars (\$500,000.00). The following cost of services shall be the basis for all work to be conducted as part of this contract and used to prepare all task orders:

Item	Hourly Rate
Project Manager	\$
Associate I	\$
Associate II	\$

EXHIBIT C: Monthly Activity Report & Invoice Format

Traffic Engineering On-Call Services

[Consultant Firm Name]

Invoice #

Invoice Date:

Invoice Amount:

Invoice Period:

Activities conducted during this period:

-
-
-
-

Task #	Task Name	Task Budget	Previously billed	Current invoice	Remaining Funds	% billed to-date	% Task Complete	Work performed this period
1								
2								
3								
4								
TOTAL								