



REQUEST FOR PROPOSALS

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

TRANSPORTATION DEVELOPMENT ACT TRIENNIAL PERFORMANCE AUDIT

You are invited to submit your proposal for the services to complete the above project. Proposals are due via email to the project manager, Aaron Hernandez, aaron@tamcmonterey.org by **12:00 noon Pacific Standard Time on Thursday, March 23, 2023.**

The Request for Proposals and supplemental information, if any, are available on the TAMC website (www.tamcmonterey.org) in Adobe Acrobat (PDF) format or may be obtained by contacting the project manager specified above or at the TAMC offices located at 55-B Plaza Circle, Salinas, CA 93901.



TRANSPORTATION AGENCY FOR MONTEREY COUNTY

DATE: February 8, 2023

TO: Interested Consultants

FROM: Todd A. Muck, Executive Director

SUBJECT: Transportation Development Act Triennial Performance Audit

INVITATION

You are invited to submit a Proposal for the referenced services.

Please submit one (1) digital copy of your Proposal to the office of the Transportation Agency for Monterey County via email to aaron@tamcmonterey.org by **12:00 noon PST on Thursday, March 23, 2023**. There is no requirement to submit a paper copy of your proposal. Proposals received after the date and time specified above will not be considered.

Proposals shall be considered firm offers to enter into a contract, as described in this RFP for a period of ninety (90) days from the time of submittal.

Proposals and inquiries relating to this Request for Proposals shall be submitted to:

Aaron Hernandez
Project Manager
55B Plaza Circle, Salinas, CA 93901
aaron@tamcmonterey.org

Email inquiries, including the submittal of the Proposal, relating to this Request for Proposals should include "Transportaiton Development Act Triennial Performance Audit" in the subject header.

BACKGROUND

The Transportation Agency for Monterey County ("TAMC" or the "Agency") is a state-designated public agency with regional transportation planning responsibilities, including rail planning, that cross city-county boundaries. TAMC is committed to planning, funding and delivering transportation projects for the region. The Agency is also committed to providing information to the public about its projects, plans and activities, ensuring public participation and fostering public understanding of its functions.

TAMC's Board of Directors includes twenty-three members who consist of local officials from each of its twelve incorporated cities and five county supervisorial districts, and ex-officio members from six public agencies. 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.

PROJECT DESCRIPTION

This request for proposals will be used by TAMC to select a consultant or consultant team to conduct a triennial performance audit of the Transportation Agency (regional transportation planning agency) and of Monterey-Salinas Transit (transit operator) for fiscal years 2019-20 through 2021/22. The audits must be conducted in compliance with relevant sections of the California Transportation Development Act. The agency further expects that the performance audits will be conducted consistent with the *"Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities"* issued by the California Department of Transportation (Caltrans) and located at <https://dot.ca.gov/programs/rail-and-mass-transportation/transportation-development-act>

Attachment A is a draft Scope of Work. A final Scope of Work will be made a part of the professional services agreement between TAMC and the consultant. A copy of the standard TAMC agreement anticipated to be utilized is **Attachment B**. Any requests to modify the standard contract provisions must be made as part of the request for proposals. A single document will be prepared between the Consultant and TAMC consistent with the provisions of these attachments. **Attachment C** includes agency descriptions for TAMC and Monterey-Salinas Transit.

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

PROJECT BUDGET

The estimated budget for this work is \$36,000. There is no federal funding on this project.

PROJECT SCHEDULE

This project is anticipated to take approximately 5 months to complete, starting in April 2023 and being completed by September 1, 2023.

SELECTION PROCESS

TAMC will establish a review committee to review the proposals. This review may be followed by an oral interview between a review committee and the firm(s) that respond(s) best to the RFP. 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 firm considered to be the most qualified consultant or consultant team.

Staff will then attempt to negotiate a final Scope of Work for the project with that firm. 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 successful completion of negotiations, the consultants or consultant teams will be recommended to the TAMC Board for final selection and contract approval.

Should the most qualified consultant or consultant team and TAMC fail to successfully negotiate a final scope of work, then TAMC reserves the right to enter negotiations with the next most qualified candidate for performance of the work.

Further, the Agency may, or may not, also negotiate contract terms with selected proposers prior to award, and expressly reserves the right to negotiate with several proposers simultaneously and, thereafter, to award a contract to the proposer offering the most favorable terms to the Agency. Proposals submitted, therefore, should contain the proposers' most favorable terms and conditions, because the selection and award may be made without further discussion with any proposer. The Agency will submit the proposal considered to be the most responsive and competitive to the Board of Directors for consideration and selection. The Agency reserves the right to accept or reject any and all submitted proposals, to waive minor irregularities, and to request additional information or revisions to offers, and to negotiate with any or all proposers at any stage of the evaluation.

The evaluations will be based upon the following criteria:

1	<u>Firm Profile & Project Team:</u> Do the qualifications of key personnel to be assigned to the project coincide with tasks listed in the Scope of Work? Do assigned personnel and sub-consultants have requisite education, experience, and professional qualifications? Does the firm's organizational structure show sufficient depth for its present workload, and do assigned personnel have sufficient availability for project? Does the firm accept the contract terms as proposed?	20 points
2	<u>Relevant Project Experience:</u> Has the firm demonstrated the ability to successfully provide services for projects of a similar complexity and nature as described herein? Is the firm familiar with the Transportation Development Act and audit requirements?	20 points
3	<u>Specific Approach:</u> How will the firm, specifically the key personnel assigned to the project, apply its techniques and resources to ensure the project is properly completed? How will key personnel approach problems when they arise? Has the firm described its ability to achieve specified project delivery goals? Has the firm considered alternative concepts to achieve the desired goals?	30 points
4	<u>Cost:</u> Is the estimated cost per tasks consistent with established rates or pricing for this type of work?	20 points
5	<u>References:</u> Are the firm's references from past clients and associates favorable? Does the firm show financial and operational stability?	10 points

Total of 100 possible points

QUESTION & ANSWERS, REQUESTS FOR CLARIFICATION OR EXCEPTIONS, ADDENDA

This Request for Proposals and any addenda will be posted on the Agency's website (www.tamcmonterey.org). Questions and answers regarding the request for proposals will also be posted on the website. All prospective proposers are responsible for checking the website for any addenda to the Request for Proposals, and the proposal must acknowledge all addenda issued in order to be considered responsive. To receive email notifications of addendums to this Request for Proposals, prospective proposers must submit an email request to the Project Manager.

Any requests for clarification or exceptions to requirements in this Request for Proposals must be received by the Agency no later than **12 noon, PST, on Thursday, March 9, 2022**, to guarantee response or consideration. Responses to questions concerning this Request for Proposals posed before this deadline will be posted on the Agency's website (www.tamcmonterey.org).

SUBMITTAL REQUIREMENTS/PROPOSAL FORMAT

All interested firms are required to submit one (1) digital copy 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 should provide a short description of the firm's experience with projects that relate to this Scope of Work (Attachment A). A list of relevant past clients should be included.

A. **Project Team**

The Proposal shall clearly identify a Project Manager and include the names and qualifications of all personnel of the proposed team to be assigned to the contract and a chart representing the proposed organizational structure of the team. The Proposal shall demonstrate that the key personnel have the time available to work on the project. The Proposal shall include the estimated number of hours individual personnel will dedicate to the project.

B. **Demonstrated Knowledge**

The Proposal shall include the assigned project team's demonstrated knowledge of, expertise and experience with providing similar services and completing similar types of contracts.

C. **Work Plan**

The Proposal shall include the consultant's proposed approach to the development and implementation of the scope of work, broken out by tasks which demonstrate the consultant's knowledge and understanding of the project and the constraints and challenges associated with performing the tasks outlined in the scope of work.

D. **Proposed Schedule of Work and Deadlines**

The Proposal must include availability of the Project Team to conduct work within the anticipated timeframes.

E. **References**

The Proposal shall include at least three (3) recent references from past clients for similar types of work.

F. **Project Budget**

The Budget shall include an estimated cost per task.

PROPOSED SCHEDULE

Date/ Timeframe	Task
February 8, 2023	Distribute RFP
March 9, 2023	Deadline for questions and/or requests for clarification or exceptions by 12:00 pm noon PST
March 23, 2023	Proposals due by 12:00 pm noon PST
March 27-31, 2023	Review and rank proposals
April 5, 2023	Determine top ranked consultant, send Tentative Award letter, negotiate contract

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 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 the Proposal 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 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 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 RFP process is considered concluded when a "Tentative Award" 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 TAMC Board of Directors.

Protestants 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) business days after receipt of the Tentative Award letter described above.

QUESTIONS

If you need assistance or have any questions, please email the Project Manager, Aaron Hernandez at aaron@tamcmonterey.org.

Attachments:

- A. Scope of Work
- B. Sample TAMC Standard Agreement for Professional Services
- C. Agency Descriptions

ATTACHMENT A SCOPE OF WORK

Transportation Development Act Triennial Performance Audit

The Transportation Agency for Monterey County (TAMC or Agency) as the Regional Transportation Planning Agency for Monterey County is soliciting proposals to conduct performance audits of TAMC and Monterey-Salinas Transit (MST or transit operator) for fiscal years **2019/20** through **2021/22**. General information about the Transportation Agency and Monterey-Salinas Transit is included in **Attachment C**.

The audits must be conducted in compliance with relevant sections of the California Transportation Development Act (TDA). The Agency further expects that the performance audits will be conducted consistent with the Performance Audit Guidebook for Transit Operators and Regional Transportation Planning Entities issued by the California Department of Transportation (Caltrans) and located at: <https://dot.ca.gov/programs/rail-and-mass-transportation/transportation-development-act>

The Scope of Work consists of the nine tasks and project deliverables described below:

Task 1. Kickoff Meeting and Data Collection

The Consultant will manage the Transportation Development Act Triennial Performance Audit and will developed a project scope of work and schedule detailing all tasks and expected project coordination meetings to meet the target project completion date of **September 1, 2023**. The Consultant will coordinate a kick-off meeting with TAMC and Monterey-Salinas Transit staff to review the scope of work, project schedule, and project expectations. At this meeting, the Consultant will provide a data request memo with an initial list of data needs used to help create background data and preliminary assessment of the agencies' performance and compliance over the past three fiscal years. TAMC and Monterey-Salinas Transit staff will be responsible for obtaining the most relevant data. The Consultant will be responsible for preparing materials for the kick-off meeting.

Deliverables:

- Ongoing communication with TAMC and MST staff
- Meeting agenda and minutes for meetings (presentation materials, if necessary)
- Detailed scope of work and project schedule
- Data request memo (with an initial list of specific data and documents to be provided by TAMC and the transit operator)

Task 2. Conduct Site Visits and Interviews

The Consultant will coordinate site visits and interviews with TAMC and Monterey-Salinas Transit staff. Prior to conducting site visits and interviews, the Consultant will review the materials provided from the initial list of specific data and documents under **Task 1** and will generate background data and preliminary analysis memo with a list of follow-up questions to ask during the site visits. The Consultant will be responsible for preparing materials for the site visits and interviews.

Deliverables:

- Background data and preliminary analysis memo (with a list of follow-up questions to ask during the site visits and possibly other materials)

- Meeting agenda and minutes for site visits and interviews (presentation materials, if necessary)

Task 3. Determine Compliance with Statutory and Regulatory Requirements

The Consultant will review and determine each agency's compliance with the Transportation Development Act and applicable sections of the California Code of Regulations. The Consultant will also consider recent provisions from the updated Transportation Development Act 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.

Deliverables:

- Ongoing communication with TAMC and Monterey-Salinas Transit staff to discuss compliance requirements
- Summary table of relevant compliance sections to be analyzed

Task 4. Determine Status of Prior Triennial Performance Recommendations

The Consultant will review and assess each agency's most recent triennial performance audits under the TDA and assess each agency's implementation of the prior audit recommendations. The most recent TDA audits are available on the TAMC website, here: <https://www.tamcmonterey.org/agency-transparency>. The Consultant will also review recommendations which have not yet been implemented and 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. Significant accomplishments and/or failures in implementing prior recommendations should be recognized and appropriate corrective actions identified in this Task.

Deliverables:

- Summary and assessment of recent performance audits and prior audit recommendations for TAMC and the transit operator

Task 5. Required Performance Indicators

This task is divided into two subtasks:

Subtask 5(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 MST or their contractors that are needed to ensure TDA compliance. This subtask will assess the operator's ability to accurately calculate the five TDA indicators (plus the farebox recovery ratio) and to monitor their year-to-year trends.

Subtask 5(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 Monterey-Salinas Transit. 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.

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, and administrative transfers.

Deliverables:

- Summary of data collection findings

Task 6. 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 administrators involved in the transit or paratransit programs. 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 a 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.

Deliverables:

- Summary of functional reviews findings

Task 7. Draft Audit Findings and Recommendations with Draft Reports

The consultant will prepare separate draft audit reports for Monterey-Salinas Transit and the Transportation Agency. One key objective of the triennial performance audit is to help management, the administrators, 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:

1. **Table of Contents** – Listing of the chapter headings and major sections in the performance audit report, tables and figures with associated page numbers;
2. **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);
3. **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.
4. **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 3);
 - Status of prior audit report recommendations (Task 4);
 - Verification and interpretation of performance audit indicators (Tasks 5-a and 5- b);
 - Results of the functional review of each operator and organization (Task 6); 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.
5. **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 or parties responsible to take such actions with a specific timeline for implementation.

Deliverables:

- Draft reports for TAMC and MST submitted electronically by **August 3, 2023**

Task 8. Final Draft Report

Monterey-Salinas Transit and Transportation Agency staff will review the draft report prepared under Task 7 to ensure accuracy of the factual information and quantitative data. The consultant will adjust as needed and will integrate comments into the preparation of the final draft report.

Deliverables:

- Final draft reports for TAMC and MST submitted electronically by **August 30, 2023**

Task 9. Final Report

Monterey-Salinas Transit and Transportation Agency staff will review the final draft report prepared under Task 8 and will provide final comments to the consultant. The consultant will incorporate any final comments and will prepare the final report. The consultant will be available to answer questions on the final audit findings and available when the final audit reports are considered by the Transportation Agency Board.

Deliverables:

- Final reports for TAMC and MST submitted electronically along with 3 sets of hardcopies for submission to TAMC, MST and Caltrans by **September 1, 2023**.

Based on the scope, the proposal should give a budget allocation among the nine tasks. 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 and 2** - Kick-off meeting and initial interviews of the Transportation Agency and Monterey-Salinas Transit.
- **Task 5** - Follow up meetings re-functional reviews (via teleconference if possible).

The final deadline for completion of all work identified above is **September 1, 2023** at which time it is anticipated that the Final Report will be presented to the TAMC Board of Directors at the **September 27, 2023** meeting.

**ATTACHMENT B
SAMPLE TAMC STANDARD AGREEMENT**

**TRANSPORTATION AGENCY FOR MONTEREY COUNTY
AND _____
AGREEMENT FOR PROFESSIONAL SERVICES
RELATED TO [PROJECT TITLE]**

APPROVED BY THE TAMC BOARD ON: _____

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. Term of Agreement. The term of this Agreement shall begin upon [START DATE], contingent upon approval by the TAMC Board, and Consultant shall commence work only after a Notice to Proceed has been issued by TAMC's Project Manager specified in Paragraph 35. Unless earlier terminated as provided herein, this Agreement shall remain in force until [FINAL DATE – JUNE 30 OR DECEMBER 31]. Consultant acknowledges that this Agreement is not binding until it is fully executed and approved by TAMC.
2. Payments to Consultant; maximum liability. Subject to the limitations set forth herein, TAMC shall pay to Consultant the amounts provided in Exhibit B: Budget, upon receipt and acceptance of deliverables listed therein. Each payment by TAMC shall be for a specific deliverable or services 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: Budget 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 and Schedule) or Exhibit B (Budget), the terms of this Agreement shall prevail. TAMC does not guarantee any minimum amount of dollars to be spent under this Agreement.
3. Employment of Consultant. TAMC hereby engages Consultant and Consultant hereby agrees to perform the services set forth in Exhibit A: Scope of Work and Schedule, in conformity with the terms of this Agreement. Consultant will complete all work in accordance with the work schedule set forth in Exhibit A: Scope of Work and Schedule.

(a) The project title for this work is as follows:

[PROJECT TITLE]

- (b) Consultant represents that Consultant and its agents, subconsultants 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, subconsultants, 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 subconsultants 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 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 and if the work is on schedule; to communicate 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.

4. Payment Provisions and Allowable Costs:

- (a) The following Standard Payment Provisions apply to all contracts, regardless of the Method of Payment specified in Paragraph (b):
 - i. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this Agreement.

- ii. Reimbursement for travel costs, if eligible under the Method of Payment as specified below, shall not exceed the Short-Term Travel Lodging Rates and Requirements listed on the Caltrans website, according to the Code of Regulations (CCR), Administrative Code, Title 2.
- iii. When milestone or task-by-task cost estimates are included in the Budget, Consultant shall seek approval from the TAMC Project Manager prior to any adjustment to compensation across work tasks. If TAMC determines that a change to the Scope of Work and Schedule is required, such changes shall be approved and documented in writing by the TAMC Project Manager.
- iv. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. If Consultant fails to submit the required deliverable items according to the schedule set forth in Exhibit A: Scope of Work and Schedule (or task order, as applicable), TAMC shall have the right to delay payment or terminate this Agreement in accordance with the provisions of Paragraph 6, Termination.
- v. Invoices shall be mailed to TAMC's Finance Officer, specified in Paragraph 35, at the address contained in Paragraph 36 (Notices). Invoices shall be submitted no later than 45 calendar days after the performance of work for which Consultant is billing. Invoices shall detail the work performed on each milestone or task. Invoices shall follow the format stipulated in Exhibit B: Budget and the Invoice Cover Sheet Format attached hereto as Exhibit C and shall reference this Agreement's project title as specified in Section 3, and the Task Order title, if applicable. Consultant will be reimbursed as promptly as fiscal procedures will permit, upon receipt by TAMC's Finance Officer of itemized invoices.
- vi. The final invoice must contain the final cost and all credits due TAMC including any equipment purchased under the provisions of Paragraph 27 (Equipment Purchase) of this Agreement and shall be submitted within 60 calendar days after completion of Consultant's work under this agreement, or a given Task Order, as applicable.
- vii. No additional compensation will be paid to Consultant unless there is a change in the scope of the work. Changes in the scope of work that do not increase compensation may be approved by the TAMC Project Manager. Changes in the scope of work that would increase compensation must be authorized by an amendment to this Agreement approved by the TAMC Board of Directors.
- viii. Salary increases will be reimbursable only for Actual Cost Plus Fixed Fee or Rates of Compensation contracts and only if the increase is specified in Exhibit B: Budget. For

personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

- ix. The total amount payable by TAMC resulting from this Agreement shall not exceed the amount specified in Section 2 of this Agreement.
- x. All subcontracts in excess of \$25,000 shall contain the above provisions.

(b) Method of Payment: The method of payment for this Agreement will be based on: ~~[Select One, Line Out Methods Not Used and paragraphs below related to non-utilized payment methods] Actual Cost Plus a Fixed Fee; Lump Sum; Rates of Compensation.~~

~~[Actual Cost Plus a Fixed Fee provisions:]~~

- ~~i. TAMC will reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by Consultant in performance of the work. Consultant will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, equipment rental, overhead, and other estimated costs set forth in Exhibit B: Budget.~~
- ~~ii. In no event, will Consultant be reimbursed for overhead costs at a rate that exceeds the approved overhead rate set forth in Exhibit B.~~
- ~~iii. In addition to the allowable incurred costs, TAMC will pay Consultant a fixed fee as specified in Exhibit B: Budget. The fixed fee is nonadjustable for the term of the Agreement, unless such adjustment is made by written amendment of this Agreement.~~

[Lump Sum provisions:]

- i. The total lump sum price paid to Consultant will include compensation for all work and deliverables, including any travel and equipment described in Exhibit A: Scope of Work for this Agreement. No additional compensation shall be paid, unless a change of Scope of Work is authorized by an amendment approved by the TAMC Board of Directors pursuant to Paragraph 4(a), above.
- ii. Progress payments will be made upon completion of deliverables and acceptance by the TAMC Project Manager, as specified in Exhibit B: Budget, and Paragraph 4(a), above.

[Rates of Compensation provisions:]

- i. — Consultant will be reimbursed for hours worked at the hourly rates specified in 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 beyond that specified in Exhibit B.
- ii. — In addition, Consultant will be reimbursed for incurred (actual) direct costs other than salary costs that are in Exhibit B: Budget.

[Include Section (c) below if a contract is to be conducted using task orders]

(c) Task Order Provisions: Work on this contract shall be directed via Task Orders, as follows:

- i. — Once a specific project to be performed under this Agreement is identified by TAMC, TAMC's Project Manager will prepare a draft Task Order without 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.
- ii. — If no agreement on the Task Order is reached within a reasonable amount of time, TAMC may take such other actions as TAMC deems appropriate to accomplish the Task.
- iii. — Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, as designated above in the Method of Payment section, both of which must be based on the labor and other rates set forth in Exhibit B: Budget. 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.
- iv. — 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.~~

- ~~v. The total amount payable by TAMC for an individual Task Order shall not exceed the amount agreed to in the Task Order Budget, unless authorized by a written amendment.~~
- ~~vi. 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.~~
- ~~vii. Task Orders may not be used to amend this Agreement and may not exceed the scope of work, or the term, of this Agreement.~~
- ~~viii. The total amount payable by TAMC under all Task Orders resulting from this Agreement shall not exceed the amount specified in Section 2 of this Agreement. It is understood and agreed that there is no guarantee, either expressed or implied, that this total dollar amount will be authorized under this Agreement through Task Orders.~~

5. Prompt Payment. [FOR FEDERAL CONTRACTS]

- ~~(a) Prompt Progress Payment to Subconsultants: TAMC requires Consultant to pay any subconsultants within fifteen (15) days after receiving each progress payment. Any delay or postponement of payment may take place only for good cause and with TAMC's prior written approval. Any violation of these provisions shall subject the violating Consultant to the penalties, sanctions and remedies specified in Section 3321 of the California Civil Code (CCC). This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by Consultant, deficient subconsultant performance, and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.~~

6. Retention of Funds.

- (a) [Select One of these Three Retention Provisions - delete the others]:

No Retainage by TAMC or Consultant: No retainage will be withheld by TAMC from progress payments due Consultant. Retainage by Consultant or subconsultants is prohibited, and no retainage will be held by Consultant from progress due subconsultants. Any violation of this provision shall subject the violating Consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions

Code and Section 3321 of the CCC. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by Consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both Disadvantaged Business Enterprise (DBE) and non-DBE consultants and subconsultants.

~~[OR]~~

~~No Retainage by TAMC; Retainage by Prime Consultant: No retainage will be withheld by TAMC from progress payments due Consultant. Any retainage held by Consultant from progress payments due subconsultants shall be promptly paid in full to subconsultants within fifteen (15) days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR 26.29) requires that any delay or postponement of payment over fifteen (15) days may take place only for good cause and with TAMC's prior written approval. Any violation of this provision shall subject the violating Consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code and Section 3321 of the CCC. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to 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 consultants and subconsultants.~~

~~[OR]~~

~~Retainage by TAMC: TAMC shall hold an X% retainage from Consultant and shall make prompt and regular incremental acceptances of portions, as determined by TAMC, of the contract work, and pay retainage to Consultant based on these acceptances. Consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within fifteen (15) days after receiving payment for work satisfactorily completed and accepted, including incremental acceptances of portions of the contract work, by TAMC. Federal law (49 CFR 26.29) requires that any delay or postponement of payment over fifteen (15) days may take place only for good cause and with TAMC's prior written approval. Any violation of this provision shall subject the violating Consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code and Section 3321 of the CCC. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by Consultant~~

~~or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE consultants and subconsultants.~~

- (b) Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

7. 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, as well as failure to comply with the provisions of Paragraphs 13 and 14, relating to audits, below. 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) It is also mutually understood between TAMC and Consultant that this Agreement may have been written before ascertaining the availability of funds, or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made. This Agreement is valid and enforceable only if sufficient funds are made available to TAMC for the purpose of this Agreement. It is mutually agreed that if sufficient funds are not appropriated, this Agreement may be amended to reflect any reduction in funds. TAMC retains the right to direct Consultant immediately to stop work and to terminate this Agreement for convenience, pursuant to Paragraph 6(a) above, in order to address any reduction of funds.
- (e) Termination of this Agreement shall not terminate Consultant's duty to defend, indemnify and hold harmless TAMC, as provided in Paragraphs 8 and 20.

8. 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 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.

9. Indemnification. [Select one: if A&E contract, use Design Indemnification Services language]

- (a) 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 subconsultants), 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 subconsultant, 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.

- (b) 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.

[OR - For Design Professional Services]

- (a) ~~For the purposes of the following indemnification provisions ("Indemnification Provisions"), "design professional" has the same meaning as set forth in California Civil Code Section 2782.8. If any term, provision or application of these Indemnification Provisions is found to be invalid, in violation of public policy, or unenforceable to any extent, such finding shall not invalidate any other term or provision of these Indemnification Provisions, and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of these Indemnification Provisions and the provisions of California Civil Code Sections 2782 and 2782.8, the broadest indemnity protection for TAMC under these Indemnification Provisions that is permitted by law shall be provided by Consultant.~~
- (b) ~~Indemnification for Design Professional Services Claims: Consultant shall indemnify, defend, and hold harmless TAMC, its governing board, officers, agents, and employees, from and against any all claims that arise out of, or pertain to, or related to the negligence, recklessness, or willful misconduct of Consultant, any subconsultant, anyone directly or indirectly employed by them, or anyone that they control in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence, or willful misconduct of TAMC, or defect in a design furnished by TAMC, but in no event shall the amount of such Consultant's liability exceed such Consultant's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against TAMC is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such Consultant shall meet and confer with the other parties to such action regarding unpaid defense costs.~~
- (c) ~~Indemnification for All Other Claims or Loss: For any claims, losses, costs, damages, injuries, other than claims arising out of Consultant's performance of design professional services under this Agreement, Consultant shall defend (with legal counsel reasonably acceptable to TAMC), indemnify and hold harmless TAMC, its governing board, officers, agents, and employees, from and against any claims, losses, costs, damages, injuries (including injury to or death of an employee of Consultant or its subconsultants), 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 subconsultant, 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, or a defect in a design furnished by TAMC. To the extent there is an obligation to indemnify under this sub-paragraph 8(c), 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.~~

~~(d) Notwithstanding any other provision of this Agreement, Consultant's obligation to defend, indemnify and hold harmless TAMC as expressed in these Indemnification Provisions 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.~~

10. 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 as applicable — consult with attorney if unsure]:

- ✓ 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 for in Paragraph 8.
- ✓ 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. Each policy shall provide identical coverage for each subconsultant performing work under this Agreement or be accompanied by a certificate of insurance for each subconsultant 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.
- (e) TAMC shall not be responsible for any premiums or assessments on the policy.

11. 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 subconsultant employing one or more employees, and Consultant shall be responsible for all subconsultants' compliance herewith.

12. 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.

13. 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 Finance Officer 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.

14. Retention of Records/Audit.

- (a) 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, Federal Highway Administration (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. Documents not delivered to TAMC or prepared by subconsultants or by any other party not subject to this Agreement, shall remain the property of the person or entity that prepared them.

(b) Subcontracts in excess of \$25,000 shall contain this provision.

15. 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 Finance Officer.

(b) Not later than 30 days after issuance of the final audit report, Consultant may request a review by TAMC'S Finance 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 project 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.]~~

16. Inspection of Work. Consultant and any subconsultant shall permit TAMC, the State, and the FHWA (if federal participating funds are used in this Agreement) to review and inspect the project activities and files at all reasonable times during the performance period of this Agreement including review and inspection on a daily basis.
17. Confidentiality; Return of Records. Consultant and its officers, employees, agents, and subconsultants 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.
18. 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.
19. 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. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act

(Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

[If federal funding, add (c), (d), and (e)]

- ~~(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.~~
- ~~(e) During the performance of this contract, Consultant, for itself, its assignees and successors in interest agrees to comply with the nondiscrimination statutes and authorities listed in **Exhibit E.**~~

20. 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.

21. ADA Access. TAMC is committed to accessibility, including California State Web Content Accessibility Guidelines and Federal law and regulations related to the Americans with Disabilities Act. Consultant shall review and follow TAMC's adopted ADA Best Practices for Documents and Outreach with regard to conducting public outreach, developing outreach materials, and producing public documents and content for TAMC and its website.
22. 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.
23. 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 Executive Director, except that, which is expressly identified in the approved Budget/Cost Proposal.
 - (c) ~~[FOR FEDERALLY FUNDED CONTRACTS] Consultant shall pay its subconsultants no later than fifteen (15) calendar days from receipt of each payment made to Consultant by TAMC.~~
 - (d) Any subcontract in excess of \$25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.

- (e) Any substitution of subconsultant(s) must be approved in writing by TAMC's Executive Director prior to the start of work by the subconsultant(s).
- (f) 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.

24. 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.

25. 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, and 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.

26. 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.

27. 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 (a) 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.

28. Prevailing Wages.

- (a) 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.
- (b) Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works, shall contain all the provisions of this Paragraph 26.
- (c) When prevailing wages may apply to the services described in the Scope of Work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination found on the DIR website.

29. Equipment, Supplies or Consultant Services Purchases.

- (a) Prior authorization in writing by TAMC's Project Manager shall be required before Consultant enters into any unbudgeted purchase order, or subcontract exceeding Five Thousand Dollars (\$5,000) for supplies, equipment, or unbudgeted Consultant services. Consultant shall provide an evaluation of desirability of incurring such costs.
- (b) For purchase of any items, service or consulting work not covered in Consultant's Cost Proposal and exceeding Five Thousand Dollars (\$5,000), prior authorization is required by TAMC's Project Manager; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- (c) Any equipment purchased as a result of this Agreement is subject to the following:
 - i. Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of Five Thousand Dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, TAMC shall receive a proper refund or credit for such equipment at the conclusion of the Agreement, or if the Agreement is terminated,

Consultant may either keep the equipment and credit TAMC in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established TAMC procedures for such sales and then credit TAMC in an amount equal to that sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from and appraiser mutually acceptable to TAMC and Consultant; if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by TAMC.

- ii. Consultant acknowledges that, if federal funds are used in this Agreement, 49 CFR, Part 1201 requires a credit to Federal funds when participating equipment with a fair market value greater than Five Thousand Dollars (\$5,000) is credited to the project for which this Agreement was entered into.

(d) Consultant shall include these provisions into any subcontract in excess of Twenty-Five Thousand Dollars (\$25,000).

30. 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.

31. 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.

32. 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 sued to interpret the terms of this Agreement.

- 33. 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.
- 34. 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.
- 35. 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.
- 36. Contract Administrators. Consultant's designated principal responsible for administering Consultant's work under this Agreement shall be listed in Exhibit A; TAMC's designated administrator of this Agreement shall be Todd A. Muck, Executive Director. TAMC's Project Manager under this Agreement shall be [NAME], and TAMC's Finance Officer shall be Dave Delfino.
- 37. Notices. Notices required under this Agreement shall be delivered personally or by electronic facsimile, e-mail, or by first class or certified mail with postage prepaid. Notice shall be deemed effective upon personal delivery, facsimile transmission, or email-receipt, 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: Todd A. Muck
Executive Director
55-B Plaza Circle
Salinas, CA 93901
Tel: 831-775-0903
Fax: 831-775-0897
Email: todd@tamcmonterey.org

To Consultant:
Tel:
Fax:
Email:
- 38. 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.

39. 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.

40. Debarment and Suspension Certification.

- (a) Consultant's signature affixed below shall constitute a certification under penalty of perjury under the laws of the State of California that the Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (non-procurement)," which certifies that Consultant or any person associated with Consultant in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by an federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the TAMC.
- (b) Exceptions will not necessarily result in denial of recommendation for award but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- (c) Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highway Administration.

41. Rebates, Kickbacks or Other Unlawful Consideration Prohibited. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks or other unlawful consideration, either promised or paid to any TAMC employee. TAMC shall have the right, in its sole and absolute discretion to do any of the following for breach or violation of this warranty: to terminate the Agreement without liability; to pay for the value of the work actually performed; or to deduct from the compensation to be paid under this Agreement (or otherwise recover) the full amount of any such rebate, kickback or unlawful consideration.

42. Prohibition of Expending Local Agency, State or Federal Funds for Lobbying.

- (a) Consultant certifies to the best of his, her or its knowledge and belief that:
- i. No State, Federal or local agency appropriated funds have been paid, or will be paid, by or on behalf of Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a member of the State Legislature or United States Congress; an officer or employee of the State Legislature or United States Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any State or Federal contract; in connection with the making of any State or Federal grant; in connection with the making of any State or Federal loan; in connection with the entering into of any cooperative agreement, and in connection with the extension, continuation, renewal, amendment, or modification of any State or Federal contract, grant, loan or cooperative agreement.
 - ii. If any funds other than Federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress; or an employee of a Member of Congress, in connection with this contract, grant, loan or cooperative agreement, then Consultant shall complete and submit a Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (b) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Consultant acknowledges that any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars (\$10,000) and not more than One Hundred Thousand Dollars (\$100,000) for such failure.
- (c) By signing this Agreement, Consultant also agrees that Consultant will require that the language of this certification will be included in all lower-tier subcontracts which exceed One Hundred Thousand Dollars (\$100,000), and that all recipients of such subcontracts shall certify and disclose accordingly.

43. Exhibits. The following Exhibits are attached hereto and incorporated by reference:

Exhibit A – Scope of Work and Schedule

Exhibit B – Budget

Exhibit C – Invoice Cover Sheet Format

Exhibit D – ADA Best Practices for Documents and Outreach

~~Exhibit E – Title VI Exhibit for Federal Contracts~~

44. 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: _____
Todd A. Muck
Executive Director

By: _____
Name
Title

Dated: _____

Dated: _____

By: _____
Name
Title

Dated: _____

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: _____

For TAMC internal use:

Work Element number to be used for the contract: _____

EXHIBIT A: Scope of Work and Schedule

Project Title:

Consultant Project Manager:

Scope of Work

(by task, including Deliverables)

Project Schedule

EXHIBIT B: Budget

EXHIBIT C: Invoice Cover Page Format

[Project Title]

[Consultant Firm Name]

Invoice #

Invoice Date

Invoice 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							

Exhibit D: ADA Best Practices for Documents and Outreach

The following are best practices that TAMC commits to complying with, and asks that all final and public draft documents comply, as they align with best practices for web-content accessibility:

Public Outreach Guidance

- Offer alternative ways to engage in outreach for the hard-of-hearing and the blind
 - Example: Have Talk-to-Text capacity available to engage with the hard of hearing
- Ensure public meeting rooms are set up in a way that is wheelchair accessible
- Ensure an alternative to a podium or stage is available in the event an individual cannot participate that way
- Have at least one wireless microphone available to help ensure public comments are projected in the meeting
- Develop public workshop handouts in font size 14 (minimum)
 - Handouts could include a project summary sheet, survey, comment card, etc.

Developing ADA Accessible Documents

- Use Calibri, Helvetica, or Arial Font Type
- Ensure final document content is at least font size 12 (minimum)
- Utilize proper features in Microsoft Word, including, but not limited to:
 - Alt Text for Images and Tables
 - “Styles” Feature to add emphasis or titles
 - Built in “Spacing” feature
- Indicate at the bottom of a Final Document’s Title Page, an ADA Notice stating:
 - **ADA Notice:** For individuals with sensory disabilities, this document is available in alternate formats. For information call (831) 775-0903 or email ada@tamcmonterey.org.

Web Content Accessibility Guidelines

The Web Content Accessibility Guidance (WCAG) was integrated into Section 508 of the American with Disabilities Act in January 2018 as the industry standard in accessibility.

Guidance and Success Criteria from the WCAG are organized into the following four principles:

1. Perceivable
 - Provide text alternatives for non-text content.
 - Provide captions and other alternatives for multimedia.

- Create content that can be presented in different ways, including by assistive technologies, without losing meaning.
 - Make it easier for users to see and hear content.
2. Operable
 - Make all functionality available from a keyboard.
 - Give users enough time to read and use content.
 - Do not use content that causes seizures.
 - Help users navigate and find content.
 3. Understandable
 - Make text readable and understandable.
 - Make content appear and operate in predictable ways
 - Help users avoid and correct mistakes.
 4. Robust
 - Maximize compatibility with current and future user tools

A few key aspects that relate to content to be posted onto the TAMC website include:

- Integrating alternative text for images and maps
- Using distinguishable colors and design techniques that are comprehensible for the color-blind

For a complete list of WCAG's Guidance, see: <https://www.w3.org/TR/WCAG20/>

If Consultant or subconsultant needs clarification on an ADA best practices, please contact ada@tamcmonterey.org.

Exhibit E: Title VI Exhibit for Federal Contracts

(US DOT Order 1050.2A)

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

- ~~Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.~~
- ~~The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal aid programs and projects);~~
- ~~Federal Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);~~
- ~~Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;~~
- ~~The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);~~
- ~~Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);~~
- ~~The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not);~~
- ~~Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;~~

- ~~The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. §47123) (prohibits discrimination on the basis of race, color, national origin, and sex);~~
- ~~Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low income populations;~~
- ~~Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and~~
- ~~Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).~~

~~<https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/title-vi/appendix-e-of-the-title-v-i-assurances.pdf>~~

ATTACHMENT C AGENCY DESCRIPTIONS

Monterey-Salinas Transit District (MST)

During the three-year audit period, MST was an independent political subdivision of the State of California. It was originally formed by a joint-powers agreement in 1972, which was revised in 1981 to include the Salinas Transit System. As of July 1, 2010, the MST Joint Powers Agency was replaced by the Monterey-Salinas Transit District, which was created through legislation (AB 644 Caballero) passed by the California Legislature and signed into law by Governor Arnold Schwarzenegger.

MST is a special purpose district governed by a thirteen-member Board of Directors. The county Board of Supervisors selects one of its own members to serve on the MST Board. The mayors of each of the twelve cities in the county appoint one elected city official, bringing membership to thirteen. Directors meet once a month to determine overall policy for MST. A fifteen seat Mobility Advisory Committee, representing seniors, persons with disabilities, veterans and social services providers, provides nonbinding input to the Board.

The borders of the MST District are contiguous with those of the County of Monterey. The County of Monterey is located along the Central Coast of California, bordered on the south by San Luis Obispo County, the west by the Pacific Ocean, the east by San Benito County, and the north by the counties of Santa Clara and Santa Cruz. MST provides bus transit services throughout the County and north into downtown Watsonville, Aptos, and Santa Cruz in Santa Cruz County and Gilroy, Morgan Hill and San Jose in Santa Clara County, as well as south to San Miguel and Paso Robles in northern San Luis Obispo County.

For more information about MST, visit the MST website: www.mst.org

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 in Monterey County. The Agency is governed by a Board of Directors including voting members representing the 5 County Supervisorial Districts and 12 incorporated cities.

Non-voting ex officio members include the Association of Monterey Bay Area Governments, Caltrans, the Monterey Bay Air Resources District, MST, and the Monterey Regional Airport District.

TAMC staff includes an executive director, a director of planning, a director of

programming and project delivery, an administrative services manager, a finance officer/analyst, two administrative assistants, a clerical accounting assistant, four transportation planners, a community outreach coordinator and two transportation planning engineers. The Agency maintains and staffs the following advisory committees: Technical Advisory Committee, Bicycle and Pedestrian Facilities Advisory Committee, and a Rail Policy Committee. The MST Mobility Advisory Committee serves as the Agency's Social Services Transportation Advisory Council.

The Agency budget separates expenditures into two types: operating and direct program. The Fiscal Year 2022/23 operating budget is \$3,638,407, which includes staff salaries and benefits, materials and supplies, and equipment purchases. The current direct program expenditure budget is \$3,433,688, which includes expenditures on outside consultants, contracts, and specific work program tasks such as the rail program, highway projects, corridor studies, the bicycle and pedestrian program and outreach for special projects.

For further information on the agency's operations, visit the TAMC website:

<http://www.tamcmonterey.org/>