

**Contract Between
Monterey-Salinas Transit District
and**

**for
East Alisal (E. Alisal) Bus Rapid Transit (BRT) and
Salinas Transit Center (STC) Relocation Study
(Reference: RFP # 25-02)**

Contract No. ##-##-##

THIS PROFESSIONAL SERVICES CONTRACT (“Contract”) is made by and between Monterey-Salinas Transit District (“MST” or “Monterey-Salinas Transit”) and _____ (“CONSULTANT”). For reference purposes, the effective date of this Contract is on the date of executed Contract.

In consideration of the mutual covenants and conditions set forth in this Contract, the parties agree as follows:

1. SCOPE OF WORK

MST hereby engages CONSULTANT to perform and CONSULTANT hereby agrees to perform, the services described in Exhibits __ through __ in conformity with the terms of this Contract. The services to be provided by Consultant shall be those that are described within the Scope of Work of RFP #25-02 (Exhibit __) and Consultant’s Proposal (Exhibit __).

CONSULTANT shall furnish MST all materials and services in full accordance with Request for Proposals No. 25-02 prepared and issued by MST entitled **East Alisal (E. Alisal) Bus Rapid Transit (BRT) and Salinas Transit Center (STC) Relocation Study** issued on Wednesday, December 4, 2024.

2. ADDITIONAL PROVISIONS/EXHIBITS

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

- Exhibit A* – Required Federal Clauses
- Exhibit B* – Restricted Grant Agreement
- Exhibit* __ – Request for Proposals #25-02
- Exhibit* __ – Request for Proposals #25-02 – Addendum 1
- Exhibit* __ – Consultant’s Proposal
- Exhibit* __ – Consultant’s Cost Proposal

NOTE: Additional Exhibits may be added as necessary after a consultant has been selected. Exhibit numbering is subject to change in the final agreement.

3. PERIOD OF PERFORMANCE

Services under this Contract shall commence when MST issues a Notice to Proceed and shall continue through completion of all tasks and deliverables as identified in the Scope of Work and Consultants Proposal. CONSULTANT shall not be held liable for delays resulting from scheduling on the part of MST.

4. CONTRACT PRICE

MST agrees to pay CONSULTANT at the rates outlined in Exhibit ___ – Consultant's Cost Proposal attached hereto, and in accordance with the submitted fee schedule in an amount not to exceed \$_____, for services performed in accordance with this Contract. Any adjustments in payment shall only be valid if agreed to in writing by both MST and CONSULTANT.

5. PERFORMANCE STANDARDS

- 5.1 CONSULTANT warrants that CONSULTANT and CONSULTANT's agents, employees, and subCONSULTANTs performing services under this Contract are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Contract and are not employees of MST, or immediate family of an employee of MST.
- 5.2 CONSULTANT, its agents, employees, and subCONSULTANTs shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Contract that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.3 CONSULTANT shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by CONSULTANT or in any way affect the performance of its service pursuant to this Contract. CONSULTANT shall at all times observe and comply with all such laws and regulations. MST, and its officers and employees, shall not be liable at law or in equity occasioned by failure of CONSULTANT to comply with this Section.
- 5.4 CONSULTANT shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Contract, except as otherwise specified in this Contract. CONSULTANT shall not use MST premises, property (including equipment, instruments, or supplies) or

personnel for any purpose other than in the performance of its obligations under this Contract.

- 5.5 CONSULTANT declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of MST in connection with the award, terms or implementation of this Contract, including any method of coercion, confidential financial agreement or financial inducement. No officer or employee of MST will receive compensation, directly or indirectly, from CONSULTANT, or from any officer, employee or agent of CONSULTANT, in connection with the award of this Contract or any work to be conducted as a result of this Contract. Violation of this Section shall be a material breach of this Contract entitling MST to any and all remedies at law or in equity.

6. INVOICES

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

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

- 6.2 Invoices shall be mailed to:

6.2.1 Monterey-Salinas Transit District
19 Upper Ragsdale Drive, Suite 200
Monterey, CA 93940
ATTN: Accounts Payable

6.2.2 MST shall mail payments to:
NAME
ADDRESS
CITY, STATE, ZIP

7. THIRD PARTY CLAUSES

This Project may be paid in whole or in part using Federal Funds and/or Caltrans Grant Funding. As such, CONSULTANT agrees to all clauses in Exhibit A – Required Federal Clauses, and Exhibit B – Restricted Grant Agreement.

8. COST REPORTING

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

9. NOTICE

Any notice or correspondence required or permitted to be given under this Contract shall be given in writing and sent by: (a) hand-delivery, (b) first class United States mail, return receipt requested, or (c) overnight delivery service, and shall be deemed given upon actual receipt by the addressee. Notice should be given by e-mail, but the original must also be sent by any manner described above in this Section. Notices shall be addressed as follows:

If to MST:

Monterey-Salinas Transit District
ATTN: Emma Patel
19 Upper Ragsdale Drive, Suite 200
Monterey, CA 93940

If to CONSULTANT:

H NAME
ADDRESS
CITY, STATE, ZIP

Either Party may change the recipient or address for receiving notices upon written notice to the other Party.

10. INSURANCE

10.1 General:

CONSULTANT, at its sole cost and expense, for the full term of this Contract (and any extensions thereof), shall obtain and maintain at minimum all of the following insurance coverage. Such insurance coverage shall be primary coverage as

respects MST and any insurance or self-insurance maintained by MST shall be excess of CONSULTANT's insurance coverage and shall not contribute to it.

10.2 Types of Insurance and Minimum Limits

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

- (a) Worker's Compensation and Employer's Liability Insurance in conformance with the laws of the State of California (not required for CONSULTANT 's or sub-CONSULTANTS having no employees) with limits of not less than one million dollars (\$1,000,000) per occurrence.
- (b) CONSULTANT's vehicles used in the performance of this Contract, including owned, non-owned (e.g. owned by CONSULTANT's employees), leased or hired vehicles, shall each be covered with Commercial Automobile, Liability Insurance in the minimum amount of one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- (c) CONSULTANT shall obtain and maintain Comprehensive or Commercial General Liability Insurance coverage in the minimum amount of one million dollars (\$1,000,000) combined single limit, including bodily injury, personal injury, and property damage. Such insurance coverage shall include, without limitation: premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent CONSULTANTS, and Products/Completed Operations, with minimum limits: \$1,000,000 per Occurrence. If CONSULTANT maintains higher limits than the specified minimum limits, MST requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

10.3 Other Insurance Provisions

- (a) As to all insurance coverage required herein, any deductible or self-insured retention exceeding \$5,000.00 shall be disclosed to and be subject to written approval by MST.
- (b) Each insurance coverage required hereunder is to be provided as an "occurrence" form basis only.
- (c) All required Automobile Liability Insurance and Comprehensive or Commercial General Liability Insurance shall contain the following endorsement as a part of each policy: "MST is hereby added as an additional insured as respects the operations of the named insured."

- (d) All the insurance required herein shall contain the following clause: "It is agreed that this insurance shall not be canceled until thirty (30) days after MST shall have been given written notice of such cancellation or reduction."
- (e) CONSULTANT shall notify MST in writing at least thirty (30) days in advance of any reduction in any insurance policy required under this Contract.
- (f) CONSULTANT agrees to provide MST at or before the effective date of this Contract with a certificate of insurance of the coverage required.
- (g) If CONSULTANT, for any reason, fails to maintain insurance coverage, which is required pursuant to this Contract, the same shall be deemed a material breach of contract. MST, at its sole option, may terminate this Contract and obtain damages from the CONSULTANT resulting from said breach.

11. INDEMNIFICATION

CONSULTANT shall indemnify, keep and save harmless MST, its agents, officials, and employees, against all suits or claims that may be based on any injury to persons or property that may occur, or that may alleged to have occurred, in the course of the performance of this contract by CONSULTANT, to the extent caused through a negligent act or omission of CONSULTANT or its employees. CONSULTANT shall, at its own expense, indemnify and defend any and all costs and other expenses arising from or incurred in connection to such. If any judgment shall be rendered against MST in any such action, CONSULTANT shall at its own expense satisfy and discharge the action. If CONSULTANT is a Design Professional, CONSULTANT's indemnity and duty to defend shall be limited to the extent required by Civil Code Section 2782.8. In no event shall the cost to defend charged to CONSULTANT exceed the CONSULTANT's proportionate percentage of fault.

12. NON-DISCRIMINATION ASSURANCE

- 12.1 MST shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. MST's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement.
- 12.2 CONSULTANT shall not discriminate on the basis of race, creed, color, national origin, gender, or sex in the performance of this Contract. CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. CONSULTANT shall obtain the same assurances from its joint venture

partners, and sub-CONSULTANTS by including this assurance in all subcontracts entered into under this Contract. Failure by CONSULTANT to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as MST deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments; and/or
2. Assessing sanctions, liquidated damages; and/or
3. Disqualifying the CONSULTANT from future bidding as non-responsible.

13. INDEPENDENT CONTRACTOR

CONSULTANT is and shall at all times remain as to MST a wholly independent contractor. The personnel performing the services under this Contract on behalf of CONSULTANT shall at all times be under CONSULTANT exclusive direction and control. Neither MST nor any of its officers, employees, or agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's officers, employees, or agents, except as set forth in this Contract. CONSULTANT shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of MST. CONSULTANT shall not incur or have the power to incur any debt, obligation, or liability whatever against MST, or bind MST in any manner.

14. OWNERSHIP OF DOCUMENTS

CONSULTANT shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by MST that relate to the performance of services under this Contract. CONSULTANT shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. CONSULTANT shall provide free access to the representatives of MST or its designees at reasonable times to such books and records; shall give MST the right to examine and audit said books and records; shall permit MST to make copies and transcripts there from as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Contract.

Upon completion of, or in the event of termination or suspension of this Contract, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Contract shall become the sole property of MST and may be used, reused, or otherwise disposed of by MST without the permission of CONSULTANT. With respect to computer files, CONSULTANT shall make available to MST, at MST's office and upon reasonable written request by MST, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

15. DEFAULT

CONSULTANT's failure to comply with the provisions of this Contract shall constitute a default. In the event CONSULTANT is in default for cause under the terms of this Contract, MST shall have no obligation or duty to continue compensating CONSULTANT for any work performed after the date of default and can terminate this Contract immediately by written notice to CONSULTANT. If such failure by CONSULTANT to make progress in the performance of work hereunder arises out of causes beyond CONSULTANT's control, and without fault or negligence of CONSULTANT, it shall not be considered a default.

If MST determines CONSULTANT is in default in the performance of any of the terms or conditions of this Agreement, they shall cause to be served upon CONSULTANT a written notice of the default. CONSULTANT shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event CONSULTANT fails to cure its default within such period of time, MST shall have the right, notwithstanding any other provision of this Contract, to terminate this Contract without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Contract.

16. GOVERNING LAW

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

17. DISPUTES

Unless otherwise directed by MST, CONSULTANT shall continue performance under this Contract while matters in dispute are being resolved. CONSULTANT and MST hereby agree to make good faith efforts to resolve disputes as quickly as possible.

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

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

Nothing in this procedure will prohibit the parties from seeking remedies available to them under applicable laws.

18. MISCELLANEOUS PROVISIONS

- 18.1 **Conflict of Interest.** CONSULTANT represents that it presently has no interest and agrees not to acquire any interest during the term of this Contract which would directly or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Contract.
- 18.2 **Amendment.** This Contract may be amended or modified only by an instrument in writing signed by MST and CONSULTANT.
- 18.3 **Waiver.** Any waiver of any terms and conditions of this Contract must be in writing and signed by MST and CONSULTANT. A waiver of any of the terms and conditions of this Contract shall not be construed as a waiver of any other terms or conditions in this Contract.
- 18.4 **Consultant.** The term “CONSULTANT” as used in this Contract includes CONSULTANT’s officers, agents, and employees acting on CONSULTANT’s behalf in the performance of this Contract.
- 18.5 **Assignment and Subcontracting.** CONSULTANT shall not assign, sell, or otherwise transfer its interest or obligations in this Contract without the prior written consent of MST. None of the services covered by this Contract shall be subcontracted without the prior written approval of MST. Notwithstanding any such subcontract, CONSULTANT shall continue to be liable for the performance of all requirements of this Contract.
- 18.6 **Successors and Assigns.** This Contract and the rights, privileges, duties, and obligations of MST and CONSULTANT under this Contract, 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.
- 18.7 **Headings.** The headings are for convenience only and shall not be used to interpret the terms of this Contract.
- 18.8 **Time is of the Essence.** Time is of the essence in each and all of the provisions of this Contract. CONSULTANT shall not be liable for delays that are caused by an occurrence beyond its reasonable sole control and without its fault or negligence, such as acts of God or the public enemy, acts of the Government, fires, flood, earthquake, pandemics, epidemics, quarantine restrictions, strikes and unusually severe weather.

- 18.9 **Non-exclusive Contract.** This Contract is non-exclusive and both MST and CONSULTANT expressly reserve the right to contract with other entities for the same or similar services.
- 18.10 **Construction of Contract.** MST and CONSULTANT agree that each party has fully participated in the review and revision of this Contract 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 Contract or any amendment to this Contract.
- 18.11 **Counterparts and Electronic Signature.** This Contract 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 Contract. MST and CONSULTANT also agree and consent that any electronic signature affixed thereon shall have the full force and effect as a wet or manual signature.
- 18.12 **Integration.** This Contract, including the exhibits any documents incorporated by reference, represent the entire Contract between MST and CONSULTANT with respect to the subject matter of this Contract and shall supersede all prior negotiations, representations, or agreements, either written or oral, between MST and CONSULTANT as of the effective date of this Contract, which is the date that MST signs the Contract.
- 18.13 **Interpretation of Conflicting Provisions.** In the event of any conflict or inconsistency between the provisions of this Contract and the Provisions of any exhibit or other attachment to this Contract, the provisions of this Contract shall prevail and control.
- 18.14 **Severability.** If any of the provisions contained in the Contract are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability and indemnities shall survive termination of the Contract for any cause. If a part of this Contract is valid, all valid parts that are severable from the invalid part remain in effect. If a part of this Contract is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.
- 18.15 **Authority.** Any individual executing this Contract on behalf of MST or CONSULTANT represents and warrants hereby that he or she has the requisite authority to enter into this Contract on behalf of such party and bind the party to the terms and conditions of this Contract.

19. AUTHENTICATION:

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year hereinbelow written.

Monterey-Salinas Transit District

COMPANY NAME

By: _____

By: _____

Carl G. Sedoryk
General Manager/CEO

NAME
TITLE

Date: _____

Date: _____

Approved as to form:

By _____

Michael D. Laredo
MST General Counsel

Date: _____