



**REQUEST FOR PROPOSALS (RFP) # 19-07
FOR
WORKERS COMPENSATION MANAGED CARE SERVICES**

IMPORTANT RFP # 19-07 DATES

Date RFP Issued	August 24, 2018
Pre-Proposal Conference	September 19, 2018 @ 10 AM
Written questions/clarifications due to MST	September 26, 2018
Proposals are due	October 12, 2018
Interviews with Finalists	October 22 nd - 26 th , 2018
Selection and Notification After	November 12, 2018

This schedule is for planning purposes and is subject to change.

TABLE OF CONTENTS

SECTION I. GENERAL INFORMATION	Pg. 3-4
SECTION II. REQUIRED SERVICES	Pgs. 5-27
PART 1-CLAIMS ADMINISTRATION	
PART 2- BILL REVIEW SERVICES	
PART 3-UTILIZATION REVIEW & MEDICAL MANAGEMENT SERVICES	
PART 4-MEDICAL PROVIDER NETWORK (MPN)	
PART 5-WORKERS COMPENSATION LEGAL SERVICES	
SECTION III. PROPOSAL CONTENTS	Pgs. 28-29
SECTION IV. SELECTION PROCESS	Pgs. 30
SECTION V. PROPOSAL SUBMISSION	Pg. 32
SECTION VI. SPECIAL PROVISIONS	Pgs. 33-34
SECTION VII. GENERAL TERMS AND CONDITIONS	Pgs. 35-37
SECTION VIII. STANDARD TERMS AND CONDITIONS	Pgs. 38-45
SECTION IX. FORMS AND CERTIFICATIONS	Pgs. 46-54
SECTION X. DRAFT CONTRACT	Pgs. 55-58

MONTEREY-SALINAS TRANSIT
REQUEST FOR PROPOSALS (RFP) # 19-07
FOR
WORKERS COMPENSATION MANAGED CARE SERVICES

I. GENERAL INFORMATION

Introduction

Monterey-Salinas Transit provides fixed route, demand-response and special seasonal transit service to a 275 square-mile area of Monterey County with connections to Santa Cruz County in Watsonville and Santa Clara County at Gilroy, Morgan Hill and San Jose. MST operates thirty-five routes within a service area comprised of an estimated 350,000 people and has a total of 84 buses and 15 minibuses in its active fleet, including six themed trolley-style buses. It operates through two major transit hubs in Monterey and Salinas as well as secondary hubs in Marina and at the Edgewater Shopping Center in Sand City.

MST employs an average of 250 employees annually. Employees are divided into three subdivisions, one of which is covered by a Collective Bargaining Agreement and one by a Memorandum of Understanding with an Employee Association. The groups are as follows:

1. Bus Operators and Maintenance (ATU Local 1225)
2. Managerial, Professional and Clerical (MSTEA)
3. Select Managerial and Professional (no representation)

Purpose of RFP

MST desires to enter into an agreement with a qualified firm to provide third party administrative services for MST's workers' compensation services claims. Services will include claims administration, medical managed care services, and loss prevention services. It is intended that this agreement will have a term of three years. The agreement will include an option to renew for an additional two one-year periods, subject to mutual agreement of both parties.

Program Goals

- To assure that all workers' compensation claims filed by MST employees are adjudicated on a timely basis by claims adjusters licensed by the State of California and administered in accordance with the State of California Workers' Compensation Act.
- To ensure that employees sustaining work related injuries or illnesses are provided with quality medical care and treatment on a timely basis.
- To ensure that claimants receive appropriate medical and rehabilitative services enabling maximum medical recovery and a safe and expedient return to work as early as possible.
- To develop and implement strategies that reduces the frequency and severity of claims.
- To maximize the application of information technology tools to benefit all facets of MST's loss prevention programs.
- To refine and enhance previously developed initiatives in managed care, transitional work, safety training and accident investigation programs.
- To develop a high performing and coordinated approach between MST and vendor representatives dedicated to a quality and efficient workers' compensation program.
- To provide ongoing review of existing practices and implementation of best practices in the administration of MST's workers' compensation program.

SECTION II.REQUIRED SERVICES

Part I. CLAIMS ADMINISTRATION

Please quote a flat annual fee and a per claim fee for each year of a three (3) year contract, with an option to extend for two one-year terms, considering dedicated examiners. Please give a complete explanation of your pricing stating whether the cost of handling the existing open files is included in the flat annual fee quoted. If not, the proposer shall indicate the costs for the existing open claims. Pricing should include all services as outlined in your response.

A. Instructions for Preparing Written Proposals

Please provide responses to the following:

1. A brief description of the proposer including:
 - a. Contact information including fax number, e-mail address, and telephone numbers;
 - b. The names and background of principal owners, partners, or officers including a resume detailing experience;
 - c. The length of time the firm has been in business of providing workers' compensation services;
 - d. The office that would serve as the headquarters for contract enforcement.
 - e. The number of offices and locations that would administer claims; and
 - f. The office that would service for loss data, accounting, finance, or functions other than claims adjusting.
2. Advise whether there are any major changes (e.g relocation of firm/consolidation) planned for proposer during the next twelve (12) months.
3. Provide a list of clients (include contact information) for which similar types of claims-related services are currently provided. Please include the name, title, and phone number of three (3) people, in three (3) different companies whom can contact to discuss the proposer's

performance.

4. Provide a list of clients (include contact information) who have elected to contract with other vendors during the past twenty-four (24) months, and describe reasons for change.
5. Describe in detail the computer operating system utilized to provide workers' compensation services. Please note that in the development of a "Best Practices" platform, the claims management Information system is considered to be critically important.
6. Advise if your computer system tracks reserve changes.
7. Samples of computer-generated management reports must accompany the proposal.
8. Identify the personnel (including management) who would be assigned to provide workers' compensation services to MST. In addition, provide detailed responses to the following:
 - a. The position each individual occupies;
 - b. The education, years, and type of experience of each individual (attach a resume or curriculum vitae);
 - c. The experience each individual has servicing California public or private self-insured agency claims, and specifically safety personnel;
 - d. The length of time each individual has been with the proposer;
 - e. The percentage of time each Individual is in the office versus the field;
 - f. The job duties of each individual outside the office; and
 - g. The caseload for every person assigned to service any portion of MST's claims.
9. Explain what steps the manager assigned to service the MST account will take to be proactive regarding service and administrative issues.

10. Describe your staffing plan to demonstrate that you can be adequately staffed with trained personnel to handle MST's full caseload and have the capability to recruit such staff.
11. Include a statement that at least thirty-(30)days prior to replacement of key employees, your company will notify MST in writing that replacement employees will possess qualifications and experience equal to or greater than individuals being replaced.
12. Describe how your company ensures compliance with workers' compensation newly enacted statutes and rules and regulations promulgated by the Department of Industrial Relations.
13. Describe in detail the training provided to your examiners in regards to recent regulations, including AMA and ACOEM.
14. Describe in detail the training to be provided to the members of MST regarding claims procedures and other pertinent areas of workers' compensation.
15. Describe In detail your process for issuing checks and benefit payments (including settlements), proposed funding arrangements such as impress accounts, check writing vouchers, and wire transfer.
16. Indicate your procedures for reconciling the funding account and the information and statements that you will provide to MST and how often. Describe your procedures for reconciliation of program records.
17. Identify any owned ancillary services.
18. Managed care services, which include bill review, utilization review, and managed care, may be awarded to another vendor. Please describe in detail how you will be able to work with an outside provider to insure effective service for MST your computer system adaptable with outside vendors?
19. Should an outside managed care provider be chosen, does your organization commit to developing an Electronic Data Interface (EDI), as well as claims access for nurses at no additional cost to MST.

20. Indicate whether the proposer can comply with the SCOPE OF SERVICES as outlined in this RFP. If the proposer is unable to comply with a specific performance objective, please indicate which objective cannot be complied with and the reason(s) the objective cannot be met.
21. Indicate if you provide electronic and/or telephonic reporting to members of MST.
22. Describe any services not previously covered which you believe may be of particular value to MST.
23. If selected, outline in detail your transition plan and timeline for the transfer of services.
24. Submit a cover letter that contains the name, title, address, and telephone number of the individual(s) with authority to bind the proposal during the period in which MST is evaluating the proposal. The proposer shall also identify the legal form of the firm, i.e., sole proprietor, partnership, corporation, etc. If the firm is a corporation, the cover letter shall identify the state in which the firm was incorporated. A principal of the firm or other person fully authorized to act on behalf of the firm shall sign the cover letter.
25. The proposal must indicate that the vendor agrees to be bound by the proposal and shall enter into a contract to provide services in a form as approved by MST.
26. The vendor(s) whose proposals are selected as finalists for consideration may be asked to appear, at their own expense, before an evaluation panel to discuss their proposal. Please indicate whether this

B. Scope of Services - Claims Administration

MST is interested in obtaining a TPA who will be able to favorably respond to the following performance objectives and be contractually committed to comply with the following, but not limited to, performance standards:

1. **Caseload:** Each examiner shall have an average caseload not to exceed 90 open indemnity claims. Open indemnity claims include future medical claims. Each claims assistant shall have a caseload not to exceed 90 open medical only claims. The supervisor shall have a caseload not to exceed 30 open indemnity claims. The TPA shall provide a

computer generated monthly case load report to MST's Director of Human Resources or designated staff members for all examiners handling MST claims. The report shall be provided to MST's Director of Human Resources or designated staff members electronically within **five (5) business days** of closure of the previous month.

2. **Forms:** The TPA shall provide all forms necessary for the processing of benefits or claims information including the Employer's Report of Injury, DWC Form 1, return to work slips, vouchers, checks, and other related forms. These forms shall be provided electronically if requested. The cost of providing these forms shall be included within the contract price.
3. **Claim File Set Up and Diary Review:** Upon receipt of the Employer's Report of Injury, the TPA will prepare an individual claim file within two (2) working days for each claim. Preparation of the claim file shall include entering each new claim into the computer system and establishing appropriate reserves. All claim files shall be reviewed at least every forty-five (45) calendar days for active claims and at least every six-(6) months for claims that have settled but are open for future medical care. The examiner shall distinguish the regular diary review from routine file documentation in the computer notepad. A plan of action will be included and separately labeled in the file notes during a diary review. The supervisor shall monitor the diary reviews by printing a "No Activity" report each month to identify any files that have fallen off the diary system.
4. **Future Medical Claims:** Future medical claims shall remain open for two (2) years from the last payment of benefit. Reviews shall be documented in the claim notes to include settlement information, future medical care outline, last date and type of treatment, name of excess carrier, excess carrier reporting level, and excess carrier reporting history.
5. **Employer Contact:** The TPA shall contact MST within one-(1) working day of receipt of notice of a lost time claim by any source. Such contact with MST shall be documented in the computer note pad after the claim has been created in the system.

The TPA shall request the Employer's Report of Injury form when or if notification of an injury or incident by any source is received first (*i.e.*, Application of Adjudication, notice of legal representation, Doctor's First Report of Injury, etc.).

The TPA will confirm the DWC Form 1 was given to the employee within one (1) working day of knowledge of the injury. If there is no evidence the form was provided, the TPA will provide the form with the initial contact letter to the employee within three (3) business days of receiving the claim.

When a claim reaches or exceeds one half of MST's SIR in total incurred value, the TPA shall report to MST every ninety- (90) days regarding the status of the claim. A Status Report form will include the examiner's plan of action for future handling of the claim.

The examiner will provide on-site file reviews quarterly if requested. Other periodic on-site file reviews will be scheduled based upon the needs of MST.

6. **Employee Contact:** In all non-litigated, lost-time cases where the employee has not returned to work, telephone or personal contact will be established with the injured employee within one-(1) working day of receipt of notice of claim. Such contact will continue as often as necessary, but at least monthly until the employee returns to work. Such contact with the employee shall be documented in the computer notepad.

Return phone calls to employees will be accomplished within one-(1) working day. All correspondence from employees will be responded to within five-(5) days of receipt.

7. **Reserves:** Reserves shall be established based upon the ultimate probable cost of each claim. All reserve categories shall be reviewed on a regular basis but at least every ninety-(90) days. Such review shall be indicated in the computer notepad. Any changes to reserves shall include an explanation for the change.

A claims assistant shall have authority to establish reserves not to exceed \$3,000. An examiner shall

have authority to establish reserves not to exceed \$50,000. A senior examiner shall have authority to establish reserves not to exceed \$75,000. The supervisor shall have authority to establish reserves not to exceed \$150,000. A claims manager, vice president, or president of the TPA shall review and approve all reserves in excess of \$150,000.

8. **Payments:** MST has established a positive pay sweep account, which shall at all times contain sufficient funds to enable the TPA to make timely payments of claims, allocated loss expenses, and other amounts the TPA is authorized or required to make on behalf of MST. The TPA shall electronically submit the information required by MST's financial institution on a daily, weekly, or monthly basis. The submissions will be at no additional cost to MST.
9. **Medical Administration:** The TPA shall use the Medical Provider Network with the established panel of general practitioners, specialists, hospitals, and emergency treatment facilities to which injured employees should be referred, as approved by MST, and the TPA shall regularly review and update the panel the effectiveness of the panel in accordance with Workers' Compensation regulations.

The physician's office will be contacted within five-(5) days of notice of all new indemnity claims. Such contact will continue as needed during the continuation of temporary disability to assure that treatment is related to a compensable injury or illness. All contact shall be documented in the computer notepad.

The TPA shall maintain contact with treating physicians to ensure employees receive proper medical treatment and are returned to full or modified employment at the earliest possible date.

The TPA shall maintain direct contact with medical service providers to ensure their reports are received in a timely manner.

The TPA shall arrange medical evaluations when needed, reasonable, and/or requested in compliance with the current Labor Code.

The TPA shall ensure that medical bills are reduced to the recommended rates established by the

Administrative Director of Workers' Compensation. The use of a service contractor must be approved by MST. MST shall pay for the use and benefits of the services provided.

The TPA shall ensure that utilization review and/or professional managed care services will be provided on an as needed basis to injured employees by providers approved by MST.

10. **Medical Payments:** Medical bills will be reviewed for correctness, approved for payment, and paid within time limits established by Labor Code section 4603.2. If all or part of the bill is being disputed, the TPA will notify the medical provider, on the appropriate form letter, within time limits established by Labor Code 4603.2.
11. **Plan of Action:** Each claim file shall contain the examiners plan of action for the future handling of that claim. Such plan of action shall be clearly stated including the reasoning for the plan. The plan of action will be updated at least every forty-five (45) calendar days and clearly identified in the computer notepad.
12. **Investigation:** The TPA shall promptly initiate investigation of issues identified as material to potential litigation. The member shall be alerted to the need for an outside investigation as soon as possible and the examiner shall appoint an investigator who is acceptable to the member. The member shall be kept informed on the scope and results of all investigations.

The TPA shall subscribe to the Index Bureau. Costs to subscribe to this Index Bureau shall be included in proposed pricing structure. The examiner shall request a report from the Index Bureau on all new indemnity claims. Subsequent requests should be made every six (6) to twelve (12) months thereafter on all active indemnity claims.

13. **Compensability:** The compensability determination (accept claim, deny claim. or delay acceptance pending the results of additional investigation) and the reasons for such determination will be made and clearly documented in the computer notepad within five- (5) working days of the receipt of the notification of the loss.

Delay or denial of benefit letters shall be mailed in

compliance with the Division of Industrial Relations' guidelines. The TPA shall notify MST of delay or denial of any claim.

In no case shall a final compensability decision be extended beyond ninety-(90) days from MST's knowledge of the claim.

14. **Provision of Benefits:** The TPA shall provide all compensation and medical benefits in a timely manner and in compliance with the statutory requirements of the California Labor Code. The TPA shall compute and pay temporary disability benefits to injured employees based upon earnings information and authorized disability periods. The TPA shall review, compute, and pay all informal ratings, death benefits, Findings and Awards, life pensions, or Compromise and Release settlements.

15. **Initial Indemnity Payment:** The initial indemnity payment or voucher will be issued and mailed to the injured employee together with properly completed notices within fourteen-(14) days of the first day of disability.

Late payments must include the 10% self-imposed penalty in accordance with Labor Code Section 4650. Penalties must be reported to MST.

16. **Subsequent Indemnity Payments:** All indemnity payments or vouchers subsequent to the first payment will be verified, except for obvious long-term disability, and issued in compliance with Labor Code Section 4651.

Late payments must include the 10% self-imposed penalty in accordance with Labor Code Section 4650.

17. **Return to Work:** The TPA shall provide assistance to MST in returning injured employees to modified duty while recovering and prior to their return to regular duties.

The TPA shall consult frequently with the member in those cases where the injury residuals might involve permanent work restrictions and/or retirement potential.

18. **Transportation Expense:** Transportation reimbursement will be mailed within five-(5) days of

the receipt of the claim for reimbursement. Advance travel expense payments will be mailed to the injured employee ten-(10) days prior to the anticipated date of travel.

19. **Permanent Disability:** The TPA shall explain and assist injured employees in completing the necessary forms to obtain a permanent disability rating.

The TPA shall determine the nature and extent of permanent disability and arrange for an informal disability rating whenever possible to avoid Workers' Compensation Appeals Board litigation.

All permanent disability benefit notices shall be sent to the employee as required by the Labor Code.

20. **Litigated Cases:** The member shall be alerted to the need for outside counsel as soon as possible, and the examiner shall appoint an attorney who is acceptable to MST.

When defense counsel is not necessary, the TPA shall work closely with the applicant's attorney in informal disposition of litigated cases.

Settlement proposals directed to MST shall be forwarded by the TPA or defense counsel in a concise and clear written form with a reason(s) for such recommendation.

All preparation for a trial shall involve MST so that all material evidence and witnesses are utilized to obtain a favorable result for the defense.

The manager, supervisor, or examiner shall attend Workers' Compensation Appeals Board hearings, rehabilitation hearings, meetings with defense counsel, and meetings with member's staff, departments, and employee groups as necessary and as requested to do so.

21. **Settlements:** The TPA shall obtain the MST's written authorization on all settlements within the specific guidelines. All requests for settlement authority shall include a written claim summary, current financial information, estimate of permanent disability, and the defense counsel's comments and recommendations.

22. **Subrogation:** In all cases where a third party is responsible for the injury to the employee, the TPA shall contact the member indicating they will pursue subrogation unless instructed otherwise by the member. When subrogation is to be pursued, the third party shall be contacted within ten-(10) days of identification, with notification of the member's right to subrogation and the recovery of certain claim expenses. If the third party is a governmental entity, a claim shall be filed with the governing board within six (6)-months of the injury or notice of injury.

Periodic contact shall be made with the responsible party and/or insurer to provide notification of the amount of the estimated recovery to which the member will be entitled.

If the injured worker brings a civil action against the party responsible for the injury, the TPA shall consult with MST about the value of the subrogation claim and other considerations. Upon MST's authorization, subrogation counsel shall be assigned to file a Lien or a complaint in Intervention of the civil action.

Whenever practical, the TPA should take advantage of any settlement in a civil action by attempting to settle the workers' compensation claim by means of a Third Party Compromise and Release. If such attempt does not succeed, then every effort should be made through the Workers' Compensation Appeals Board to offset claim expenses through a credit against the proceeds from the injured worker's civil action.

23. **Vocational Rehabilitation:** In accordance with all applicable California laws in place at the date of injury, the TPA shall:
1. Determine the Qualified Injured Worker/Non Qualified Injured Worker status;
 2. Advise the injured worker of his/her right to rehabilitation benefits;
 3. Provide appropriate vocational rehabilitation benefits;
 4. Control rehabilitation costs; and
 5. Attempt to secure the prompt conclusion of vocational rehabilitation benefits.
24. **Claim Reconciliation:** All claim files shall be reconciled to ensure all indemnity payments have been made correctly. The reconciliation should verify that payment amounts were correct,

paid on the appropriate claim file, and all benefit notices were issued accordingly. The physical file should be verified with the computer information. All open claim files shall be reconciled at the time of a request for settlement authorization and at the time of submission for closure. Proof of the reconciliation should remain in the claim file.

25. **Excess Insurance:** Cases that have the potential to exceed or have reached 50% of the MST member's self-insured retention level must be reported to MST. Any case that has the potential to exceed or have reached 50% of MST's self-insured retention shall be reported to the MST and the excess insurer in accordance with the reporting criteria established by the excess insurer. All cases that meet the established reporting criteria are to be reported to MST. Any case that has the potential to exceed or have reached 50% of MST's self-insured retention shall be reported to MST and the excess insurer in accordance with the reporting criteria established by the excess insurer. All cases that meet the established reporting criteria are to be reported within five (5) days on the day on which it is known the criterion is met.
26. **Award Payment:** Payments on awards, computations, or Compromise and Release agreements will be issued within the required time limits. Those settlements that require board approval shall be submitted to MST in a timely manner for Board review.
27. **Penalties:** Late payment of all benefits must include the self-imposed penalty in accordance with California law. MST will be provided a listing of any administrative penalties paid during the month, which were the responsibility of the TPA, and a check from the TPA payable to MST for reimbursement.
28. **Case Closure:** The supervisor must review all medical only claims open beyond ninety-(90) days from the date of entry by the TPA, for potential closure or conversion to indemnity claim status. The TPA will monitor stipulated cases with future medical provisions. Reserves for future medical will be reviewed semi-annually and adjusted accordingly.
29. **Status Reports:** Any special status reports requested by MST will be provided within ten-(10) days. Verbal reports requested by members shall be provided by the TPA within two-(2) business days. Los data reports requested shall be provided within

two(2) weeks of request.

30. **Loss Runs & Check Runs:** The TPA shall provide the applicable reports by the 7th calendar day of the following month. Loss runs will be provided in an approved format.
31. **Claims Reporting:** The TPA shall maintain all loss information as required by the Workers' Compensation Insurance Rating Bureau.

The TPA shall assist in the preparation of all reports that are now, or will be required by the State of California or other government agencies with respect to self-insurance programs.

32. **Record Retention:** All claim files shall be maintained in accordance with statutory time requirements and MST shall be notified prior to any destruction of files.
33. **Claim Supervision:** The TPA shall provide supervisory staff that will regularly review the work product of the claims examiners. The supervisor shall review at least 10% of each examiner's caseload each month to ensure each examiner is following the performance standards outlined in this document. Such reviews shall be labeled as "Supervisor Review" and clearly documented in the claim notepad. In addition, the supervisor shall conduct a regular quarterly review of all open indemnity claims with reserves in excess of \$100,000 and all problem or complex claims.
34. **Availability of Personnel:** The TPA shall ensure at least one (1) or more of the examiners assigned to MST are on-site and available to MST and its members every business day (excluding holidays) between the hours of 8:00 a.m. and 5:00 p.m. throughout the term of the approved contract between MST and the TPA. The TPA shall provide a toll free telephone number.
35. **Examiner Training:** The TPA shall annually certify to MST that each claims examiner handling the members' claims is in compliance with all legal and regulatory licensing and continuing educational requirements as presently or in the future shall be promulgated and required by the State of California. Where required by law or regulation, copies of all such certifications shall be provided at least annually by the TPA to MST.

36. **Member Services:** The TPA shall provide special on-site training services when requested by MST to ensure MST personnel process workers' compensation claims effectively, carrying out the procedures required for a successful program.

TPA shall require an examiner to be available and readily respond to a member's request for assistance with problem cases, including on-site visits if necessary.

The TPA shall provide MST with information regarding statute, proposed changes to statutes, and changes to the rules and regulations affecting MST and its responsibility as a legally self-insured workers' compensation JPA.

37. **Computer Access:** The TPA shall provide online access at no additional charge for all participating member cities and additional access for the MST WCPM and selected vendors providing services to MST. The TPA shall provide training for use of the computer system MST case managers.

38. **Employee Services:** If required, the TPA will develop, for review by MST, materials, which will provide information, and guidance to MST case managers regarding workers' compensation and the self-insurance program.

As required, the TPA will assist injured employees in resolving problems that arise from injury or illness claims.

39. **Conflict of Interest:** The TPA shall avoid all conflicts of interest or appearance of conflicts of interest in performance of this document. If the TPA receives compensation from MST for services not included in this document, such as bill review services, managed care, or investigations, the TPA shall disclose all fees received. Such disclosure shall be in the form of a letter and shall be received by MST each February first (1st).

Part 2

BILL REVIEW SERVICES

MST wishes to obtain competitive proposals relative to the provision of workers' compensation bill review and utilization review for its self-insured worker's compensation program. The RFP requests that specific information be provided. Proposers may expand on the information requested and/or provide other related information. However, it is important that bidders follow the directions, proposal format, and comply with all directions contained in the RFP to ensure that the proposal is considered.

A. Instructions for Preparing Written Proposals

1. State the number of years your company has provided bill review services to self-insured organizations and/or insurance carriers, specifically note public entities.
2. Provide an overview of your organization, its locations and the key staff that would be assigned to the MST account. Indicate number of years experience and qualifications for each of the key staff that would be assigned to the MST account.
3. Describe in detail the Account Manager's role and his/her experience and qualifications.
4. Provide the location of the office(s) that would service MST.
5. Provide the average monthly bill volume processed by the office(s).
6. Describe your staffing plan to demonstrate your capability to be adequately staffed with trained personnel to handle MST bill review needs.
7. Provide a written statement of what distinguishes your company's approach from others.
8. List five (5) current California clients (including contact information), preferably public entities, whom MST can contact.
9. Provide a list of TPAs you work to whom you provide bill review services.

B. Scope of Services - Bill Review

Provide responses in the order of the following items:

1. An estimate of the average gross percentage of savings that would occur on an annual basis.
2. Identify Preferred Provider Organization (PPO) savings from fee schedule savings and total savings based on an estimated annual bill volume of 1060.
3. Provide your price quotation for bill review services. Your proposal should include a quote for flat fee per bill, a per line quote (explain if you will accept a maximum and minimum line charge and if you will charge for headers on each review), and a quote for percentage of savings including but not limited to reviewable bills, inpatient hospital and outpatient facility bill reviews, negotiated bills, professional surgical fees; line audit bills, duplicate bills, In addition to re-evaluation/provider inquiries, expert testimony in defense of reviews, EDI (Electronic Data Interface), and on-line access to the system.
4. Do you have a guaranteed turnaround time?
5. What is your average turnaround time of your bills for the 1st, 2nd, 3rd, and 4th quarters of 2017?
6. Provide your accuracy ratio or other basis that supports the accuracy of your bill review service.
7. Indicate if your company currently subcontracts or has subsidiaries for PPO networks. If so, please provide a list or description of the PPO networks. Additionally, please provide information on the types of PPO discounts and related charges or discounts that can be expected from such services.
8. Do you lease, own, or contract any of your bill review services or systems?
9. How often is your bill review system updated with fee schedule changes?
10. Describe how disputes by providers are resolved and include what information is sent or providers to justify your bill reductions or rejections.

11. Is your system capable of printing a user-defined explanation on the Explanation of Benefits form?
12. What review procedures do you have in place for medical bills with missing or invalid International Classification of Diseases (ICD) 9 codes and missing or invalid procedure codes?
13. Describe the mechanism for Identifying inappropriate billing patterns.
14. Describe your capabilities for tracking the twenty four-(24) visit capitation on physical therapy, chiropractic, and occupational therapy. Is it a manual or automated process? Does the TPA have the ability to override the process and, if so, how is this accomplished?
15. Describe in detail your scanning capabilities as well as internet access of reviewed bills.
16. Describe your implementation of your services with the claims administrator(s).
17. Describe your ability to interface with an automated claims system.
18. Does your system have the ability to monitor the following:
 - Unbundling
 - Upcoding
 - Assistant surgeon
 - Duplicate billing
19. Indicate the types of monthly reports that would be provided to MST. Please provide a description and attach samples of your reports.
20. Does your software program provide the following:
 - Ad hoc report capability?
 - Reports on percentage of network "hits"?
 - Comparison of billed costs, cost reduction, and net savings?
21. MST has a Medical Provider Network (MPN), please describe In detail what reports you can provide to document the MPN savings. Would there be an additional charge for this service?

22. Do you have a pharmacy program? If so, please describe your pharmacy program in detail. Do you offer a mail order and card program?
23. Do you have a diagnostic service program? If so, please describe in detail your diagnostic services including average percentage savings below fee schedule.

PART 3

**UTILIZATION REVIEW & MEDICAL
MANAGEMENT SERVICES**

A. Instructions for Preparing Written Proposals

1. State the number of years your company has provided utilization review services and medical management services to self Insured organizations, TP As. and/or insurance carriers, specifically note public entities.
2. Provide an overview of the key staff who would be assigned to the MST account. How many years of experience do the key staff people have in case management and utilization review?
3. Provide the qualifications of the proposed staff including license, certifications, number of years with the company, and experience In handling California workers' compensation injured workers.
4. Indicate the proposed nurse(s) assigned and years of experience.
5. Indicate the proposed physician(s) for peer review.
6. Describe In detail the role of the proposed Account Manager and include their qualifications.
7. Indicate what educational programs you provide for your staff.
8. Include a written statement of what distinguishes your company's approach from all the others.
9. List contact information for three (3) to five (5) current California clients, preferably public entitles whom MST may contact.

B. Scope of Services - Utilization Review

Provide answers in the order of the following:

1. How do you propose to charge for services? Provide flat fee and hourly rates including but not limited to screening by nurse case manager, set up, utilization review, inpatient certification, outpatient certification, peer review, and peer-to-peer review.
2. How will you assist the JPA with developing the written policies and procedures of the utilization review plan for filing with the administrative director of the Division of Workers' Compensation? Provide a sample of a utilization review plan.
3. Describe your utilization review system including interaction with workers' compensation TPAs, bill review vendors, medical and service providers, employers, and patients. What type of training do you provide to the TPA?
4. Frequency of visits and training of the TP A?
5. Specify what type of company personnel are assigned to conduct utilization reviews including nurses and Medical Director?
6. How many of your case managers have Certified Occupational Health Nurse (COHN) or Certified Case Manager (CCM) certifications? How many are bilingual in Spanish? Please provide resumes of designated case management staff.
7. Describe your clerical staff function and how it relates to review of a case.
8. Describe your physician peer review programs and utilization protocols.
9. Describe your process to guarantee compliance with the Utilization Review timelines set forth in the Labor code.
10. Provide samples of your reports that would be provided to employers and/or the TPA. Does this include hard and soft savings? Does it Include turn around time of reviews?
11. Describe your recommended protocol for TPA's to use to approve medical treatment requests. When

should treatment requests be sent to your firm for review?

12. Describe how your system handles requests for re considerations. What is the timeline for completion of medical reviews?
13. What tracking mechanisms do you have in place for Peer Reviews, Referrals, and Appeals?
14. Describe the mechanism for Identifying Inappropriate utilization patterns.
15. Indicate what your average turnaround time is for utilization review. How do you ensure utilization reviews are completed in accordance with the California regulations regarding utilization review?
16. What review procedure is undertaken on requests for pharmacy services?
17. What method do you use to address long-term medication requests to contain over use and costs?
18. Are you able to electronically invoice the claims administrator?
Describe any additional savings available through your organization.

C. Scope of Services • Medical Management

Provide answers in the order of the listed questions in regards to telephonic and on-site case management.

1. How do you propose to charge for services? Provide flat fee and hourly rates including but not limited to telephonic case management, field case management, and chiropractic case management.
2. Describe your medical case management services including Interaction with workers' compensation TPA's, medical and service providers, employers, and patients.
3. What type of training do you provide to the TPA?
4. How often would you visit and train with the TPA?
5. Specify what type of company personnel are assigned to provide medical case management services including nurses and a Medical Director?
6. How many of your case managers have Certified

Occupational Health Nurse (COHN) or Certified Case Manager (CCM) certifications? Please provide resumes of designated case management staff.

6. Provide samples of your reports that would be provided to employers and/or the TPA.
7. What are the specific red flags, triggers, or other criteria that you use to identify cases for telephonic and on-site case management?
8. How do you tailor these for specific client needs?
9. Describe activities and time frames for telephonic case management and on-site case management.
10. Describe the case manager's role and interaction with the injured person, the providers of medical care, the claims administrator and employer.
11. What criteria is used to establish maximum medical improvement (MMI), and return to work time frames?
12. Describe the Disability Duration tools your firm utilizes.
13. Describe the capability of your computer system to incorporate practice parameters into its system to alert the case manager to excessive or inappropriate treatments.
16. What is the hardware, software, and network architecture that you use to provide services and to interface with external sources such as MST? Are there any charges for these services? If so, please include as a separate item in your pricing.
17. What is the timeframe for interfacing with external sources with minimum customization?
18. Explain how nurse reviewers, physician reviewers, adjusters, and other parties access and input information.
19. Describe your company's standard and ad hoc reporting capabilities. Please provide samples.
20. Are you able to electronically invoice the claims administrator?

PART 4

MEDICAL PROVIDER NETWORK

MST has a Medical Provider Network (MPN) of sufficient size and scope to address the treatment needs of MST employees, while also providing adequate network controls that support consistent, quality care.

A. Instructions for Preparing Written Proposals

1. Describe in detail how the MPN will remain in compliance with the provisions of Labor Code Section 4616.
2. Detail any fees that may be associated with the MPN including but not limited to maintenance of the MPN, monitoring of the providers and amended filing of the MPN, if required.
3. How will you assist MST in promoting the MPN, providing notice to the employees regarding the MPN, and providing employees with provider information prior to and within twentyfour (24) hours of an injury?
4. Describe how you will assist employees in navigating the MPN during the dispute process and the Independent Medical Review.
5. Do you have the ability to allow additions or deletions from the network? If so, is there a charge and what is the turnaround time?
6. What type of provider profiling has been completed FOR YOUR MPNs.
7. What type of access to the network do you provide to injured workers, TPA, and MST?
8. What type of training has been provided to your contracted providers in regards to MPNs, AMA, and ACOEM?

PART 5

WORKERS' COMPENSATION LEGAL SERVICES

To perform all duties of defending MST in all matters, as directed by the Workers' Compensation Administrator, pertaining to any aspect of workers' compensation claims from file creation/review through trial.

A. Requirements:

1. Five years California workers' compensation defense for self-insured employers and related subrogation proceedings and recoveries.
2. Must have handled at least 10 trials at the Workers' Compensation Appeals Board in the last 3 years and 3 trials related to workers' compensation subrogation matters.
3. Work closely with and obtain authority from MST Director of Human Resources/Risk Management to plan strategy and conduct necessary discovery.
4. There shall be no associates used without prior approval of the Director of Human/Risk Management of the case. Only individual attorneys will be considered.

III. PROPOSAL CONTENTS

Please assure that your proposal includes all the information requested below.

Letter of Transmittal: The letter of transmittal will indicate Proposer's interest in providing the Scope of Services. Include the Proposer's name, address, telephone and facsimile numbers, e-mail address, names of principles of the firm and states in which they are registered. An authorized representative of the Proposer must sign the letter.

Services Overview: Provide a written narrative in sufficient detail to demonstrate your understanding of every aspect of the Scope of Services.

Detailed Analysis of Service Plan: Provide a detailed breakdown and description of the specific services to be provided as a result of the information described in the Scope of Services section. Proposer is urged to include in this section any innovative methods or concepts, which might be beneficial to MST.

Required Proposal Documents: To be considered responsive, the following materials must accompany any proposal submitted:

- a. Fair Employment Certification – See attachment # 1
- b. Disadvantaged Business Enterprise Certificate (if applicable) See attachment # 3
- c. Certificate of Debarment See attachment # 4
- d. Non-Collusion Certificate See attachment # 2
- e. Lobbying Certificate See attachment # 5

Proposer's Qualifications:

1. Proposer will describe the staffing that it proposes to perform the Scope of Services including, number of personnel and job titles. Provide detailed written resumes for each individual including qualifications listing educational background, training, experience, professional standing, licensure and/or certification.
2. Please provide an overview of the firm's organization and services, experience in providing similar services particularly to transit/government employers and expertise in knowledge areas called for by this RFP.

Cost: Proposer should propose a method of remuneration it views as appropriate and equitable to both parties, detailing all costs and expenses. As a minimum, Proposer's proposal must assume a five-year contract. MST prefers a flat monthly fee that includes all required program elements as set forth the in Scope of Services but it will consider other approaches with itemized charges and/or monthly cost per claim basis. Regardless of the type of fee proposal, Proposer must detail all components of its charges including, but not limited to Medical Bill Review, Utilization Review, Telephonic Case Management, Loss Control Services, etc.

For each year of the agreement indicate the following:

1. Start-up costs, if any. List component elements and charges.
2. Indicate if fees are based on a flat monthly rate or if they are itemized.
3. Whether itemized or flat monthly rate, list component element and charges.

IV. SELECTION PROCESS

This solicitation is a Request for a Competitive Proposal (RFP). A single company whose primary business is to perform workers' compensation third party administrative services will be responsible for the submission of a complete proposal. The selected company will be the contractor with MST. This may be a company providing all Scope of Services within its own organization, or a third party administrator with an agreement with a medical management firm contracted to provide medical management and/or loss control services as required by this proposal. A coalition of companies must have significant and successful prior experience working in partnership in administering a workers' compensation plan for a self-funded client of similar size.

All proposals will be reviewed and evaluated by a Selection Panel comprised of MST department managers that utilize workers' compensation services. The committee will make a recommendation for the award to the MST Board of Directors.

The Selection Panel will evaluate Proposer's proposal giving equal weight to the three principal criteria described below:

1. Qualifications of the Proposer as an entity and the individual employees of the business including:
 - a. General and specific experience and effectiveness in claims administration, medical management and loss prevention services pertaining to both workers' compensation and heart and hypertension programs for comparably sized government clients. Municipal experience in the state of Connecticut is desired but not required.
 - b. Demonstrated expertise on the part of personnel assigned to service the account including education and professional credentials of the Proposer's staff.
 - c. Knowledge of the State of California Workers' Compensation Act and business insurance policies and practices.
 - d. Reputation based on references, with emphasis on transit/government clients.
2. Methodology and approach to performing the Scope of Services including,
 - a. Responsiveness to and demonstrated understanding of Scope of Services,
 - b. The insightfulness, added value, resources and technology which the Proposer's approach brings to the Requested Services so as to support MST's objectives of providing excellence and achieving savings in all components of the workers' compensation function.

- c. Commitment to achieving excellence in customer service on the part of representatives who deal directly with our employees and to staff members who deal with MST benefits personnel.

3. Fee proposal relative to best value for services provided.

While a strong consideration, cost is not the sole factor in choosing a Proposer. The selected Proposer will be the one MST deems best suited to meet all of its needs.

MST may conduct such investigation as it deems necessary to determine the ability of the Proposer to perform the work, including, but not limited to conducting personal interviews and reference checks or requiring presentations of any and all Proposers prior to selection.

The new plan will become effective no later than December 1, 2018. It is anticipated that the agreement will be scheduled to lapse on November 30, 2021, with an option for MST to extend the agreement for up to an additional two years.

V. PROPOSAL SUBMISSION

A complete submittal will consist of one (1) signed original and three (3) copies of the proposal documents. All submittals must be received at the reception desk of MST's office at the address provided below no later than 5:00 p.m. on October 12, 2018. PROPOSALS RECEIVED AFTER THAT EXACT TIME AND DATE WILL NOT BE CONSIDERED. Late proposals will be returned to sender unopened. Proposal packages must be sealed and marked as follows:

"RFP # 19-07 for Workers' Compensation Managed Care Services"
send proposals to:

Monterey-Salinas Transit
Purchasing and Manager
19 Upper Ragsdale Drive, Suite 200
Monterey, CA 93940

CLARIFICATION OF SPECIFICATION DOCUMENTS

Proposer shall promptly notify the Purchasing Manager of any ambiguity, inconsistency or error that Proposer may discover upon examination of the bid specifications and documents.

Proposer's desire for clarification or interpretation of the bid specifications shall be in the form of a written request to the Purchasing Manager, which must be received at least seven (7) calendar days prior to the date and time for receipt of bids.

Interpretations, corrections and changes made to the bid specifications will be made by written addenda.

Oral interpretations or changes to the bid specifications made in any manner other than written addenda will not be binding on MST and Proposers may not rely upon such unofficial interpretations or changes.

Proposer shall clearly mark each page of its proposal that contains trade secrets or other confidential commercial or financial information that the proposer believes should not be disclosed outside of MST. No part of any proposal will be disclosed outside of MST prior to contract award. All documents submitted as part of the proposal become property of MST.

VI. SPECIAL PROVISIONS

COORDINATION OF TERMS AND CONDITIONS

The General and Standard Terms and Conditions, Scope of Services and Special Provisions are intended to be complementary and to describe and provide for complete work. In the event that there are inconsistencies or discrepancies between provisions contained in these components of the contract documents, the Scope of Services and Special Provisions shall govern over the General and Standard Terms and Conditions.

For clarification of the specifications, contact:

Monterey-Salinas Transit
Purchasing Manager
19 Upper Ragsdale, Suite 200
Monterey, CA 93940
Phone: (831) 264-5884
E-mail: samorim@mst.org

PROPOSAL PREPARATION: Proposals and other materials submitted will become the property of MST. Compensation will not be made to firms for preparation, interviews, or other costs, nor does this commit MST to enter into contracts.

FORM OF PROPOSALS: All proposals shall remain in effect for ninety (90) days from opening. MST reserves the right to postpone opening for its own convenience, and to reject any and all proposals.

Conditional proposals, or proposals which take exception to the Scope of Services, may be considered non-responsive and may be rejected.

Oral or facsimile proposals will not be considered. One (1) original and three (3) copies must be submitted.

LENGTH OF CONTRACT: The contract period of performance will be for up to (5) five years. The fees for the first three years will be a firm fixed price. The fees for the two one-year option years shall also be firm fixed prices, and MST has the right to exercise or not to exercise the option years. A fee listing, by year, must be provided with the proposal for the five years of this proposed contract.

DISADVANTAGED BUSINESS ENTERPRISES: MST hereby notifies all Proposers that recipients of Federal financial assistance from the Department of Transportation, Federal Transit Administration, is committed to and has adopted a Disadvantaged (Minority/Women) Business Enterprise (DBE) Policy, in accordance with federal regulations issued by the Department of Transportation. See attachment # 3

This DBE Policy provides that DBE's will be afforded every practicable opportunity to submit proposals and to participate in the performance of all Contracting activities.

There is no DBE Goal for this Contract.

INSURANCE REQUIREMENTS: The Proposer shall, at its own expense, procure and maintain in full force and effect during the entire term of this contract, a comprehensive General Liability Insurance policy or policies in protection of MST and all MST employees, with a company or companies approved by the General Manager/CEO of MST and in a form satisfactory to the General Manager/CEO of MST, covering any loss or liability for bodily injury, death, or property damage which may arise out of operations of the Proposer in connection with the performance of this contract. The policy or policies shall provide a minimum combined single limit of two million dollars (\$2,000,000) per occurrence for bodily injury, death, or property damage. The policy or policies shall include, but not be limited to liability arising from operation of all vehicles, licensed or unlicensed, whether or not owned by Proposer, on or off MST premises. Each such policy shall name MST as Additional Insured. Each such policy shall also stipulate the following:

- a. That the policy is primary insurance and the insurance company(ies) providing such policy shall be liable there under for the full amount of any loss or claim up to and including the total limit of liability, without right of contribution from any insurance effected by MST on its own behalf.
- b. That thirty (30) days advance written notice shall be given to the General Manager/CEO of MST prior to cancellation, material change, or expiration of the policy(ies).
- c. Nothing contained herein shall prohibit Proposer from maintaining deductibles or self-insured retention's under its General Liability insurance Policy up to an in excess of the limits specified.

Worker' Compensation-The Proposer shall procure and maintain in full force and effect during the entire term of this contract Worker's Compensation Insurance in compliance with the laws of the State of California, for all its employees who come within the protection of those laws.

Insurance Certificates-Certificates of Insurance or certified copies of the insurance policies shall be delivered to MST within fourteen days of the signed contract.

VII. GENERAL TERMS AND CONDITIONS

PROPOSAL ACCEPTANCE PERIOD: Proposals are valid for a period of ninety (90) days after opening.

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

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

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

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

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

FAIR EMPLOYMENT PRACTICES: All proposers must certify compliance with the requirements of the California Fair Employment Practices Act by properly executing the form entitled "Fair Employment Practices Certificate" See attachment # 1 of this document.

CONTRACT: Proposer signed proposal and written acceptance by MST shall constitute a Contract.

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

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

WAIVER: The proposer shall represent and warrant that it has sufficiently informed itself in all matters affecting the performance of the work called for in the scope of this proposal; that it has check its proposal for errors and omissions; that the prices stated in

its proposal are correct and as intended by it and are a complete and correct statement of its prices for performing the work required by the Contract documents.

COMPLIANCE WITH LAWS: All proposals shall comply with current federal, state, and other laws.

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

EFFECT OF EXTENSION OF TIME: Granting, or acceptance, of extensions of time to complete the work or furnish the labor, supplies, materials, or equipment, will not operate as a release to Contractor.

CHANGES BY CONTRACTOR: If the Contractor, on account of conditions developing during the performance of the Contract, finds it impracticable to comply strictly with the requirements of this proposal, an application for modification of requirements must be made in writing. MST may authorize, in writing, if not detrimental to MST and if any cost associated with change is acceptable.

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

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

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

DAMAGES: All loss or damage arising from any unforeseen obstruction or difficulties, either natural or artificial, during the performance of this Contract, on the part of the Contractor or any agent or person employed by it, shall be sustained by the Contractor.

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

INDEMNIFICATION: The Contractor 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 the Contractor, whether or not it shall be claimed that the injury was caused through a negligent act or omission of the Contractor or its employees. The Contractor shall, at its own expense, 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, the Contractor shall at its own expense satisfy and discharge the action.

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

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

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

ATTORNEY'S FEES: In the event that it becomes necessary for either party to bring a lawsuit to interpret or enforce any provisions of the Contract or seeks damages for any alleged breach hereof, the prevailing party in such action shall be entitled to reasonable attorneys' fees in addition to all other recoverable damages and costs.

WAGE AND PRICE REGULATIONS: If the Federal Government should reinstate wage-price regulations, which are applicable to this Contract, the Contractor shall comply with the provisions of such laws and regulations.

DOCUMENTS DEEMED PART OF THE CONTRACT: The Contract will include a Contract signature sheet together with any Attachments and any Exhibits, all of which are incorporated into the contract and shall be construed together to form the contract between the two parties. This will include RFP # 19-07 and its salient sections as listed below:

- Scope of Services
- Special Provisions
- General Terms and Conditions
- Standard Terms and Conditions
- Proposal, as submitted by Contractor
- Addenda, if any
- Required Certifications/Forms

VIII. STANDARD TERMS AND CONDITIONS

1. FTA FUNDING REQUIREMENT

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

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

2. FEDERAL CHANGES

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

3. MAINTENANCE, AUDIT AND INSPECTION OF RECORDS

The Contractor shall permit the authorized representatives of MST, the United States Department of Transportation and the Comptroller General of the United States to inspect, audit, make copies and transcriptions of all work, materials, payrolls and other data and records of the Contractor relating to its performance

under the Contract. The Contractor shall maintain all such records for a period of three (3) years after MST makes final payment under this Contract.

4. DISADVANTAGED BUSINESS ENTERPRISES

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is **1.5 %**.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor 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. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from MST. In addition, **[the contractor may not hold retainage from its subcontractors.] [is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.] [is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by MST and contractor's receipt of the partial retainage payment related to the subcontractor's work.]**

e. The contractor must promptly notify **MST**, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of **MST**.

5. TITLE VI COMPLIANCE

1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal

Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

6. ENERGY CONSERVATION REQUIREMENTS

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

7. ENVIRONMENTAL REQUIREMENTS

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

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

8. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

The Contractor shall submit with proposal, documentation showing that neither the Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. For this purpose, the Contractor must complete and execute the form entitled "Certification Regarding Debarment, Suspension, and Other Responsibility Matters," See attachment # 4 of this document. Contractor also agrees to include this provision in any

subcontract exceeding \$25,000 and forward the certification to MST with the proposal.

9. NON-COLLUSION AFFIDAVIT

Proposer will be required to submit with their proposal a Non-Collusion Affidavit. See attachment # 2 of this document for this Affidavit.

10. PENALTY FOR COLLUSION

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

11. RESTRICTIONS ON LOBBYING

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

Each proposer is required to review the above referenced regulations and complete and submit a Certification of Compliance with Federal Lobbying Regulations see attachment # 5 of this document. Pursuant to federal regulations, the proposer is required to have all subcontractors (at any tier) providing more than \$25,000 towards the Contract also complete with this Certification, to be included with the proposal.

12. TERMINATION

12.1 Termination for Convenience

MST may terminate this Contract, in whole or in part, at any time by written notice to the Contractor when it is in MST's best interest. The Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor

shall promptly submit its termination claim to MST to be paid. If the Contractor has any property in its possession belonging to MST, the Contractor will account for the same, and dispose of it in the manner MST directs.

12.2 Termination for Default/Breach

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

12.3 Termination for Force Majeure

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

12.4 Opportunity to Cure

MST in its sole discretion may, in the case of a termination for breach or default, allow the Contractor within ten (10) calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to MST's satisfaction the breach or default, within ten (10) calendar days after receipt by Contractor of written notice from MST, MST shall have the right to terminate the Contract without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude MST from also pursuing all available remedies against Contractor and its sureties for said breach or default.

12.5 Waiver of Remedies for any Breach

In the event that MST elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver

by MST shall not limit MST's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

13. DISPUTE RESOLUTION

Disputes arising in the performance of this Contract, which are not resolved by agreement of the parties, shall be decided in writing by the General Manager/CEO of MST. This decision shall be final and conclusive unless within ten (10) calendar days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the General Manager/CEO. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the General Manager/CEO shall be binding upon the Contractor and the Contractor shall abide by the decision. Unless otherwise directed by MST, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

14. PROTEST PROCEDURES

14.1 General Procedures

- a. Any proposer or Contractor whose direct economic interest would be affected by the award of the Contract or the failure to award the Contract may file a protest, claim or dispute with MST pursuant to these protest procedures prior to filing any protest, claim or dispute with the FTA.
- b. Protests, claims or disputes, where applicable, shall be in writing and filed with MST directed to the General Manager/CEO, 19 Upper Ragsdale, Suite 200, Monterey, CA 93940. FAILURE TO COMPLY WITH ANY OF THE REQUIREMENTS MAY RESULT IN REJECTION OF THE PROTEST.

14.2 Protest Before Proposal Opening

Protests shall be submitted in writing prior to the opening of proposals, unless the aggrieved person did not know and could not have known of the facts giving rise to such protest prior to the opening. In that case, the protest shall be submitted within five (5) calendar days after such aggrieved person knows or should have known of the facts giving rise to the protest. The protest shall clearly identify:

- a. The name, address, and telephone number of the protester
- b. The grounds for the protest, any and all documentation to support the protest and the relief sought
- c. Steps that have been taken to date in an attempt to correct the alleged problem or concern.

14.3 Protest After Award

- a. Any individual or entity may file a protest with MST alleging a violation of applicable federal, state law and/or MST policy or procedure relative to seeking, evaluating and/or awarding procurement Contract. In addition, any individual or entity may file a protest with MST alleging that MST has failed to follow its Procurement Protest Procedures. Such protest must be filed no later than five (5) calendar days from the notice of award or non-award of the procurement Contract.
- b. A protest, dispute, or claim with respect to the award of a Contract through solicitation of proposals shall be submitted in writing within five (5) days of notification of such award to the General Manager/CEO for a decision. All claims shall clearly identify:
 1. The name, address, and telephone number of the protester
 2. The grounds for the protest, any and all documentation to support the protest and the relief sought
 3. Steps that have been taken to date in an attempt to correct the alleged problem or concern.

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

c. FTA Protest Procedures

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

FTA will only review protest submitted by an intercede party as defined in FTA 4220.1D. FTA's decision on any appeal will be final.

IX. FORMS AND CERTIFICATIONS

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

Contact by mail, Telephone or Fax MST's Purchasing Manager, for the appropriate forms, if the Proposer is or wants to qualify as DBE.

19 Upper Ragsdale Drive, Suite 200
Monterey, California 93940
Telephone (831) 264-5884
Fax (831) 899-3954

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

ATTACHMENT # 1

FAIR EMPLOYMENT PRACTICES CERTIFICATE

In connection with the performance of work under this contract, the Contractor agrees as follows:

1. The Contractor will not willfully discriminate against any employee or applicant for employment because of race, color, religious creed, ancestry, national origin, sex, marital status, physical handicap or medical condition, as defined in Government Code Section 12926. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, sex, physical handicap, or medical condition as defined in Government Code Section 12926. Such action shall include but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this Fair Employment Practices section.
2. The Contractor will send to each labor union or representative of worker with which he has a collective bargaining agreement or other contract or understanding, a notice, advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
3. The Contractor will permit access to his records of employment, employment advertisements, application forms, and other pertinent data records by the Fair Employment and Housing Commission, the awarding authority or any other appropriate agency of the State of California designated by the awarding authority for the purposes of investigation to ascertain compliance with the Fair Employment Practices section of this contract.
4. A finding of willful violation of the Fair Employment Practices section of this contract or of the Fair Employment and Housing Act, Government Code Sections 12900 et. seq., shall be regarded by the awarding authority as a basis for determining the Contractor to be not a "responsible Proposer" as to future contracts for which such Contractor may submit bids, for revoking the Contractor's prequalification rating, if any, and for refusing to establish, re-establish or renew a prequalification rating for the Contractor.

The awarding authority shall deem a finding of willful violation of the Fair Employment and Housing Act to have occurred upon receipt of written notice from the Fair Employment and Housing Commission that it has investigated and determined that the Contractor has violated the Fair Employment and Housing Act and has issued an

order under Government Code Section 12970 or obtained an injunction under Government Code Section 12973.

Upon receipt of such written or notice from the Department of Fair Employment and Housing, the awarding authority shall notify the Contractor that unless he demonstrates to the satisfaction of the awarding authority within a stated period that the violation has been corrected, his pre-qualification rating will be revoked at the expiration of such period.

5. The Contractor agrees, that should the awarding authority determine that the contractor has not complied with the Fair Employment Practices section of this contract, then pursuant to Labor Code Sections 1735 and 1775, the contractor shall, as a penalty to the awarding authority, forfeit for each calendar day or portion thereof for each person who was denied employment as a result of such noncompliance, the penalties provided in the Labor Code for violation of prevailing wage rates. Such monies may be recovered from the Contractor. The awarding authority may deduct any such damages from any monies due the Contractor.

6. Nothing contained in this Fair Employment Practices section shall be construed in any manner or fashion so as to prevent the awarding authority from pursuing any other remedies that may be available at law.

7. The Contractor will include the provisions of the foregoing paragraphs 1 through 6 in every first tier subcontract, if any, so that such provisions will be binding upon each such subcontractor.

8. Statements and Payrolls. The Contractor shall maintain his records in conformance with the requirements in the Specifications and the following provisions:

- a. The submissions by the Contractor of payrolls, or copies thereof, is not required. However, each Contractor and subcontractor shall preserve his weekly payroll records for a period of three years from the date of completion of this contract.
- b. The payroll records shall contain the name, address and social security number of each employee, his correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made and actual wages paid.
- c. The Contractor shall make his payroll records available at the project site for inspection by MST and shall permit MST to interview employees during working hours on the job.

The following certification is to be executed by every Proposer and enclosed and forwarded in a sealed envelope containing the bid. The person signing the certification shall state his address and official capacity.

Please sign on the next page

ATTACHMENT # 1 continued

FAIR EMPLOYMENT PRACTICES CERTIFICATION

The undersigned, in submitting a proposal for performing the following work by contract, hereby certifies that the Proposer will meet the above standards of affirmative compliance with the Fair Employment and Housing Act, Government Code Sections 12900, et seq.

Company

Address

City/State/Zip Code

Signature

Printed Name/Title

ATTACHMENT # 2

AFFIDAVIT AND INFORMATION REQUIRED OF PROPOSERS

AFFIDAVIT OF NON-COLLUSION

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

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

SIGNED _____

FIRM
NAME _____

Subscribed and sworn to before me this _____ day of _____, 20 _____

Notary Public

My commission expires _____, 20 _____

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

ATTACHMENT # 3

Disadvantage Business Enterprise

If you desire to qualify for Disadvantage Business Enterprise (DBE) status the web address for California Unified Certification Program (UCP) is:
<http://www.dot.ca.gov/hq/bep/ucp.htm>

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

AFFIDAVIT FOR DISADVANTAGED BUSINESS ENTERPRISE

STATE OF _____:

COUNTY OF _____(CITY) OF
_____:

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

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

_____(AFFIANT)_____(DATE)

STATE OF _____:

COUNTY (CITY) OF _____:

On this _____ day of _____, 20____,

ATTACHMENT # 4

**CERTIFICATION OF PRIMARY CONTRACTOR IN REGARDS TO DEBARMENT,
SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

The _____ certifies to the best of its knowledge and belief, that name of Proposer and its principals:

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

If the above named primary contractor is unable to certify to any of the statements in this certification, the primary contractor shall attach an explanation to this certification.

The primary contractor, _____, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provision of 31 USC Section 3801 et. seq. are applicable hereto.

Signature and Title of Authorized Official

The undersigned chief legal counsel for the _____ hereby certifies that the _____ has authority under State and (name of Proposer) local law to comply with the subject assurances and that the certification above has been legally made.

Signature and Title of Legal Counsel

Date _____

ATTACHMENT # 5

CERTIFICATION REGARDING LOBBYING

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*.)]

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

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

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

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

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized
Official

Date _____

X. DRAFT CONTRACT

DO NOT EXECUTE SAMPLE ONLY

Project: WORKERS COMPENSATION CLAIMS ADMINISTRATION

Bid No: RFP number 19-07

Amount of Contract: \$ _____

THIS CONTRACT, made this (day of month) day of (month), (year), by and between the Monterey-Salinas Transit, hereinafter referred to as "MST" and (Name of Contractor), hereinafter referred to as "Contractor",

A. MST has caused specifications, and other contract documents, hereinafter referred to as "Specifications", to be prepared for certain work on the referenced project; and this will include, the RFP # 19-07 and its salient sections as listed below:

- Scope of Services
- Special Provisions
- General Terms and Conditions
- Standard Terms and Conditions
- Proposal, as submitted by Contractor
- Addenda, if any
- Required Certifications/Forms

B. Specifications include:

- 1 - Legal and Procedural Documents
- 2 – Request For Proposals
- 3 – Detailed Specifications and or Scope of Services
- 4 – Instructions To Proposer
- 5 – General Terms and Conditions
- 6 – Standard Terms and Conditions
- 7 – Required Certifications/Forms, Attachments numbers 1 through 5
- 8 – Addenda, IF ANY
- 9 – Worker's Compensation Insurance Certificate
- 10 – Proposer's Nondiscriminatory Employment Certificate
- 11 – Proposal, as submitted by Contractor

C. Contractor has offered to perform the proposed work/service in accordance with the terms of said Specifications as set forth by submission of the Contractor's Proposal.

In consideration of the mutual covenants and agreements of the parties contained in said Specifications and Contractor's Proposal, which are made a part hereof as though fully set forth, Contractor hereby agrees to complete the work at the prices and on the terms and conditions therein contained, and MST hereby employs the Contractor and agrees to pay the Contractor the contract prices therein provided for the fulfillment of the work and the performance of the covenants therein set forth.

CONTRACT TERM

A. This contract has been executed on the day and year first above written. The contract period of performance will be for up to (5) five years. Fees for the first three years will be a firm fixed price. The fees for the fourth and fifth, one (1) year option years shall also be firm fixed prices, and MST has the right to exercise or not to exercise the option years. A fee listing, by year, must be provided with the proposal for the five years of this proposed contract.

TERMINATION

A Termination for Convenience

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

B. Termination for Default/Breach

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

C. Termination for Force Majeure

MST may terminate this Contract upon written notice from the Contractor for unforeseen causes beyond the control and without the fault or

negligence of the Contractor. Such causes are those of acts of God, acts of the public enemy, governmental acts, fires and epidemics whose causes irrecoverably disrupt or render impossible the Contractor's performance. An "act of God" shall mean an earthquake, flood, cyclone, or other cataclysmic phenomenon of nature beyond the power of the Contractor to foresee or make preparation in defense against.

D. Opportunity to Cure

MST in its sole discretion may, in the case of a termination for breach or default, allow the Contractor within ten (10) calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to MST's satisfaction the breach or default, within ten (10) calendar days after receipt by Contractor of written notice from MST, MST shall have the right to terminate the Contract without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude MST from also pursuing all available remedies against Contractor and its sureties for said breach or default.

E. Waiver of Remedies for any Breach

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

ATTORNEY'S FEES

In the event that it becomes necessary for either party to bring a lawsuit to interpret or enforce any provisions of the Contract or seeks damages for any alleged breach hereof, the prevailing party in such action shall be entitled to reasonable attorneys' fees in addition to all other recoverable damages and costs.

LAWS GOVERNING CONTRACT

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

AUTHENTICATION:

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

MONTEREY-SALINAS TRANSIT

NAME OF CONTRACTOR

By: _____

By: _____

Carl G. Sedoryk
General Manager/CEO

Name
Title

Dated: _____

Dated: _____