Invitation for Bid

IFB # 13-07

Bus Rapid Transit Signal Priority Components

The schedule for this project is as follows:

- Issue of the IFB: November 16, 2012
- Proposer Questions/Clarifications due: November 29, 2012 by 5:00 pm
- MST responds to Questions/Clarifications: November 30, 2012
- Proposals due: December 10, 2012 by 2:30 pm
- IFB Opening: December 10, 2012 at 2:31 pm
- Notice of Award: December 17, 2012
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SECTION 1
SCOPE OF WORK
FOR PROCUREMENT OF TRANSIT BUS SHELTERS

Monterey-Salinas Transit (MST) is requesting bids from suppliers of traffic signal priority (TSP) hardware and software systems that will be installed on specified buses, and traffic intersections by a third party.

1.0 CONTRACTOR REQUIREMENTS

1.1 The functional components of the Global Positioning System (GPS) equipment for providing Traffic Signal Priority (TSP) are primarily confined to two locations: the transit vehicle and the traffic signal controller cabinet.

1.2 From these locations, the various components shall work interactively to identify the position of the transit vehicle, the direction of movement of that vehicle, the traffic signal next encountered by that vehicle, and determine an estimated time of arrival (ETA) at that intersection for the vehicle. The system will need to interface with the current MST current version of the Trapeze Group Transit Master (TM) AVL Build 19, version 19.0.12.2 and above. It must also be able to interface with any AVL system that may be purchased by MST at a later date. The functional specifications of the GPS TSP are provided below.

1.3 Vendor to provide GPS equipment for use on 9 MST buses and in the traffic signal controller cabinets at 33 intersections throughout the defined route. Traffic Signal controller cabinets are NEMA Type ‘P’ with Eagle M-50 Controllers and SEAPAC Firmware.

2.0 TECHNICAL SPECIFICATIONS

2.1 GENERAL

2.1 GPS receiver “Spread Spectrum” transceiver, broadcasting in a public or otherwise unlicensed or freely licensed bandwidth, communicating interactively with corresponding transceivers in Caltrans/local city jurisdictions maintained traffic signal controller cabinets generating sufficient signal strength to provide 95% error-free message detection at 2500-foot distance

2.2 Combination antenna housing for the GPS receiver and spread spectrum transceiver antennas with not less than 10’ of cabling to be mounted on the vehicle roof
2.3 Equipment to operate on 24 vdc, and draw no more than 3 amps

2.4 Equipment to operate on switched power, and to be fully functional 2 minutes after activation

2.5 Firmware and other software as appropriate for the operation of procured equipment; firmware and operating software to be maintained as the most current version available for the hardware configuration

2.6 Except for antenna and wiring, all equipment mounted in the vehicle must occupy, in total, space not to exceed 8" in depth, 10" in width and 5" in height

2.7 The GPS equipment on-board buses shall not require any operator action for TSP functionality to be operable.

2.8 Data processing and storage unit evaluating vehicle position, heading and speed, including the capability of identifying—individually or cooperatively with vendor provided equipment rack mounted in the buses—approaching buses with vehicle telemetry, communicating with Caltrans/local city jurisdictions installed traffic signal controllers and identifying through calculated ETA and/or vehicle location the instant the controller begins to process a TSP request and subsequent clearance of the intersection

2.9 Firmware and other software as appropriate for the operation of procured equipment; firmware and operating software to be maintained as the most current version available for the hardware configuration

2.10 Each selected module shall have up to 2 boards and occupy slots J12 and J13 or use a standalone cabinet.

2.11 The procured GPS equipment in the traffic signal controller cabinet must output a signal recognized by the traffic signal controller as a request for TSP.

2.12 Subject to settings based on field conditions, the detection range shall be nominally 1000 feet from the intersection limit line for buses; however, the detection range for the GPS equipment shall be at least 2500 feet from the intersection limit line

2.13 Vendor shall also provide the following:
   - Unrestricted warranty of parts and labor and of not less than one year
   - Unlimited phone technical support for no less than two years
   - Software and firmware upgrades for no less than five years

2.14 On delivery, all wiring connections shall be either hardwired to the respective unit or terminated in a pre-installed connector
2.15 On delivery, a manual shall be provided in a commonly available printable and reproducible electronic format reflecting the “as built” specifications and operating procedures of the equipment.

SPECIAL CONDITIONS OF THE SCOPE OF WORK AS IT WILL PERTAIN TO THE CONTRACT IF ONE IS AWARDED

4. BASIC SCOPE OF WORK

4.1 Basic Scope of Work

Contractor shall, without limitation, furnish all necessary equipment in accordance with the Scope of Work section of the Invitation for Bids, dated November 16, 2012.

5. BUY AMERICA CERTIFICATE

Contractor shall comply with the requirements of Section 165(a) of the Surface Transportation Assistance Act of 1982 and the applicable regulations in 49 Code of Federal Register Part 661. As evidence of Contractor’s knowledge and understanding and certification of intention of compliance, Contractor has executed a Buy America Certificate, which is included as part of the "Bid Packet" and incorporated herein by reference. If Contractor needs steel and manufactured products for its performance under the provisions of the Contract, Contractor shall only use steel and manufactured products that were produced in the United States.

6. STATE CONTRACT PROVISIONS

6.1 In the performance of work under these provisions, Contractor and its subcontractors will not discriminate against any employee or applicant for employment
because of race, religious creed, medical condition, color, marital status, ancestry, sex, age, national origin, or physical handicap (Government Code Section 12940 et seq.). Contractor and all its subcontractors will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religious creed, medical condition, color, marital status, ancestry, sex, age, national origin, or physical handicap. 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. Contractor and its subcontractors shall post in conspicuous places, available to employees and applicants for employment, notice to be provided by STATE setting for the provisions of this section.

6.2 Contractor and its subcontractors will permit access to all records of employment, employment advertisements, application forms, and other pertinent data and records by the State Fair Employment Practices and Housing Commission, or any other agency of the State of California designated by STATE, for the purpose of investigation to ascertain compliance with Section 1 of this Article.

6.3 Contractor shall establish and maintain an accounting system and records that properly accumulate and segregate incurred costs by line item for the project. Contractor's accounting system shall conform to generally accepted accounting principles (GAAP), enable to determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices. All accounting records and other supporting papers of Contractor connected with performance under this Agreement shall be maintained for a minimum of three years from the date of final payment to MST under these provisions and shall be held open to inspection and audit by representatives of STATE and the Auditor General of the State and copies thereof will be furnished upon request.

6.4 Contractor agrees that contract cost principles at least as restrictive as 48 CFR, Federal Acquisition Regulation System, Chapter 1 Part 31, shall be used to determine the allow ability of individual items of costs. Contractor also agrees to comply with Federal procedures as set forth in 49 CFR, Part 18, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

6.5 For the purpose of determining compliance with Public Contract Code Section 10115, et seq., Military and Veterans Code Sections 999 et seq. and Title 2, California Code of Regulations, Section 1896.60 et seq., when applicable, and other matters connected with the performance of MST's contracts with third parties pursuant to Government code Section 10532, Contractors and subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including but not limited to, the costs of administering the various contracts. Contractor and its subcontractors shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under such contract. STATE, the State Auditor General, the Federal Highway Administration, or any duly authorized
representative of the Federal Government shall have access to any books, records and
documents that are pertinent to the Agreement for audits, examinations, excerpts, and
transactions and copies thereof shall be furnished if requested.
SECTION 2

BID FORM

Please complete the Bid Form below:

The undersigned ("Bidder"), upon acceptance by MST, agrees to furnish all materials in accordance with the Invitation for Bids.

The below quantities are estimates only and are given as a basis for comparison of bids.

Any bid may be rejected if it is unreasonable as to price. Unreasonableness of price includes not only the total price of the bid, but also prices for individual line items.

In case of a discrepancy between the unit price and the total set forth for a unit basis item, the unit price shall prevail.

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Unit</th>
<th>Unit Price</th>
<th>Quantity</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1.</td>
<td>Traffic Control System</td>
<td>LS</td>
<td></td>
<td>1</td>
<td></td>
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<tr>
<td>2.</td>
<td>FURNISH TSP Detector</td>
<td>EA</td>
<td></td>
<td>35</td>
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<td>3.</td>
<td>FURNISH New Phase Selector</td>
<td>EA</td>
<td></td>
<td>10</td>
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<td>4.</td>
<td>FURNISH 3-sec Transit Vehicle Head</td>
<td>EA</td>
<td></td>
<td>11</td>
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<td>5.</td>
<td>FURNISH TSP/QJ Firmware and Program Controller</td>
<td>EA</td>
<td></td>
<td>35</td>
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<tr>
<td>6.</td>
<td>FURNISH AND DELIVER TSP Firmware and hardware</td>
<td>EA</td>
<td></td>
<td>35</td>
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<td>7.</td>
<td>Central Signal Server TSP and reporting software</td>
<td>EA</td>
<td></td>
<td>2</td>
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<td>8.</td>
<td>FURNISH TSP/QJ Operations Plan</td>
<td>LS</td>
<td></td>
<td>1</td>
<td></td>
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<td>9.</td>
<td>INSTALL AND TEST TSP/QJ Test Units</td>
<td>LS</td>
<td></td>
<td>1</td>
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<td>TRAINING</td>
<td>LS</td>
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GRAND TOTAL : _________________

NOTE: This contract will be awarded on the basis of the Grand Total Bid Price.
Same pricing for all of the Equipment will be available to MST, other local cities as well as the County of Monterey for a period of 24 months after the initial project has been completed, with an allowable adjustment for any documented increase in component cost.

Bidder has full power and authority to submit bid on bid form, enter into and perform the work described in the Invitation for Bids on behalf of the company noted below.

Company Name

Indicate:

☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☐ Joint Venture with

Street Address

City, State, Zip Code

Signature of authorized company official

Typewritten name of above

Title of authorized company official

Telephone   Fax Number   E-mail Address

Date   Federal Tax ID No.
SECTION 3

INSTRUCTIONS TO BIDDERS

1. BID PROCEDURE

GENERAL UNDERSTANDING: The successful bidder obligates him/herself to provide any or all of the bid items at the bid price. MST reserves the right to award bid items separately, to multiple vendors, or as a package to a single vendor. MST may accept or reject the bid items at its discretion. **Award of the bid will be based on the grand total provided for the Unit Items.**

By submitting a bid, bidder certifies that it has examined and is fully familiar with all terms and conditions of this Invitation for Bids and any addenda issued by MST. Bidder unconditionally submits this bid in strict accordance with said Invitation for Bids. Bidder has carefully checked all words and figures shown on this Bid Form and has carefully reviewed the accuracy of all documents, representations, manufacturer’s literature, and statements submitted with this bid.

Bidder understands that this bid constitutes a firm offer to MST that cannot be withdrawn for ninety (90) calendar days from the date of bid opening. If awarded the contract, bidder agrees to deliver to MST executed copies of the final contract and required insurance certificates within ten (10) calendar days of the date of MST Notice of Award. Said Notice of Award shall be deemed duly given to Bidder upon delivery if delivered by hand, or three (3) calendar days after posting if sent by mail to Bidder's address.

Bidder understands that no partial, conditional or qualified bids shall be accepted for any bid item. Bidder further understands the right of MST Board of Directors to accept or reject any or all bids received for any reason. MST reserves the right to waive minor irregularities.

Any proposed deviation from any item in the IFB specifications has been delineated and noted on a separate attachment included with the bid. Bidder represents that the work bid meets the specifications in all respects unless clearly noted to the contrary in the bid submittal.

2. AWARD

MST reserves the right to postpone the bid opening or to withdraw this invitation at any time without prior notice. Further, MST makes no representations that an agreement will be awarded to any BIDDER responding to this invitation. MST expressly reserves the right to reject any and all bids responding to this invitation without indicating any reasons for such rejection(s).
MST also reserves the right to award its total requirements to one BIDDER, or to apportion those requirements among several BIDDERS, as MST may deem to be in its best interests.

MST reserves the right to make award within ninety (90) calendar days from the date bids are opened. Should award in whole or in part be delayed beyond the period of ninety (90) days, such award shall be conditioned upon successful BIDDER's acceptance.

Award will be made to the lowest responsible and responsive qualified BIDDER.

Final contract award to any bidder requires prior written approval by the state.

TO BE CONSIDERED "RESPONSIVE" A COMPLETE BID PACKET WILL INCLUDE THE FOLLOWING DOCUMENTS:

1) Completed signed Bid Form
2) Bidder executed Buy America Certificate. See Certification form Section 8
3) Bidder executed Debarment and Suspension Certificate. See Certification form Section 8
4) Bidder executed Restrictions on Lobbying Certificate. See Certification form Section 8
5) Bidder executed Fair Employment Practices Certificate. See Certification form Section 8
6) Bidder executed Affidavit of Non-Collusion. See Statement of Affidavit form Section 8
7) If applicable a copy of Contractor Disadvantaged Business Enterprise Certificate issued by the state of California. See Section 8
8) Bidder acknowledges receipt of the following addenda to the Invitation for Bids. If any were issued. All cost adjustments or other requirements resulting from said addenda have been taken into consideration by the bidder and included in the bid.

Bidder understands that bids shall be placed in a sealed envelope marked as indicated below and delivered to the Purchasing Manager prior to the time of bid opening. Bids postmarked before bid opening but delivered afterward shall be rejected.
"Bus Rapid Transit Signal Priority Components"
Bid Opening December 10, 2012 at 2:31 p.m.

CONTENTS: This Invitation for Bids (IFB) includes the (1) Scope of Work, (2) Bid Form, (3) Instructions to Bidders, (4) General Conditions of the Contract, (5) Contract, (6) FTA Requirements for Construction Contracts, (7) Formal Protest Procedures and (8) Certificates and Forms. The final Contract with the Successful Bidder will be in the form and substance of the Contract (Section 5) included in the IFB.

SUBMISSION OF BID: Prior to the date and time of bid opening, all bids shall be delivered to the Purchasing Manager of MST at One Ryan Ranch Road, Monterey, CA 93940. All bids shall be in a sealed envelope properly endorsed as to name and opening date. No bids received after said time or at any place other than the place as stated in the Notice and Invitation to Bidders will be considered. For example, bids postmarked before bid opening but received after shall be rejected. Telephone or electronic bids will not be accepted.

BIDDER RESPONSIBILITY: MST has made every attempt to provide all information needed by bidders for a thorough understanding of project terms, conditions and other requirements. It is expressly understood that it is Bidder's responsibility to examine and evaluate the work required under this Invitation for Bids (IFB) and the terms and conditions under which the work is performed. By submitting a bid, Bidder represents that it has investigated and agrees to all the terms and conditions of the IFB.

BID FORM: The bid shall be made on the Bid Form provided and shall be enclosed in a sealed envelope marked and addressed as required. If the bid is made by a sole proprietor, it shall be signed with his/her full name and his address shall be given; if it is made by a partnership, it shall be signed with the co-partnership name by a member of the firm, who shall also sign his/her own name, and the name and address of each member shall be given; and if it is made by a corporation, it shall be signed by an officer or other individual who has the full and proper authorization to do so.

Blank spaces in the Bid Form shall be properly filled. Alterations by erasure or interlineation must be explained or noted in the bid over the signature of the Bidder. If the unit price and the total amount named by a Bidder for any item do not agree, the unit price alone will be considered as representing the Bidder's intention.

Submission of alternative bid or bids, except as specifically called for in the IFB, will render it informal and may cause its rejection.

COMPETITIVE BIDDING: If more than one bid is offered by any individual, firm, partnership, corporation, association, or any combination thereof, under the same or different names, all such bids may be rejected. A party who has quoted prices on materials or work to a Bidder is not thereby disqualified from quoting prices to other Bidders, or from submitting a bid directly for the materials or work if otherwise qualified to do so.
All Bidders are put on notice that any collusive agreement fixing the prices to be bid so as to control or affect the awarding of this Contract is in violation of MST’s competitive bidding requirements and may render void any Contract let under such circumstances.

EXPENSES TO BE INCLUDED IN BID PRICE: Unless otherwise specified in the IFB, the bid price shall include all expenses necessary that go into making the items procured under the IFB complete and ready for immediate use by MST without additional expense. Bid price shall include, without limitation, all costs for labor, services, equipment, materials, supplies, transportation, installation, overhead, packing, insurance, license, fees, permits, bonds, inspection, and other expenses necessary to satisfy the provisions of the IFB, expressed and implied.

WITHDRAWAL OF BID: Bidder may withdraw the bid before the expiration of the time during which bids may be submitted, without prejudice, by submitting a written request for its withdrawal to MST Purchasing/Inventory Control Officer.

TIME OF DELIVERY: Time of delivery is part of the bid and must be strictly adhered to by the Bidder. Bidder obligates itself to complete the work within the number of days specified in the Contract.

BID OPENING: At the hour specified in the Notice of Invitation to Bidders, MST, in open session, will open, examine and publicly declare all bids received. Bidders, their representatives and others interested, are invited to be present at the opening of bids. Award will be made or bids rejected by MST within the time period specified on the Bid Form or, if none is specified, within ninety (90) days after the date of bid opening.

RIGHT TO REJECT BIDS: MST may reject any and all bids at its discretion, and may reject the bid of any party who has been delinquent or unfaithful in any former contract with MST. The right is reserved to reject any or all bids and to waive technical defects, as the interest of MST may require. MST may reject bids from Bidders who cannot satisfactorily prove the experience and qualifications outlined in the Instructions to Bidders.

SINGLE BID: If only one bid is received in response to the IFB, Bidder may be required to submit to MST within five (5) days of MST demand, a detailed cost proposal. MST may conduct a cost or price analysis of the cost proposal to determine if the bid price(s) are fair and reasonable. Bidder shall cooperate with MST in compiling and submitting detailed information for the cost and price analysis.

EXPERIENCE AND QUALIFICATIONS: The Bidder may be required upon request of MST to prove to MST’s satisfaction that the Bidder is responsible. Criteria used by MST to determine Bidder responsibility includes, without limitation, whether Bidder and its proposed contractors have the skill, experience, necessary facilities and financial resources to perform the Contract in a satisfactory manner and within the required time.
AWARD OF CONTRACT: The award of the Contract, if awarded, will be to the responsive, responsible Bidder whose bid complies with the IFB in all respects, and whose ADJUSTED BID PRICE is the lowest of all qualified bids received. The methodology for determining the adjusted bid price is described in the Bid Form. If the lowest responsive, responsible Bidder refuses or fails to execute the Contract, MST may award the Contract to the next lowest responsive, responsible Bidder or solicit new bids.

EXECUTION OF CONTRACT: The Contract shall be provided by MST in substantially the same form as provided in Part 5 and shall be executed by the successful Bidder and returned to MST Purchasing Manager, One Ryan Ranch Road, Monterey, CA 93940 no later than ten (10) calendar days after the date of receipt of the Notice of Award. Successful Bidder shall submit the required insurance certificate(s) no later than ten (10) days after receipt of Notice of Award. Successful Bidder's execution and delivery of the insurance certificate(s) specified in the IFB is a condition precedent to the finalization of the Contract. In no event shall the successful Bidder commence work until it has received the signed Contract and notification from MST that the required insurance certificate(s) have been approved.

ERRORS AND ADDENDA: If omissions, discrepancies, or apparent errors are found in the IFB prior to the date of bid opening, the Bidder shall request a clarification from MST which, if substantiated, will be given in the form of addenda to all Bidders. MST must have received written requests for questions and/or clarifications no later than November 29, 2012. MST will respond to questions and/or clarifications in writing by November 29, 2012.

NON-DISCRIMINATION: MST will not discriminate with regard to race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability in the consideration for an award.

DISADVANTAGED AND BUSINESS ENTERPRISES: The Board of Directors of MST has adopted a Disadvantaged Business Enterprise Policy to promote the participation of disadvantaged business enterprises (DBE) in all areas of MST contracting to the maximum extent practicable. Consistent with the DBE Policy, the Bidder shall take all necessary and reasonable steps to ensure that DBE firms have the maximum practicable opportunity to participate in the performance of this project and any subcontracting opportunities thereof.

INSURANCE REQUIREMENTS. Within ten (10) consecutive calendar days of award of contract, Successful Bidder must furnish MST with the Certificates of Insurance proving coverage as specified in “Section 4, Item # 7 INSURANCE” and naming MST, its officers and agents, Additional Insured by endorsement.

INQUIRIES AND CORRESPONDENCE DURING BIDDING PERIOD: Questions pertaining to the Scope of Work and the Bid Documents during the bidding period shall
be directed to MST Purchasing Manager, at (831) 393-8127 or by e-mail a
samorim@mst.org.

SECTION 4

GENERAL CONDITIONS TO THE CONTRACT

I. GENERAL PROVISIONS: This section describes the General Provisions of an MST
contract with the selected vendor(s).

1. GOVERNING LAW

1.1 Governing Law & Compliance with All Laws

This Contract shall be governed and construed in accordance with the laws of the State
of California. Venue shall be within County of Monterey, California. Each party will
perform its obligations hereunder in accordance with all applicable laws, rules, and
regulations now or hereafter in effect.

1.2 Right to Modify Contract

MST may extend the term of this Contract, expand the Scope of Work, or otherwise
amend the Contract. Any such extension, expansion or amendment shall be effective
only upon written agreement of the parties in accordance with Section IV Number13.14.

2. TERMINATION

2.1 Termination for Convenience

The performance of Work under this Contract may be terminated by MST upon
fifteen (30) days’ notice at any time without cause for any reason in whole or in part,
whenever MST determines that such termination is in MST’s best interest.

Upon receipt of a notice of termination, and except as otherwise directed by
MST, the Contractor shall: (1) stop work under the Contract on the date and to the
extent specified in the notice of termination; (2) place no further orders or subcontracts
for materials, services, or facilities, except as may be necessary for completion of such
portion of the Work under the Contract as is not terminated; (3) terminate all orders and
subcontracts to the extent that they relate to the performance of work terminated by the
notice of termination; (4) assign to MST in the manner, at the time, and to the extent
directed by MST all of the rights, title, and interest of the Contractor under the orders
and subcontracts so terminated, in which case MST shall have the right, at its
discretion, to settle or pay any or all claims arising out of the termination of such orders
and subcontracts; (5) complete performance of such part of the Work as shall not have
been terminated by the notice of termination.
2.02 Termination for Default

MST may, upon written notice of default to the Contractor, terminate the whole or any part of this Contract if the Contractor: (1) fails to complete the Scope of Work within time period stated in the Scope of Work section of the IFB; (2) fails to perform any of the other provisions of the Contract; or (3) fails to make progress as to endanger performance of this Contract in accordance with its provisions.

If the Contract is terminated in whole or in part for default, MST may procure, upon such terms and in such manner as MST may deem appropriate, supplies or services similar to those so terminated. Without limitation to any other remedy available to MST, the Contractor shall be liable to MST for any excess costs for such similar supplies or services, and shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

If, after notice of termination of this Contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of Contractor and MST shall be considered to have been terminated pursuant to termination for convenience of MST pursuant to Article 2.01 from the date of Notification of Default.

2.03 No Limitation

The rights and remedies of MST provided in this Article 2 shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

3. FORCE MAJEURE

3.01 General

Neither party hereto shall be deemed to be in default of any provision of this Contract, or for any failure in performance, resulting from acts or events beyond the reasonable control of such party. For purposes of this Contract, such acts shall include, but not be limited to, acts of God, civil or military authority, civil disturbance, war, strikes, fires, other catastrophes, or other "force majeure" events beyond the parties' reasonable control; provided, however, that the provisions of this Section 3 shall not preclude MST from canceling or terminating this Contract (or any order for any product included herein), as otherwise permitted hereunder, regardless of any force majeure event occurring to Contractor.
4. PROFESSIONAL STANDARDS

Contractor shall at all times during the term of this Contract possess the technical ability, experience, financial ability, overall expertise, and all other skills, licenses, and resources necessary to perform and complete the scope of work in a timely, professional manner so as to meet or exceed the provisions of this Contract.

5. PROFESSIONAL RELATIONS

5.01 Independent Contractor

No relationship of employer and employee is created by this Contract. In the performance of its work and duties, Contractor is at all times acting and performing as an independent contractor in the practice of its profession. MST shall neither have nor exercise control or direction over the methods by which Contractor performs services pursuant to this Contract (including, without limitation, its officers, shareholders, and employees); provided, however, that Contractor agrees that all work performed pursuant to this Contract shall be in strict accordance with currently approved methods and practices in its profession, and in accordance with this Contract. The sole interest of MST is to ensure that such services are performed and rendered in a competent and cost effective manner.

5.02 Benefits

Contractor (including, without limitation, its officers, shareholders, subcontractors and employees) has no claim under this Contract or otherwise against MST for social security benefits, workers’ compensation benefits, disability benefits, unemployment benefits, vacation pay, sick leave, or any other employee benefit of any kind.

6. INDEMNIFICATION FOR DAMAGES, TAXES AND CONTRIBUTIONS

6.01 Scope

Contractor shall exonerate, indemnify, defend, and hold harmless MST (which for the purpose of Articles 6 and 7 shall include, without limitation, its officers, agents, employees and volunteers) from and against:

Any and all claims, demands, losses, damages, defense costs, or liability of any kind or nature which MST may sustain or incur or which may be imposed upon it for injury to or death of persons, or damage to property as a result of, or arising out of, or in any manner connected with the Contractor's performance under the provisions of this Contract. Such indemnification includes any damage to the person(s) or property(ies) of Contractor and third persons.
Any and all Federal, state and local taxes, charges, fees, or contributions required to be paid with respect to Contractor, Contractor's officers, employees and agents engaged in the performance of this Contract (including, without limitation, unemployment insurance, social security, and payroll tax withholding).

7. INSURANCE

7.01 General

Contractor, at its sole cost and expense, for the full term of this Contract (and any extensions thereof), shall obtain and maintain at minimum all of the following insurance coverage. Such insurance coverage shall be primary coverage as respects MST and any insurance or self-insurance maintained by MST shall be excess of Contractor's insurance coverage and shall not contribute to it.

7.02 Types of Insurance and Minimum Limits

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

Worker's Compensation and Employer's Liability Insurance in conformance with the laws of the State of California (not required for Contractor's subcontractors having no employees) with limits of not less than one million dollars ($1,000,000) per occurrence. WAIVER OF SUBROGATION to be completed and submitted with Workers' Compensation insurance documents

(2) Contractors vehicles used in the performance of this Contract, including owned, non-owned (e.g. owned by Contractor's employees), leased or hired vehicles, shall each be covered with Commercial Automobile, (Tractor Trailer) Liability Insurance in the minimum amount of $1,000,000.00 combined single limit per accident for bodily injury and property damage.

(3) Contractor shall obtain and maintain Comprehensive General Liability Insurance coverage in the minimum amount of $1,000,000.00 combined single limit, including bodily injury, personal injury, and property damage. Such insurance coverage shall include, without limitation:

Contractual liability coverage adequate to meet the Contractor's indemnification obligations under this contract.

Full Personal Injury coverage.

Broad form Property Damage coverage.

A cross-liability clause in favor of MST.
7.03 Other Insurance Provisions

(1) As to all insurance coverage required herein, any deductible or self-insured retention exceeding $5,000.00 shall be disclosed to and be subject to written approval by MST.

(2) If any insurance coverage required hereunder is provided on a "claims made" rather than "occurrence" form, Contractor shall maintain such insurance coverage for five (5) years after expiration of the term (and any extensions) of this Contract.

(3) All required Automobile Liability Insurance and Comprehensive or Commercial General Liability Insurance shall contain the following endorsement as a part of each policy: "MST is hereby added as an additional insured as respects the operations of the named insured."

(4) All the insurance required herein shall contain the following clause: "It is agreed that this insurance shall not be canceled until thirty (30) days after MST shall have been given written notice of such cancellation or reduction."

(5) Contractor shall notify MST in writing at least thirty (30) days in advance of any reduction in any insurance policy required under this Contract.

(6) Contractor agrees to provide MST at or before the effective date of this Contract with a certificate of insurance of the coverage required.

(7) If CONTRACTOR, for any reason, fails to maintain insurance coverage, which is required pursuant to this CONTRACT, the same shall be deemed a material breach of contract. MST, at its sole option, may terminate this CONTRACT and obtain damages from the CONTRACTOR resulting from said breach. Alternatively, MST may purchase such required insurance coverage, and without further notice to CONTRACTOR, MST may deduct the cost therefore from CONTRACTOR’S invoices charges for services rendered.

8. NO DISCRIMINATION

In connection with the performance of services provided under this Contract, Contractor shall not on the grounds of race, color, creed, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition or disability discriminate or permit discrimination against any person or group of persons in any manner prohibited by Federal, State, or local laws.

9. DISADVANTAGED BUSINESS ENTERPRISES

The Board of Directors of MST has adopted a Disadvantaged Business Enterprise Policy to promote the participation of disadvantaged business enterprises (DBE’s) in all areas of MST contracting to the maximum extent practicable. Consistent with the DBE
Policy, the Contractor shall take all necessary and reasonable steps to ensure that DBE firms have the maximum practicable opportunity to participate in the performance of this project and any subcontracting opportunities thereof.

10. MISCELLANEOUS PROVISIONS

10.01 Successors and Assigns

The Contract shall insure to the benefit of, and be binding upon, the respective successors and assigns, if any, of the parties hereto, except that nothing contained in this Article shall be construed to permit any attempted assignment which would be unauthorized or void pursuant to any other provision of this Contract.

10.02 Survival of Rights and Obligations

In the event of termination, the rights and obligations of the parties which by their nature survive termination of the services covered by this Contract shall remain in full force and effect after termination. Compensation and revenues due from one party to the other under this Contract shall be paid; loaned equipment and material shall be returned to their respective owners; the duty to maintain and allow inspection of books, accounts, records and data shall be extended as provided in Section 13.15; and the hold harmless agreement contained in Article 6 shall survive.

10.03 Limitation on MST Liability

MST’s liability is, in the aggregate, limited to the total amount payable under this Contract.

10.04 Drug and Alcohol Policy

Contractor shall not use, possess, manufacture, or distribute alcohol or illegal drugs during the performance of the Contract or while on MST premises or distribute same to MST employees.

10.05 Publicity

Contractor agrees to submit to MST all advertising, sales promotion, and other public matter relating to any service furnished by Contractor wherein MST’s name is mentioned or language used from which the connection of MST’s name therewith may, within reason, be inferred or implied. Contractor further agrees not to publish or use any such advertising, sales promotion or publicity matter without the prior written consent of MST.
10.06 Consent to Breach Not Waiver

No provision here shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.

10.07 Attorneys' Fees

In the event that suit is brought to enforce or interpret any part of this Contract, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, a reasonable attorney’s fee, including expert witness fees, as may be fixed by the court. These fees and cost shall be taxed as costs in that proceeding, and shall not necessitate the filing of a separate attempt to recover. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not the suit proceeds to final judgment. A party not entitled to recover its costs shall not recover attorney’s fees. No sum for attorney’s fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to recover its costs or attorney’s fees.

Unless otherwise directed by MST, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

10.08 No Conflict of Interest

Contractor represents that it currently has no interest, and shall not have any interest, direct or indirect, that would conflict in any manner with the performance of services required under this Contract.

10.09 Prohibition of Discrimination against Qualified Handicapped Persons

Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in federally assisted programs.

10.10 Cal OSHA/Hazardous Substances

Contractor shall comply with California Administrative Code Title 8, Section 5194, and shall directly (1) inform its employees of the hazardous substances they may be exposed to while performing their work on MST property, (2) ensure that its employees take appropriate protective measures, and (3) provide MST's Manager of Facility Maintenance with a Material Safety Data Sheet (MSDS) for all hazardous substances to be used on MST property.
Contractor shall comply with Cal OSHA regulations and the Hazardous Substance Training and Information Act. Further, said parties shall indemnify MST against any and all damage, loss, and injury resulting from non-compliance with this Article.

Contractor will comply with the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) California Health and Safety Code Section 25249.5 - 25249.13. Contractor will ensure that clear and reasonable warnings are made to persons exposed to those chemicals listed by the State of California as being known to cause cancer or reproductive toxicity.

Contractor shall be solely responsible for any hazardous material, substance or chemical released or threatened release caused or contributed to by Contractor. Contractor shall be solely responsible for all clean-up efforts and costs.

10.11 Non-Assignment of Contract

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of the Contract or Contractor's right, title or interest in or to the same or any part thereof without previous written consent by MST; and any such action by Contractor without MST's previous written consent shall be void.

10.12 No Subcontract

Contractor shall not subcontract or permit anyone other than Contractor or its authorized staff and subcontractors to perform any of the scope of work, services or other performance required of Contractor under this Contract without the prior written consent of MST. Any such action by Contractor without MST's previous consent shall be void.

10.13 Severability

If any provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect, and shall in no way be affected, impaired or invalidated.

10.14 All Amendments in Writing

No amendment to this Contract shall be effective unless it is in writing and signed by duly authorized representatives of both parties.

10.15 Audit

This Contract is subject to audit by Federal, State, or MST personnel or their representatives at no cost for a period of three (3) years after the date of expiration or
termination of the Contract. Requests for audits shall be made in writing, and Contractor shall respond with all information requested within ten (10) calendar days of the date of the request. During the three-year period that the Contract is subject to audit, Contractor shall maintain detailed records substantiating all costs and expenses billed against the Contract.
SECTION 5
SAMPLE CONTRACT

This section provides a sample contract that will be executed between MST and the vendor(s) selected, if a contract is to be let.

THIS CONTRACT is made effective on ______________________, 2012 between the Monterey-Salinas Transit ("MST"), and ____________________________ ("Contractor").

1. RECITALS

1.01 MST’s Primary Objective

MST is a public agency whose primary objective is providing public transportation and has its principal office at One Ryan Ranch Road, Monterey, CA 93940.

1.02 MST’s Need for Procurement of Transit Bus Shelters

MST requires the purchase of Transit Bus Shelters to be used for standard purposes. In order to obtain said services, MST issued an Invitation for Bids, dated November 16, 2012 setting forth specifications for such services. The Invitation for Bids # 13-07 is attached and incorporated herein by reference as Exhibit A.

1.03 Contractor’s Bid Form

Contractor is a supplier of services desired by MST and whose principal place of business is ____________________________. Pursuant to the Invitation for Bids by MST, Contractor submitted a bid for provision of services, which is attached and incorporated herein by reference as Exhibit B.

1.04 Selection of Contractor and Intent of Contract

On ____________________________, MST selected Contractor as the lowest responsive, responsible bidder to provide said services. The purpose of this Contract is to set forth the provisions of this procurement.

1.05 Contractor and Supplier Synonymous

For the purposes of this Contract, the terms "contractor" and "supplier" are synonymous.
MST and Contractor agree as follows:

2. INCORPORATED DOCUMENTS AND APPLICABLE LAW

2.01 Documents Incorporated in This Contract

The documents below are attached to this Contract and by reference made a part hereof. This is an integrated Contract. This writing constitutes the final expression of the parties’ Contract, and it is a complete and exclusive statement of the provisions of that Contract, except for written amendments, if any, made after the date of this Contract in accordance with Section 4 item # 11.14 of the General Conditions of the Contract.

a) Exhibit A (IFB # 13-07)

MST's "Invitation for Bids" issued November 16, 2012.

b) Exhibit B (Executed Bid Form)

Contractor's Bid Form to MST for delivery of Transit Bus Shelters, along with pricing for desired options, and signed by Contractor and dated___________________________.

2.02 Conflicts

Where in conflict, the provisions of this writing supersede those of the above-referenced documents, Exhibits A and B. Where in conflict, the provisions of Exhibit A supersede Exhibit B.

2.03 Recitals

The Recitals set forth in Article 1 are part of this Contract.

3. TIME OF PERFORMANCE

3.01 General

Contractor shall perform work under this Contract at such times to enable it to meet the time schedules specified in the Scope of Work Section of the IFB. The Contractor shall not be responsible for delays caused by force majeure events described in Section 4 item # 3 of the General Conditions of the Contract.

3.02 Term

The term of this, Contract commences on the date of execution and shall remain in force until full and satisfactory completion of services by Contractor.
4. COMPENSATION

4.01 Terms of Payment

Upon written acceptance, MST agrees to pay Contractor ____________________ as identified in the Bid Form, Exhibit B, not to exceed $______________ for satisfactory completion of all work under the terms and provisions of this Contract within forty-five (45) days thereof. Contractor understands and agrees that if he/she exceeds the $______________ maximum amount payable under this contract, that it does so at its own risk.

4.02 Invoices

Contractor shall submit invoices with a project number (13-07) to MST on a monthly basis. Contractor’s invoices shall include detailed records showing actual time devoted, work accomplished, date work accomplished, personnel used, and amount billed per hour.

Said invoice records shall be kept up-to-date at all times and shall be available for inspection by MST (or any grantor of MST, including, without limitation, any State or Federal agency providing project funding or reimbursement) at any time for any reason upon demand for not less than Three (3) years after the date of expiration or termination of the contract. Under penalty of law, Contractor represents that all amounts billed to MST are (1) actually incurred; (2) reasonable in amount; (3) related to this contract; and (4) necessary for performance of the services. MST shall pay no expenses unless specifically allowed by this contract.

4.03 Payment Procedures

All payments to Contractor for services rendered shall be paid in arrears, after the service has been provided. MST shall reimburse Contractor within twenty-eight (28) calendar days of receipt of all Contractor invoices. The submission of incomplete or inaccurate invoices by Contractor may delay payments to Contractor. Acceptance of invoice(s) is within MST sole discretion.

In the event MST disputes any amount on Contractor’s invoice, MST shall provide written notice of the disputed amount and shall withhold the amount from the payment of the invoice but shall pay the undisputed amount on a timely basis. MST and Contractor shall then meet to resolve any disputed amounts.
4.04 Invoices shall be mailed to:

Monterey-Salinas Transit  
One Ryan Ranch Road  
Monterey, CA 93940-5795  
Attention: Accounts Payable

MST shall mail payments to:

Contractor  
Street Address  
City, State, Zip  
Attention: Accounts Receivable

5. NOTICES

All notices under this Contract shall be deemed duly given upon delivery, if delivered by hand; or three (3) days after posting, if sent by registered mail, receipt requested; to a party at the address set forth or to such other address as a party may designate by notice pursuant hereto.

Monterey-Salinas Transit  
One Ryan Ranch Road  
Monterey, CA 93940  
Attention: Hunter Harvath  
Director of Customer Services

CONTRACTOR

Please provide primary contact information.

____________________________________________________________________

____________________________________________________________________

Attention: __________________________________________________________
6. AUTHORITY

Each party has full power and authority to enter into and perform this Contract and the person signing this Contract on behalf of each has been properly authorized and empowered to enter into it. Each party further acknowledges that it has read this Contract, understands it, and agrees to be bound by it.

Monterey-Salinas Transit

CONTRACTOR

______________________________        ___________________________________
Carl Sedoryk                               Name
General Manager/CEO                       Position

Date                                           Date

Approved as to Form:

__________________________________
David C. Laredo                           Date
MST Counsel
SECTION 6
FEDERAL TRANSIT ADMINISTRATION REQUIREMENTS
FOR
CONSTRUCTION CONTRACTS

1.0 GENERAL

This Contract is subject to the terms of a financial assistance contract between MST and the Federal Transit Administration (FTA) of the United States Department of Transportation.

2.0 INTEREST TO MEMBERS OF OR DELEGATES TO CONGRESS

In accordance with 18 U.S.C. 431, no member of, nor delegates to, the Congress of the United States shall be admitted to a share or part of this Contract or to any benefit arising there from.

3.0 INELIGIBLE CONTRACTORS

Neither Contractor, nor any officer or controlling interest holder of Contractor, is currently, or has been previously, on any debarred bidders list maintained by the United States Government.

4.0 CIVIL RIGHTS REQUIREMENTS

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

4.1 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.
4.2 Equal Employment Opportunity

The following equal employment opportunity requirements apply to the underlying contract:

If awarded an Agreement or Purchase Order resulting from this IFB, the successful BIDDER shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. The successful BIDDER shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, age or national origin. Such actions 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 BIDDER agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

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.

6.0 CLEAN AIR AND FEDERAL WATER POLLUTION CONTROL ACTS
(Applicable only to contracts in excess of $100,000)

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 the Purchaser and understands and agrees that the Purchaser will, in turn, 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 $100,000 financed in whole or in part with Federal assistance provided by FTA.

7.0 ENERGY CONSERVATION

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. (42 USC Section 6321, et seq.).

8.0 AUDIT AND INSPECTION OF RECORDS (Applicable only to sole source or negotiated contracts in excess of $10,000)
Contractor agrees that MST, the Comptroller General of the United States, or any of their duly authorized representatives shall, for the purpose of audit and examination, be permitted to inspect all work, materials, payrolls and other data and records with regard to the project, and to audit the books, records and accounts with regard to the project. Further, Contractor agrees to maintain all required records for at least three years after MST makes final payments and all other pending matters are closed.

9.0 LABOR PROVISIONS (Applicable only to contracts of $2,500.00 or more that involve the employment of mechanics or laborers)

9.1 Overtime Requirements

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1 1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such work week, whichever is greater.

9.2 Violation; Liability for Unpaid Wages; Liquidated Damages

In the event of any violation of the clause set forth in subparagraph (b)(1) of 29 CFR Section 5.5, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for MST of Columbia or a territory, to such MST or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (b)(1) of which such individual was required or permitted to work in excess of eight (8) hours in excess of the standard work week of forty (40) hours without payment of the overtime wages required by the clause set forth in subparagraph (b)(1) of 29 CFR Section 5.5.

9.3 Withholding for Unpaid Wages and Liquidated Damages

DOT or MST shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor.
for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b)(2) of 29 CFR Section 5.5.

9.4 Non-construction Grants

The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid. Further, MST shall require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying or transcription by authorized representatives of DOT and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

9.5 Subcontracts

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in sub-paragraph (1) through (5) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (5) of this paragraph.

10.0 FEDERAL CHANGES

The 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.

11.0 RECYCLED PRODUCTS

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

12.0 NO GOVERNMENT OBLIGATION TO THIRD PARTIES
The Purchaser and 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 the Purchaser, Contractor, or any other party (whether or not a party to that contract) 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.

13.0 FRAUD AND FALSE OR FRAUDULENT STATEMENTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

14.0 BREACHES AND DISPUTE RESOLUTION (for contracts exceeding $100,000)
Disputes arising in the performance of this contract, which are not resolved by agreement of the parties, shall be decided in writing by the MST General Manager/CEO. This decision shall be final and conclusive unless within fourteen (14) calendar days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the MST General Manager/CEO.

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

In the event of any dispute that results in litigation or arbitration arising from or related to the services provided under this Contract, the prevailing party will be entitled to recovery of all reasonable costs incurred, including that party’s time, court costs, attorney fees, expenses for expert witnesses (whether or not called to testify), expenses for accountants or appraisers (whether or not called to testify), and other related expenses. Recovery of these expenses shall be as additional costs awarded to the prevailing party and shall not require initiation of a separate legal proceeding.

Unless otherwise directed by MST, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

15.0 INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

16.0 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

The Agency has not established a Disadvantaged Business Enterprise (DBE) Availability Advisory Percentage for this Agreement. This Agreement is subject to Title 49, Part 26 of the Code of Federal Regulations entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.” Bidders who obtain DBE participation on this contract will assist the California Department of Transportation in meeting its federally mandated statewide overall DBE goal.
DBE and other small businesses, as defined in Title 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out the applicable requirements of 49 CFR, Part 26 in the award and administration of U.S. Department of Transportation assisted contracts. 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 recipient deems appropriate.

Any subcontract entered into as a result of this Agreement shall contain all of the provision of this section.

17.0 CONFLICT OF INTEREST

No employee, officer or agent of MST shall participate in selection, or in the award of administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when (1) the employee, officer or agent; (2) any member of his or her immediate family; (3) his or her partner; or (4) an organization that employs, or is about to employ, has a financial or other interest in the firm selected for award. MST’s officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, potential Contractors or parties of sub-agreements.

18.0 BONDING REQUIREMENTS (for contracts exceeding $100,000)

A. Bidders Security

1. All bids must be accompanied by bidder security in an amount not less than five percent (5%) of the Total Contract Price, payable to MST. The Bidder’s Security must be in the form of cash, a cashier’s check, a certified check, or a Bidder’s Bond or a combination thereof. If a Bidder’s Bond is furnished, it must conform to the form enclosed in the IFB.

2. Documents and the surety thereon must be a fully qualified surety company acceptable to MST, listed as a company possessing the authority to issue surety bonds in the State of California. Bidder’s securities will be held until the Contract has been fully executed, after which all Bidders’ securities, except any Bidders securities which have been forfeited, will be returned to the respective Bidders as soon as practicable but in no event beyond sixty days from the award of the contract.

B. Payment Bond

A payment bond in the form set forth in the IFB shall be executed within ten working days after the signing of a Contract in an amount not less than
one hundred percent (100%) of the Contract price. The payment bond shall provide MST with security for Contractor's full payment to all subcontractors for costs of materials, equipment, supplies, and labor furnished in the course of performance of the Contract.

C. Performance Bond

A performance bond in the form set forth in the IFB shall be executed within ten working days after the signing of a Contract in an amount not less than one hundred percent (100%) of the Contract price. The performance bond shall guarantee the Contractor's faithful performance of the Contract in compliance with all terms, conditions and requirements specified in the Contract documents.

19.0 DEBARRED BIDDERS

The Contractor, including any of its officers or holders of a controlling interest, is obligated to inform MST whether or not it is or has been on any debarred bidders' list maintained by the United States Government. Should the Contractor be included on such a list during the performance of this project, Contractor shall so inform MST.

A Debarment and Suspension Certificate, (see Form of Proposal or Bid Form) must be completed and submitted with the bid. A bid which does not include the certificate shall be considered non-responsive.

19.1 PRIVACY (Applicable only to Contracts involving the administration of any system of records as defined by the Privacy Act of 1974, on behalf of the Federal Government)

19.2 General

MST and Contractor agree:

(a) To comply with the Privacy Act of 1974, 5 U.S.C. 552a (the Act) and the rules and regulations issued pursuant to the Act when performance under the Contract involves the design, development or operation of any system of records on individuals to be operated by MST, its contractors or employees to accomplish a Government function.

(b) To notify the Government when MST or Contractor anticipates operating a system of records on behalf of the Government in order to accomplish the requirements of this Agreement, if such system contains information about individuals which information will be retrieved by the individual's name or other identifier assigned to the individual. A system of records subject to the Act may not be employed in the performance of this Agreement until the necessary approval and publication requirements applicable to the system have been carried out. MST or Contractor, as
appropriate, agrees to correct, maintain, disseminate, and use such records in accordance with the requirements of the Act, and to comply with all applicable requirements of the Act.

(c) To include the Privacy Act Notification contained in this Agreement in every subcontract solicitation and in every subcontract when the performance of Work under the proposed subcontract may involve the design, development or operation of a system of records on individuals that is to be operated under the Contract to accomplish a Government function; and

(d) To include this clause, including this paragraph in all in subcontracts under which Work for this Agreement is performed or which is awarded pursuant to this Agreement or which may involve the design, development, or operation of such a system of records on behalf of the Government.

19.3 Applicability

For purposes of the Privacy Act, when the Agreement involves the operation of a system of records on individuals to accomplish a Government function, MST, third party contractors and any of their employees are considered to be employees of the Government with respect to the Government function and the requirements of the Act, including the civil and criminal penalties for violations of the Act, are applicable except that the criminal penalties shall not apply with regard to contracts effective prior to September 27, 1975. In addition, failure to comply with the provisions of the Act or of this clause will make this Agreement subject to termination.

20.0 NEW RESTRICTIONS ON LOBBYING

A Restriction on Lobbying Certificate must be completed and submitted with the bid. A bid which does not include the certificate shall be considered non-responsive.

20.1 Prohibition

(a) Section 1352 of Title 31, U.S. Code, provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence 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 any of the following covered Federal actions: 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.

(b) The prohibition does not apply as follows:
(i) Agency and legislative liaison by Own Employees.

(ii) Professional and technical services by Own Employees.

(iii) Reporting for Own Employees.

(iv) Professional and technical services by Other than Own Employees.

20.2 Disclosure

(a) Each person who requests or receives from an agency a Federal contract shall file with that agency a certification, included in Form of Proposal or Bid Forms, that the person has not made, and will not make, any payment prohibited by Section 20.1 of this clause.

(b) Each person who requests or receives from an agency a Federal contract shall file with that agency a disclosure form, Standard Form-LLL, "Disclosure of Lobbying Activities," if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under Section 20.1 of this clause if paid for with appropriated funds.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph (c)(2) of this section. An event that materially affects the accuracy of the information reported includes:

(i) a cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(ii) a change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

(iii) a change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraph (c)(i) of this section a subcontract exceeding $100,000 at any tier under a Federal contract shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraph (c)(i) of this section. That person shall forward all disclosure forms to the agency.

20.3 Agreement
In accepting any contract resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

20.4 Penalties

(a) Any person who makes an expenditure prohibited under Section 20.1 of this clause shall be subject to a civil penalty of not less than $10,000 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form to be filed or amended if required by this clause, shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(c) Contractors may rely without liability on the representations made by their subcontractors in the certification and disclosure form.

21.0 FAIR EMPLOYMENT PRACTICES CERTIFICATE

A Fair Employment Practices Certificate must be completed and submitted with the bid. A bid which does not include the certificate shall be considered non-responsive.

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

21.1 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.

21.2 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.

21.3 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.

21.4 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 bidder" as to future contracts for which such Contractor may submit bids, for revoking the Contractor's pre-qualification rating, if any, and for refusing to establish, re-establish or renew a pre-qualification 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.

21.5 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.

21.6 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.

21.7 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.

21.8 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.

22.0 DAVIS BACON ACT

CONTRACTOR shall comply with the requirements mandated under the DOL regulations at 29 C.F.R. 5.5, which are incorporated by reference in this contract.

23.0 COPELAND ANTI-KICKBACK ACT

CONTRACTOR shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

24.0 PREVAILING WAGES

CONTRACTOR is responsible to be self-informed regarding the requirements of prevailing wages to Federally-funded projects within the State of California and the County of Monterey. Wage determinations may be accessed at www.dir.ca.gov/dlsr.
Section 7
MONTEREY-SALINAS TRANSIT (MST)
FORMAL PROTEST PROCEDURES

PROCUREMENT PROTESTS

a. Any actual or prospective bidder, 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 Federal Transit Administration (FTA).

Protests, claims or disputes, where applicable, shall be in writing and filed with MST directed to the General Manager/CEO, One Ryan Ranch Road, Monterey, California 93940

b. Pre-Award Protest

A protest with respect to an invitation for bids or request for proposals shall be submitted in writing prior to the opening of bids or the closing date of proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. 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 (1) the name, address, and telephone number of the protestor; (2) the grounds for the protest, any and all documentation to support the protest and the relief sought; and (3) steps that have been taken to date in an attempt to correct the alleged problem or concern.

In the event of a complete and timely pre-award protest under this section, the Procurement Manager shall not proceed further with the solicitation or award of the contract prior to five days after the Resolution of the protest, unless MST determines that:

a. The items to be procured are urgently required;

b. Delivery or performance will be unduly delayed by failure to make the award promptly; or

c. Failure to make a prompt award will otherwise cause undue harm to MST or the Federal Government.

MST shall immediately notify FTA in the event it determines that the award is to be made during the five day period following the local protest decision or the pending of a protest.
When a pre-award protest, claim or dispute is received by MST the General Manager/CEO shall review it and prepare a written response to each material issue raised in the protest which shall be forwarded to all interested parties prior to the opening of the bids or proposals. This response shall be considered an addendum to the Request for Proposals or Invitation for Bids.

If the protestor is not satisfied with the General Manager/CEO's Response he/she shall file a written protest directly with the Board of Directors of MST within 5 calendar days after receipt of the General Manager/CEO's response, which shall include the information of the initial protest and the General Manager/CEO's response and any additional information deemed relevant. The Board may hear and decide the claim or may delegate all or part of its authority to a hearing officer (other than the Purchasing Manager or the General Manager/CEO) or an ad hoc or standing committee of the Board. The Board's decision shall be in writing and shall be forwarded to the protestor, the contractor and all interested parties. The decision of the Board of Directors of MST shall be final. The protestor shall also be informed of any available appeal rights to FTA. (See below)

If, prior to the bid opening or the closing date for receipt of proposals, the Purchasing Manager, or the General Manager/CEO, or the Board of Directors, after consultation with MST’s legal counsel, determines that a solicitation is in violation of federal, state or local law, then the solicitation shall be canceled or revised to comply with the applicable law.

c. Award and Post-Award Protest

A protest, dispute or claim with respect to the award of a contract either through solicitation of bids or proposals or through direct negotiation shall be submitted in writing to the General Manager/CEO of MST for a decision no later than ten (10) calendar days from the notice of award or non-award of the procurement contract. Protests, disputes or claims include, without limitation, disputes arising from the actual selection of the contractor, disputes arising from the criteria utilized to select the contractor, disputes arising under the contract, and those based upon breach of contract, mistake, misrepresentation, or other causes for contract modification or rescission.

All claims shall clearly identify (1) the name, address, and telephone number of the protestor; (2) the grounds for the protest and the relief sought; and (3) the steps that have been taken to date in an attempt to correct the alleged problem or concern. Claims shall also contain all supporting documentation.

The decision of the General Manager/CEO shall be issued within a reasonable time period not to exceed 60 days and shall be in writing, and shall respond to each material issue raised in the protest, and shall be immediately mailed or otherwise furnished to the protestor, contractor and all interested parties when completed. The decision shall
state the reasons for the decision; the means to correct any problem or concerns raised, if applicable, and shall inform the protestor of its appeal rights.

Within five calendar days from the date of receipt of the decision of the General Manager/CEO, the protestor shall mail or otherwise deliver a written appeal to the General Manager/CEO for consideration by the Board of Directors of MST. The Board may hear and decide the claim or may delegate all or part of its authority to a hearing officer (other than the Purchasing Manager or the General Manager/CEO) or an ad hoc or standing committee of the Board. The Board shall have 60 days to render a final decision. The Board's decision shall be in writing and shall be forwarded to the Protestor, the Contractor and all interested parties. The decision of the Board of Directors of MST shall be final. The Protestor shall also be informed of any available appeal rights to FTA.

If, after an award, the Purchasing Manager or General Manager/CEO or Board as appropriate, determines that a solicitation or award of a contract was in violation of applicable law, then the following provisions apply:

(a) If the person awarded the contract has not acted fraudulently or in bad faith:

(i) The contract may be ratified and affirmed, provided MST determines that doing so is in the best interests of MST; or

(ii) The contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, plus a reasonable profit, prior to the termination; or

(b) If the person awarded the contract has acted fraudulently or in bad faith, the contract may be declared null and void or voidable, if the Transit MST determines such action is in the best interests of the Transit MST.

d. FTA Protests

Under certain limited circumstances, and after the protestor has exhausted all administrative protest remedies made available to him/her at MST level, an interested party may protest to the Federal Transit Administration (FTA) the award of a contract pursuant to an FTA grant within five days of the final decision on the protest filed with MST by the protestor or five days after the protestor knows or has reason to know that MST has failed to render a final decision.

FTA's review of any protest will be limited to the following:

a. FTA will only review protests regarding the alleged failure of MST to have written protest procedures or alleged failure to follow such procedures.
b. Alleged violations on other grounds are under the jurisdiction of the appropriate State of 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 that Federal regulation. See, e.g., "Buy America Requirements," 49 CFR Part 661 (Section 661.15); "Participation by Minority Business Enterprise in Department of Transportation Programs," 49 CFR Section 23.73.

c. FTA will only review protests submitted by an interested party as defined as a bidder or offerer whose direct economic interest would be affected by the award of the contract or by failure to award the contract.

A protest with the Federal Transit Administration must be filed in accordance with Federal Transit Administration Circular 4220.1E, as periodically updated.

The protest filed with FTA shall:

(a) Include the name and address of the protestor.

(b) Identify the grantee, project number and the number of the contract solicitation.

(c) Contain a statement of the grounds for protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures. (The grounds for protest filed with FTA must be fully supported to the extent feasible. Additional materials in support of an initial protest will only be considered if authorized by the FTA regulations.)

(d) Include a copy of the protest filed with the Transit MST, and a copy of MST’s decision, if any.

(e) Indicate the ruling or relief desired from FTA.

(f) A copy of such protest shall be filed with the General Manager/CEO of MST.

MST shall not make an award during a properly filed protest with the Federal Transit Administration unless MST determines that:

(a) The items to be procured are urgently required;

(b) Delivery or performance will be unduly delayed by failure to make the award promptly;

(c) Failure to make prompt award will otherwise cause undue harm to MST or the Federal Government.

The Transit MST shall notify the Contractor of the protest if award has been made or, if no award has been made, will notify all interested parties. The Transit MST shall
instruct all who receive such notice that they may communicate further directly with FTA.

When a protest, claim or dispute has been filed with FTA, the Transit MST shall submit the following information not later than 10 days after receipt of notification by FTA of the protest.

1. A copy of MST’s protest procedure;

2. A description of the process followed concerning the protestor’s protest; and

3. Any supporting documentation.

The protestor must submit any comments on MST’s submission not later than ten days after the protestor’s receipt of MST’s submission.
SECTION 8

FORMS AND CERTIFICATIONS

The following FTA and MST forms/certifications are to be executed by every bidder 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 Bidder is or wants to qualify as DBE.

One Ryan Ranch Road
Monterey, California 93940
Telephone (831) 899-2558
Fax (831) 899-3954

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

BUY AMERICA PROVISION
(Only for Contracts above $100,000)

This procurement is subject to the Federal Transportation Administration (FTA) Buy America Requirements in 49 CFR part 661.

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this procurement be investigated, the successful bidder/proposer has the burden of proof to establish that it is in compliance.
A waiver from the Buy America Provision may be sought by MST if grounds for the waiver exist.

Section 165(a) of the Surface Transportation Act of 1982 permits FTA participation on this contract only if steel and manufactured products used in the contract are produced in the United States.
Known all men by these presents that ________________, as bidder, and ____________________________, as surety, are held and firmly bound unto Monterey Salinas Transit, as MST, in the sum of ____________________________ dollars ($ _______________), which is five percent (5%) of the total amount bid by bidder to MST for the above stated project, for the payment of which sum, bidder and surety agree to be bound, jointly and severally, firmly by these presents.

The conditions of this obligation are such that, whereas bidder is about to submit a bid to MST for the above stated project, if said bid is rejected, or if said bid is accepted and a contract is awarded and entered into by bidder in the manner and time specified, then this obligation shall be null and void, otherwise it shall remain in full force and effect in favor of MST.

In witness whereof the parties hereto have set their names, titles, hands, and seals, this __________ day of ______________, 2012.

Bidder

________________________________________

Surety

________________________________________

Subscribed and sworn to this __________ day of ______________, 2012.

Notary Public

________________________________________

Provide bidder/surety name, address and telephone number and the name, title, address and telephone number of authorized representative.
BUY AMERICA CERTIFICATE

SELECT AND COMPLETE ONLY ONE CERTIFICATE FOR BUY AMERICA

Certification requirement for procurement of steel, iron, or manufactured products.

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Date ____________________________________________________________

Signature_________________________________________________________

Company Name___________________________________________________

Title_____________________________________________________________

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date____________________________________________________________

Signature_________________________________________________________

Company Name___________________________________________________

Title_____________________________________________________________
DEBARMENT AND SUSPENSION CERTIFICATE

CERTIFICATION OF POTENTIAL CONTRACTOR REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

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-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 antitrust 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-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

If unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

The primary participant, ___________________________________________ certifies or (firm name/principal) affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. sections 3801 et seq. are applicable thereto.

__________________________________________
Signature and Title of Authorized Official

__________________________________________
Date
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)].

(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.

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____________________________________
FAIR EMPLOYMENT PRACTICES CERTIFICATION

TO MONTEREY-SALINAS TRANSIT:

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

____________________________________  ______________________________________
Date                                               Company

___________________________________________________  ______________________________
Address                                        Number & Street                        Signature

____________________________________  ______________________________________
City                              State            Zip Code                       Name of Signer

___________________________________________________
Telephone                           Title
AFFIDAVIT AND INFORMATION REQUIRED OF BIDDERS

AFFIDAVIT OF NON-COLLUSION

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

1. That I am the bidder or an officer or employee of the bidding corporation having authority to sign on its behalf (if the bidder is a corporation);

2. That the attached bid or bids has been arrived at by the bidder 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 bidder or its employees or agents to any person not an employee or agent of the bidder 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______________, 2006

_____________________________________________________________________

Notary Public

My commission expires___________________________. ______

Bidder’s E.I. Number_______________________________
(Number used on employer’s Quarterly Federal Tax Return)
DISADVANTAGED 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.

_______________________(Name)________________________(DATE)

STATE OF__________________:

COUNTY (CITY) OF_____________:

On this__________ day of ______________, 2006
DBE PARTICIPATION FORM

Separate information is required for each DBE subcontractor. This form may be duplicated as necessary.

1. DBE Firm Name: __________________________________________
   Address: __________________________________________
   __________________________________________
   __________________________________________

2. Dollar amount awarded: __________________________________________

3. Description of work to be performed:
   __________________________________________
   __________________________________________
   __________________________________________
   __________________________________________
   __________________________________________
   __________________________________________

4. CONTRACTOR’S COMMITMENT TO USE DBE FIRM
   __________________________________________ is committed to utilize the DBE
   (Name of Contractor)
   contractor to utilize the above named DBE subcontractor/supplier in the manner
   and amount described on this form.
   Dated ____________________  (Authorized Signature)

5. DBE’S COMMITMENT TO PARTICIPATE
   __________________________________________, as a DBE firm, is committed to
   (Name of subcontractor/supplier)
   perform the work as described above for the amount specified.
   Dated ____________________  (Authorized Signature)

ENDORSEMENT TO BE ATTACHED TO WORKERS’ COMPENSATION POLICY
WAIVER OF SUBROGATION

Policy Number: ____________________________________________________

Effective Date: __________________ Expiration Date: __________________

Named Assured and Address: __________________________________________

________________________________________________________________
________________________________________________________________

This is to certify that the policy indicated above, issued by the

________________________________________________________________

Name and Principle Office of Insurance Company

To the Assured named above, is endorsed as follows:

It is understood and agreed the Company waives any right of subrogation
against Monterey-Salinas Transit, which might arise by reason of any
payment under the policy for work performed by Assured under Contract
Number _______________.

________________________________________________________________

Insurance Company

By:

________________________________________________________________

I am an officer _____ employee _____ agent _____

Of the above company (indicate which).

Date: ___________________ AGENTS MUST FURNISH
CALIFORNIA LICENSE NUMBER: __________________

CAUTION: The person executing this Certification is caution to make certain
that he/she has the authority to execute this Certificate on behalf of the Insurance
Company.