



METROPOLITAN TRANSPORTATION COMMISSION

SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS

November 30, 2015

REQUEST FOR QUALIFICATIONS BID INVITATION

Beat 14

Freeway Service Patrol

FY 2016-19

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Santa Clara County

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San Francisco Mayor's Appointee

AMY REIN WORTH
Cities of Contra Costa County

Dear Bidder:

The Metropolitan Transportation Commission Service Authority for Freeways and Expressways (MTC SAFE) invites your firm to submit a proposal to provide towing services for the Freeway Service Patrol (FSP) on Beat 14 in the Hayward/Fremont area. The FSP program is managed by a partnership of the MTC SAFE, the California Department of Transportation (Caltrans), and the California Highway Patrol (CHP), collectively the FSP Partners.

This letter together with its enclosures comprises the Request for Qualifications Bid Invitation (RFQBI) for this project. Responses should be submitted in accordance with the instructions set forth herein.

I. Step 1: Qualifications

Bidders must submit an original and two (2) unbound hard copies of their Step 1: Qualifications to MTC SAFE offices at the address given on the next page, in a sealed envelope labeled "Freeway Service Patrol Proposal," **no later than 1:00 p.m., Monday, December 14, 2015**. Documentation received after that date and time will not be considered. Bidders must meet all qualification requirements under Step 1 to be eligible to proceed to Step 2. See Section II.A of this RFQBI and *Appendix B, Step 1: Qualifications*. Bidders will be contacted by MTC SAFE regarding qualification status shortly after the Step 1 closing date.

Bidders must be available during the weekdays between January 4 through January 8, 2016 for a scheduled facilities and vehicle inspection by CHP and MTC SAFE staff. Bidders must meet both facilities and vehicle requirements at the time of inspection to be eligible to proceed to Step 2. Bidders will not be eligible for facilities and vehicle inspections under Step 1 until all written materials required under Step 1 have been satisfactorily completed.

II. Step 2: Price Proposal

Bidders that pass Step 1: Qualifications must submit an original and two (2) unbound hard copies of their Step 2: Price Proposal to MTC SAFE offices at the address given below, in a sealed envelope labeled "Freeway Service Patrol Proposal," **no later than 1:00 p.m., Friday, January 8, 2016**. Price proposals received after that date and time will not be considered. See Section II.C of this RFQBI and *Appendix B, Step 2: Price Proposal*.

STEVE HEMINGER
Executive Director

ANDREW B. FREMER
Deputy Executive Director

JOSEPH P. BORT METROCENTER | 101 EIGHTH STREET | OAKLAND, CA 94607-4700

TEL 510.817.5700 | TTY/TDD 510.817.5769 | FAX 510.817.5848 | E-MAIL info@mtc.ca.gov | WEB www.mtc.ca.gov

Bidders that do not meet one of more of the requirements in the above steps will not be eligible for a contract under this RFQBI.

Proposals shall be valid for one hundred eighty (180) days after the proposal due date.

III. MTC SAFE Point of Contact

Proposals and all inquiries relating to this RFQBI shall be submitted to the MTC SAFE Freeway Service Patrol Project Manager at the address shown below. All new bidders are strongly encouraged to email the MTC SAFE Freeway Service Patrol Project Manager if they have any questions about this RFQBI. For telephone inquiries, call (510) 817-5965; the fax number is (510) 817-5848. Email inquiries may be addressed to spow@mtc.ca.gov.

Stefanie Pow
MTC SAFE
Joseph P. Bort MetroCenter
101 Eighth Street, 3rd Floor
Oakland, California 94607-4700

IV. Notice of Addenda and Requests for Clarification/Exceptions

Any addenda to this RFQBI that may be issued by MTC SAFE will be posted at <http://procurements.mtc.ca.gov/>. It is the bidder's responsibility to check for addenda and questions and answers related to this RFQBI and comply with new or revised requirements that may be stated therein.

Any requests for clarification of or exceptions to RFQBI requirements must be received by MTC SAFE no later than **1:00 p.m. on Thursday, December 10, 2015** to guarantee response or consideration.

V. Scope of Work, Period of Performance, and Funding

A detailed description of the services to be provided on Beat 14 under this RFQBI is set forth in *Appendix A, Scope of Work*. At this time, MTC SAFE anticipates awarding one (1) 39-month contract to cover Beat 14. Please refer to the proposed Implementation Plan for the exact patrol route, contract period of performance, and scheduled time of service. Any award of the contract under this RFQBI is contingent upon final funding approval. The beat may be funded, in part, with federal funds. Accordingly, federal contracting requirements are in *Appendix E, Department of Transportation Requirements*.

VI. Disadvantaged Business Enterprise (DBE) Policy

Effective July 2012, the California Department of Transportation (Caltrans) requires recipients of DOT grant funds through Caltrans to impose the following DBE utilization requirements on its consultants and contractors. Contractor's DBE participation on this Agreement will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

The selected Contractor is not allowed to subcontract towing services awarded under this RFQBI. **MTC SAFE has established a Disadvantaged Business Enterprise (DBE) contract goal of 0% for the contract entered into as a result of this RFQBI.** Respondents are required to document their activities in the solicitation and selection of subconsultants on *Appendix B, Form M-1, Local Agency*

Proposer DBE Commitment (Consultant Contract) (Exhibit 10-O1), and Form M-2, Local Agency Proposer DBE Information (Consultant Contract) (Exhibit 10-O2). For the complete DBE participation provisions applicable to this procurement see Section III.K and *Appendix D, Terms and Conditions* of the RFQBI.

VII. Qualifications and Bid Review

Contract award will be recommended to the Bidder that meets all qualifications and inspections detailed in this RFQBI and has the lowest responsive and responsible hourly rate in the price proposal.

MTC SAFE reserves the right to accept or reject any or all bid proposals submitted, waive minor irregularities in proposals, request additional information or revisions to offers, and to negotiate with any or all Bidders.

MTC SAFE, in cooperation with Caltrans and the CHP, intends to recommend one (1) Bidder to patrol Beat 14. Bidders who have not been selected but meet all requirements may be placed on a “qualified bidders” list in the event a beat does not receive a responsive bid proposal. In such instances, the Bidder with the lowest responsive bid proposal shall be recommended for contract approval. Being on the “qualified bidders” list does not guarantee that a contract will be awarded; bidders will be awarded contracts on an as-needed basis.

Additionally, bidders on the “qualified bidders” list may be asked to submit a bid proposal through an informal procurement in the event a contract resulting from this RFQBI is terminated. In such events, the Bidder with the lowest responsive bid proposal shall be awarded the contract.

VIII. Contractor Selection Timetable

Tuesday, December 8, 2015 - 11:00 a.m.	Bidders' Conference in Lakeview Conference Room at MTC SAFE Offices at 101 8th Street, Oakland
Thursday, December 10, 2015- 1:00 p.m.	Closing date/time for receipt of requests for clarification/exceptions
Monday, December 14, 2015 - 1:00 p.m.	Closing date/time for: Step 1: Qualifications
Week of December 14, 2015 (approximate)	Notification from MTC SAFE regarding Step 1 Status (Passed or Not Passed)
Week of January 4, 2016 (approximate)	Inspections (To Be Scheduled)
Friday, January 8, 2016 -1:00 p.m.	Closing date/time for: Step 2: Price Proposal
Friday, February 12, 2016	MTC Operations Committee approval
February 2016 (approximate)	Execution of contract

March 2016 (approximate)	Start of Service on Beat 14
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IX. General Conditions

MTC SAFE will not reimburse any Bidders for costs related to preparing and submitting a proposal. Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*).

The selected Bidder will be required to sign a contract with the MTC SAFE substantially identical to the enclosed contract, *Appendix C, Sample Contract*, to this RFQBI. *Appendix D, Terms and Conditions* and of the FSP Standard Operating Procedures (SOP) are incorporated by reference into the MTC SAFE-Contractor Contract.

Your attention is directed to the General Conditions in Section III of this RFQBI. Please note also the insurance requirements in Section II.A.7 of this RFQBI and *Appendix D, Terms and Conditions*. Any requests for exception to any contracted terms, including the insurance requirements, must be brought to MTC SAFE's attention on or before the date and time established above; otherwise, willingness to comply with the contracted terms, including the insurance requirements will be assumed.

Based on requirements set forth in this RFQBI, the Executive Director of the MTC SAFE will recommend a Bidder for Beat 14 to the MTC Operations Committee, which will approve MTC SAFE's expenditure of funds in connection with this RFQBI.

Thank you for your participation.

Sincerely,

DocuSigned by:

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Andrew B. Fremier
Deputy Executive Director

AF:sp

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REQUEST FOR QUALIFICATIONS BID INVITATION

to the

METROPOLITAN TRANSPORTATION COMMISSION
SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS

for

FREEWAY SERVICE PATROL TOW CONTRACTING SERVICES
FY 2016 – FY 2019

Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700

November 30, 2015

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Major Changes to Procurement since FY 2015

- A. Step 1 Qualifications now includes the vehicle and office inspection component. Step 2 is the price proposal submittal.
- B. MTC SAFE has set a minimum starting wage requirement for FSP drivers to be \$16.00 per hour.
- C. The beat 14 backup pickup truck is to be exclusively used by the contractor and is not dedicated to FSP but priority in providing service must be given to FSP.

All changes to the RFQBI may not be listed here. It is the responsibility of the Bidder to thoroughly review the procurement documents.

Request for Qualifications Bid Invitation

I. Freeway Service Patrol Program

Scope of Work and Period of Performance

A detailed description of the services to be provided under this RFQBI is set forth in *Appendix A, Scope of Work*.

The purpose of the FSP program is to quickly remove disabled vehicles by providing minor fixes including furnishing one gallon of gasoline, changing flat tires, providing a “jump” start, taping or repairing cooling system hoses, or refilling radiators or towing of vehicles to CHP-designated drop locations. All FSP services are provided free of charge to motorists at the time of service. Tow vehicles are dedicated exclusively to the service and cannot be used for any other purposes. The times of operations vary according to beat. All beats operate on weekdays and some operate on Saturdays and/or Sundays. Tow contractors may also be asked to provide tow services for special events that occur in the Bay Area. FSP service hours and work schedule are outlined in *Appendix A, Table 2: Proposed Implementation Plan* (subject to change).

Caltrans, MTC SAFE and the CHP jointly manage the program. These agencies are responsible for overseeing service performance and ensuring that the tow contractor abides by the terms of the contract.

The FSP Operator’s Manual, also referred to in this RFQBI as the Standard Operating Procedures (SOP), explains the types of incidents to which tow drivers may be dispatched and the proper procedures to perform services. This manual will be distributed to all Bidders who attend the Bidders’ Conference and will be made available on MTC’s website at <http://procurements.mtc.ca.gov/> during the procurement process. Bidders are responsible for becoming familiar with the requirements of the FSP SOP (subject to change), which will be incorporated by reference into the MTC SAFE contract with the selected Contractor.

Tow service under contract resulting from this RFQBI will begin approximately March 2016 and will continue until June 30, 2019

II. Bidder Requirements and Evaluation Process

To be considered for the contract award, Bidders must submit an original and two (2) unbound hard copies of each set of documentation required for Step 1 and Step 2 to the MTC SAFE offices listed below, in a sealed envelope labeled “Freeway Service Patrol Proposal”, according to the deadlines set forth in each step. Proposals shall be submitted to:

Stefanie Pow, Project Manager
MTC SAFE
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700

Each set of documentation should include items described in the steps below. MTC SAFE will be responsible for overseeing the RFQBI process and ensuring that deadlines, minimum requirements, and other aspects of the selection process are evaluated fairly.

A. Step 1: Qualifications

In this step, Bidders will be asked to provide their qualifications. MTC SAFE has set the minimum qualifications that Bidders have to meet. A description of the forms required to be submitted for Step 1 is detailed in this section below. Bidders must submit an original and two (2) unbound hard copy of the forms in *Appendix B, Step 1: Qualifications* **no later than 1:00 p.m., Monday, December 14, 2015**. Bidders will not be eligible for facilities and vehicle inspections under Step 1 until all written materials under Step 1 have been satisfactorily completed.

Only Bidders that meet the requirements outlined below will be eligible to proceed to Step 2: Price Proposal

1. Cover Letter for Step 1 (Form A)

The Proposal Cover Letter includes an acceptance of the contract provisions contained in *Appendix C, Sample Contract* and *Appendix D, Terms and Conditions*. If a Bidder wishes to request any exceptions to this Contract, such requests must be according to the Request for Exceptions section detailed in the RFQBI Letter of Invitation or it shall be understood that the Bidder accepts the Contract in its entirety.

2. Business License (Form B)

All Bidders must currently hold and provide a photocopy of their current business license from the city in which their office is located.

3. Experience (Form C)

At a minimum, Bidders must have three (3) years of experience in operating tow service for the California Highway Patrol (CHP) Rotational Tow Program or the Freeway Service Patrol (FSP) of which only one (1) year may be substituted for highway/freeway tow experience with local law enforcement, auto clubs, etc. All experience must be within January 1, 2010 to present.

4. Designated Manager/Office Staff (Form D)

All Bidders must have a Designated Manager for the project with at least two (2) years of experience in the towing industry or similar field. The Designated Manager may be the Bidder or office staff person(s) who can make decisions on behalf of the Bidder and must be available by telephone or email during FSP operating hours and respond to telephone calls, faxes, and email received from the FSP Partners within two (2) hours if response is required (see violation #50 in SOP). If the Designated Manager is also an FSP driver, he/she must delegate his responsibilities to an Office Staff while the Designated Manager is on shift.

If there are other staff members who can make decisions on behalf of the Bidder or Designated

Manager, they shall also be included in Form D. Selected Bidders must immediately notify MTC SAFE and CHP of changes to the Designated Manager or Office Staff during the contract period.

5. Office Location (Form E)

At the time of Step 1: Qualifications submittal and throughout the contract period, all Bidders must maintain an office within **20 minutes** driving time (at the speed limit) prior to the morning shift of Beat 14. The office must pass inspections (see Form P) and uphold all office supply requirements regarding communications, record keeping, etc. throughout the contract period. In addition, this office will be the permanent location from where FSP tow business will be conducted and where all FSP vehicles, including backup trucks, will be staged, maintained, and parked overnight or in between shifts for that specific beat(s). Bidders may list more than one office location however, any locations other than those listed on Form E will not be accepted after submittal. The office must be staffed during the hours of 8 a.m. through 5 p.m., Monday-Friday with either the Designated Manager or Office Staff listed in Form D.

6. Financial Responsibility (Form F)

All Bidders must submit evidence of financial responsibility. To meet this requirement, each Bidder must submit a Dunn and Bradstreet Report or credit report by a recognized credit reporting service, issued after August 28, 2015 and one of the following: (1) a reference letter from its bank; (2) Federal Income Tax Returns from the two most recent years available; and/or (3) Profit/Loss Statement for the two most recent quarters available.

Only one copy is necessary and should be packaged separately. The financial responsibility information will be received as confidential by MTC SAFE and will not become part of MTC SAFE's public record.

7. Insurance (Form G)

Insurance Requirements are included in this RFQBI, as Form G, and Contractor must fully comply with the requirements as listed. If the lowest responsive bidder cannot provide the required insurance to MTC SAFE within five (5) business days of notice of award, MTC SAFE at its sole option may deem that bidder unresponsive and move the award to the next lowest responsive responsible bidder.

The selected Contractor must have original insurance certificates and the required endorsements approved by MTC SAFE on file before contract performance begins. Insurance carriers shall be required to have an established place of business in California. MTC SAFE may request a claims report at any time.

8. Wages and Benefits (Form H)

MTC SAFE requires that selected Bidders pay FSP drivers a minimum starting wage of \$16.00 per hour. Selected Bidders must also adhere to the same wage requirement in compensating FSP drivers to attend the required trainings and meetings as specified in *Appendix A, Scope of Work*. MTC SAFE reserves the right, through the audit clause in its contract, to confirm a selected Bidder's compliance with this requirement. Bidders must also comply with all applicable federal, state, and local laws related to overtime pay and providing health insurance for employees. Failure to comply

may result in termination of the contract.

9. References (Form I)

Bidders must provide three (3) references to respond to the MTC SAFE questionnaire in Form I. To be considered for Step 2, Bidders must receive an average of 3.5 on a scale of 1 to 5. References should be from companies, law enforcement agencies, service clubs, or public agencies, etc., who are knowledgeable of the Bidder's experience and capabilities with regard to towing services especially references from public agencies and/or other clients for whom they have performed services similar to those described in this RFQBI. References from relatives and/or current FSP Staff from CHP, Caltrans, or MTC SAFE will not be accepted.

References will be contacted during the week of December 14, 2015. It is the responsibility of the bidder to provide responsive references. The submitted reference information must be complete and current. Incomplete and/or inaccurate reference contact information to the point where the FSP Partners are unable to contact them may result in the Bidder not passing Step 1: Qualification.

10. Good Standing (Form J)

Sign and submit the form regarding standing with the CHP rotational tow program and FSP program. Good standing determines the Bidder's procurement eligibility.

To be in good standing with the CHP rotational tow program, the Bidder has not been placed on probation, suspension, or under investigation in the past 12 months from RFQBI release date.

To be in good standing with the FSP Program, the Bidder has not been placed on probation in the past 12 months from RFQBI release date, received a letter of reprimand from the FSP Partners, and/or been terminated from the FSP program in the past two (2) years.

If the Bidder is not in good standing with the CHP rotational tow program or the FSP program, the Bidder may attach an explanation detailing their good standing status to Form J for the FSP Partners' consideration.

If a Bidder has been terminated from the FSP program for default in the past two years, the bidder is not eligible to submit a bid for this procurement.

11. Certification of Debarment (Form K)

Sign and submit the certification regarding debarment.

12. Certification of Restrictions on Lobbying (Form L)

Sign and submit the certifications regarding lobbying.

13. Local Agency Proposer DBE Commitment (Consultant Contract) (Exhibit 10-O1) and Local Agency Proposer DBE Information (Consultant Contract) (Exhibit 10-O2) (Forms M-1, and M-2)

Complete, sign and submit Forms M-1, and M-2, the Local Agency Proposer DBE Commitment

(Consultant Contract) (Exhibit 10-O1) and Local Agency Proposer DBE Information (Consultant Contract) (Exhibit 10-O2), respectively. A completed form must be included in the bid proposal. Bidder shall include “not applicable” as appropriate.

14. California Levine Act Statement (Form N)

Sign and submit the California Levine Act Statement. State law requires Bidders to disclose campaign contributions to any MTC SAFE Commissioner exceeding \$250.

15. Vehicle Inspection (Form O)

The California Highway Patrol (CHP) will conduct a vehicle inspection which will consist of a mechanical and condition inspection. The inspection sheet CHP shall use to conduct the vehicle inspection is included in Form O for reference. Prior to the scheduled inspection, Bidders must identify three (3) tow trucks for inspection by the CHP by completing and submitting Form O. Should the bidder have less than three (3) tow trucks, the bidder must make all tow trucks available for inspection.

The vehicles for inspection do not need to be FSP fleet vehicles; however, they must be light duty tow trucks (not flatbed or pickup trucks). The vehicles to be inspected must be available during the site visit, at which time the CHP will randomly select one for inspection. Not having all vehicles listed in Form O available or on time for the inspection will result in an automatic fail of Step 2.

16. Facility Inspection (Form P) – For Reference Only

The Facility Inspection consists of a site inspection of the office location(s) listed in Form E and a validation of required items listed in Form P. Bidders are expected to have all requirements in place by the time of inspection. Each proposed office location detailed on Form E will be inspected and, if passes the inspection, will become the permanent location from where FSP tow business will be conducted and where the FSP vehicles will be staged, maintained, and parked overnight or in between shifts for that specific beat(s). Form P is for reference only and does not need to be submitted.

B. Step 2: Price Proposal

If Bidders pass Step 1: Qualifications they are required to submit an original and two (2) unbound hard copies of each set of items listed in Step 2: Price Proposal (Forms Q-S) **no later than 1:00 p.m., Friday, January 8, 2016.**

1. Cover Letter for Step 2 (Form Q)

Bidders must submit a Proposal Cover Letter which includes an acceptance of the Contract contained in *Appendix C, Sample Contract* and *Appendix D, Terms and Conditions*.

2. Price Proposal (Form R)

A proposal for Beat 14 shall include a fully-loaded hourly rate. Such rate shall include but not be limited to the cost for operating the required number of FSP vehicles and drivers during the hours of operation for the specified beat as described in Table 2 of *Appendix A*, as well as for furnishing all labor, fringe benefits, materials, tools, fuel (operating as well as for motorists), travel time to and from beat(s), equipment, operating costs, insurance, overhead, Internet access, postage fees and incidentals as required in this RFQBI. Office to office communication between the FSP Partners and the Bidders will be conducted via e-mail, thus Bidders must have Internet access, be able to run a recent version of Microsoft Office as well as the free version of Acrobat Reader in order to send and receive compatible documents. The hourly rate shall also include costs associated with drivers' attendance at the mandatory training classes and safety meetings and FSP partners meetings required in this RFQBI, and the required pre-operation vehicle inspections.

MTC SAFE has set the tow vehicle fuel price of \$3.50 for the purpose of calculating the proposed hourly rate in Form T. In the event the price of diesel fuel should rise or fall, MTC SAFE shall adjust the hourly rate of compensation as specified in the Contract. MTC SAFE will utilize figures published by the Federal Department of Energy ("On the Highway Diesel Prices"). For details refer to *Appendix D, Terms and Conditions*.

3. FSP Fleet Vehicle Information (Form S)

Complete and submit Form S for Beat 14. Refer to Section 3 of *Appendix A, Scope of Work* for specific vehicle requirements.

Each proposal shall include the year, manufacturer, model, current mileage, Gross Vehicle Weight Rating (GVWR), and Vehicle Identification Number (VIN) of each truck that will be used for that specific beat. The beat requires a backup and this vehicle must be labeled as such.

Proposed trucks must stay assigned to the specified beat for the duration of the contract term and may not be used for any other non-FSP purposes. Selected Bidders who have multiple beats are prohibited from swapping FSP vehicles between beats. In addition, selected Bidders with a backup truck must keep these trucks dedicated to providing backup service. Selected bidders are prohibited from using regular FSP service vehicles as a backup truck.

FSP vehicles, including backup trucks must be staged, maintained, parked overnight and in between shifts at the beat assigned office listed on Form E. Any substitutions or shifting of vehicles between beats and offices is not acceptable.

If a potential Bidder does not own the vehicles, but plans to acquire the vehicles, a statement as to how these vehicles will be acquired and the timeline for acquisition shall be provided. If a potential Bidder intends on building a vehicle, such explanation shall also be provided. Vehicle quotes must be attached to the Vehicle Information Form.

All FSP vehicles must be ready upon the start date of beat operation as listed on the Implementation Plan. Selected Bidders must notify MTC SAFE immediately if any of the vehicles are late. MTC SAFE may allow the temporary use of approved former FSP vehicles if the new FSP vehicles are not ready by this start date.

5. Selection of Contractor

At the conclusion of Step 2, the FSP Partners will recommend that contract award be made to one contractor based on the lowest responsive and responsible hourly rate submitted for Beat 14.

III. General Conditions

A. Examination of RFQBI Documents

Each Bidder shall be solely responsible for examining, with appropriate care, the RFQBI Documents, including any Addenda issued during the proposal period, and for informing itself with respect to any and all conditions which may in any way affect the amount or nature of the proposal, or the performance of the work in the event the Bidder is selected. Failure of the Bidder to so examine and inform itself shall be at its sole risk and no relief for error or omission will be given.

B. Interpretation of RFQBI Documents

Bidders may request of MTC SAFE in writing, prior to submission of proposal, clarification or interpretation of the RFQBI Documents by the deadline listed in the Contractor Selection Timetable on page four of the Letter of Invitation. Where such interpretation or clarification requires a change in the RFQBI, MTC SAFE will issue an Addendum. Bidders shall acknowledge receipt of any and all Addenda in their Proposal Cover Letters contained in *Appendix B* (Form A and Form S). MTC SAFE shall not be bound by and Bidders shall not rely on any oral interpretation or clarification of the RFQBI Documents.

C. Preparation of Bid Proposals

Forms A through P, included in *Appendix B, Step 1: Qualifications* shall be completed and submitted for Step 1. If the Bidder passes Step 1, Forms Q through S as part of *Appendix B, Step 2: Price Proposal* shall be completed and submitted. The RFQBI will be made available online at <http://procurements.mtc.ca.gov/> to allow Bidders to print the required forms, complete, sign and submit to MTC SAFE by the proposal due date included in the *Letter of Invitation* attached to this RFQBI. All proposals shall be prepared by and at the expense of the Bidder.

D. Modified or Conditional Bid Proposals

Bidders shall submit a proposal in conformity with the requirements of the RFQBI Documents. The proposal shall be complete in itself and shall be submitted within a sealed envelope in accordance with Section G, Submission of Bid Proposal/Period of Acceptance below. Oral, telegraphic or telephonic proposals or modifications will not be considered.

E. Signing of Bid Proposal/Authorization to Negotiate

The proposal submitted by a Bidder shall be executed by the Bidder or by its authorized representative. In addition, the Bidder must identify those persons authorized to negotiate on its behalf with MTC SAFE in connection with this RFQBI.

F. Withdrawal of Bid Proposals

A proposal may be withdrawn by the Bidder by means of a written request signed by the Bidder or its properly authorized representative and delivered to the place stipulated in the Letter of Invitation for receipt of proposals prior to the date and time for submittal of proposals.

G. Submission of Bid Proposal/Period of Acceptance

The proposal submitted by a Bidder must be delivered to MTC SAFE at the address shown on the Letter of Invitation up to the Bid Proposal Due Date and time shown therein. It is the Bidder's sole responsibility to see that its bid proposal is received as stipulated. In compliance with this RFQBI the Bidder agrees, if its bid proposal is accepted within one hundred eighty (180) days from the date specified in the RFQBI for receipt of proposals, to provide the services at the price stipulated in its Form R, Price Proposal.

H. Award of Contract

A sample of the Contract to be utilized is contained in *Appendix C* of this RFQBI in which *Appendix D, Terms and Conditions* will be incorporated by reference. MTC SAFE reserves the right to make changes in the Contract that do not affect the Contractor's cost provided for the agreed upon service.

I. MTC SAFE Rights

MTC SAFE may investigate the qualifications of any Bidder under consideration, require confirmation of information furnished by a Bidder, and require additional evidence of qualifications to perform the work described in this RFQBI. MTC SAFE reserves the right to:

1. Reject any or all of the proposals;
2. Cancel the RFQBI;
3. Issue addenda to the RFQBI;
4. Seek the assistance of outside technical experts in bid proposal evaluation;
5. Review bid proposals and request clarification of discrepancies from any/all of the Bidders;
6. Waive minor informalities and irregularities in bid proposals;
7. If no bids are received for a beat, to obtain quick bids from either existing tow contractors or from qualified tow contractors who participate in this procurement, and award a contract to the lowest Bidder;
8. Limit or increase the number of beats to any one Bidder;
9. At MTC SAFE's discretion, request a breakdown of specific costs that comprise the hourly rate provided in a Bidder's cost proposal.
10. To solicit bid proposals from tow contractors who have participated in this procurement for beats in which the existing contractor has been terminated and award a contract to the lowest bidder.

This RFQBI does not commit the MTC SAFE to enter into a contract, nor does it obligate MTC SAFE to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract.

J. Selection Disputes

A Bidder may object to a provision of the RFQBI on the grounds that it is arbitrary, biased, or unduly restrictive, or to the selection of a particular Contractor on the grounds that MTC SAFE procedures, the provisions of the RFQBI or applicable provisions of federal, state or local law have been violated or inaccurately or inappropriately applied by submitting to the MTC SAFE Project Manager a written explanation of the basis for the protest:

1. No later than 1:00 p.m. three (3) working days prior to the date Step 1: Qualifications are due for objections to RFQBI provisions; or
2. No later than 1:00 p.m. three (3) working days after the date the Bidder is notified that it was found to be non-responsive or did not pass Step 1: Qualifications; or
3. No later than 1:00 p.m. three (3) working days after the date on which contract award is authorized by the MTC Operations Committee or the date the Bidder is notified that it was not selected, whichever is later, for objections to Contractor selection.

Should a Bidder be found to be non-responsive with respect to or does not pass Step 1: Qualifications and the Bidder has timely protested such finding, the Bidder will be permitted to conditionally advance to the next step of the procurement. However, no award of Beat 14 may be made to a Bidder that has conditionally advanced in the procurement under such circumstances unless and until the protest has resulted in a reversal of the initial finding.

Except with regard to an initial determination of non-responsiveness or failure to pass Step 1: Qualifications the evaluation record shall remain confidential until the MTC Operations Committee authorizes award.

Protests of recommended awards must clearly and specifically describe the basis for the protest in sufficient detail for the MTC SAFE review officer to recommend a resolution to the MTC SAFE Executive Director.

The MTC SAFE Executive Director will respond to the protest in writing, based on the recommendation of a staff review officer. Should a Bidder wish to appeal the decision of the MTC SAFE Executive Director, it may file a written appeal with the MTC Operations Committee, no later than three (3) working days after receipt of the written response from the MTC SAFE Executive Director. The MTC Operations Committee's decision will be the final agency decision.

Authorization to award a contract to a particular Contractor by the MTC Operations Committee shall be deemed conditional until the expiration of the protest period or, if a protest is filed, the issuance of a written response to the protest by the MTC SAFE Executive Director or, if the decision of the MTC SAFE Executive Director is appealed, the issuance of the appropriate MTC Operations Committee's decision.

K. Disadvantaged Business Enterprise (DBE) Policy

Effective July 2012, the California Department of Transportation (Caltrans) requires recipients of DOT grant funds through Caltrans to impose the following DBE utilization requirements on its consultants and contractors. Contractor's DBE participation on this Agreement will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

MTC has established a Disadvantaged Business Enterprise (DBE) contract goal of 0% for this contract. The selected Contractor will not be allowed to subcontract towing services awarded under this RFQBI. Respondents are required to document their activities in the solicitation and selection of subconsultants on Form M-1, and M-2 the Local Agency Proposer DBE Commitment (Consultant Contract) (Exhibit 10-O1), and Form M-2, Local Agency Proposer DBE Information (Consultant Contract). For the complete DBE participation provisions applicable to this procurement, see *Appendix D, Terms and Conditions* of the RFQBI.

APPENDIX A, SCOPE OF WORK

I. GENERAL DESCRIPTION

The Metropolitan Transportation Commission Service Authority for Freeways and Expressways (MTC SAFE) requires towing services for the Freeway Service Patrol (FSP). The FSP program is managed by a partnership of the MTC SAFE, the California Department of Transportation (Caltrans), and the California Highway Patrol (CHP).

The FSP operates on selected roadway segments in the San Francisco Bay Area which are referred to as beats. *Table 1, Map of Proposed Beat* and *Table 2, Proposed Implementation Plan* of this Appendix show the coverage area, specific hours of operation, number of vehicles to patrol the beat. MTC SAFE reserves the right to modify the *Table 2, Proposed Implementation Plan* to accommodate demand for the service including dispatching FSP vehicle(s) to incident locations beyond the vehicle's patrol limits or modifying the work schedule.

Trained FSP drivers shall continuously patrol their assigned beat and offer assistance to all stopped vehicles and respond to CHP and Caltrans dispatches for service. Drivers can spend approximately ten (10) minutes per disablement in attempting to mobilize a vehicle. If a vehicle cannot be mobilized within the ten (10) minute time limit, the vehicle should be towed to a designated drop location identified by the CHP. No other drop locations are permitted. The motorist can request the FSP vehicle driver to call the CHP Communications Center to request a CHP rotational tow, specified tow or relative/friend to assist them.

FSP drivers are strictly prohibited from towing as independent contractors from incidents that occur during the FSP shift. If called as a rotation tow after a FSP shift, another driver must be dispatched to respond to the incident. FSP drivers are prohibited from accepting gratuities, performing secondary towing services, recommending secondary tows or repair/body shop businesses. All complaints will be investigated by the CHP and may result in driver and/or contractor termination.

II. STANDARD OPERATING PROCEDURES

The FSP program expectations for drivers and Contractors when performing FSP duties beyond what is detailed in the RFQBI are set forth in the FSP Standard Operating Procedures (SOP), which is incorporated into this RFQBI by reference and will be incorporated into the resulting contract between the Contractor and MTC SAFE. FSP Partners ensure program policies are upheld by the drivers and Contractors through field supervision, random and scheduled inspections, and utilization of an Automated Vehicle Locator (AVL) system that tracks FSP vehicle movements and shift start/end times. Contractors shall familiarize themselves with the SOP as noncompliance with the policies shall result in monetary fines and/or other disciplinary

action. The manual is available online at the FSP website at < <http://www.fsp-bayarea.org> >

The SOP is updated routinely to incorporate changes to the program and clarifications on previous policies. All updated SOPs shall supersede all previous versions of the SOP and Contractors shall adhere to the policies in the most current SOP. **In the event of a discrepancy between this RFQBI and the SOP, the more stringent provision with respect to Contractor performance shall apply.**

TABLE 1: Map of Beat 14



TABLE 2: Proposed Implementation Plan for Beat 14

Proposed Implementation Plan for Beat 14												
BEAT ID	LOCATION		BEAT LIMITS	CALTRANS ONE WAY LENGTH (IN MILES)	START DATE	ENDING DATE	WEEKDAYS		# OF TOW TRUCKS	# OF PICKUP TRUCKS	# OF BACKUP TRUCKS	Estimated Contract Hours
	COUNTY	ROUTE					AM SHIFT	PM SHIFT				
14	ALA	880	Alvarado-Niles Road to Alameda/Santa Clara Co. Line	13.02	3/1/16	6/30/19	06:00-10:00	15:00-19:00	2	1	1	19,872
	ALA	84	Thornton Avenue to Interstate 880 (on-call service)	2.26								
	SCL	880	State Route 237 to Alameda/Santa Clara Co. Line	2.08								
Roving Mileage:				17.36								

*Backup truck is a pickup truck

TABLE 3: Beat 14’s Backup Truck Assignments

The expectation is that the Contractor use their own backup pickup truck before requesting from the backup contractors. Requesting contractor must exhaust their assigned backup providers in order. Should their primary and secondary backups be unavailable, requesting contractor must continue contacting all remaining backup providers.

BEAT	Primary Provider	Secondary Provider
14	Beat 3	Beat 9

Backup truck assignments are subject to modification.

Beats with Backup Trucks
Beat 2
Beat 3
Beat 5
Beat 6
Beat 8
Beat 9
Beat 28
<u>Beat 29</u>
8 Trucks

III. VEHICLES

The FSP will utilize, at a minimum, Class A trucks with a minimum gross vehicle weight rating of 14,000 pounds, dual wheel chassis and four (4) ton recovery equipment rating. All trucks proposed for use in the FSP program shall have less than 25,000 miles on the cab and chassis, not previously registered (before the award of the contract) and model year shall be 2014 or newer; MTC SAFE or CHP will check the original purchase dates to ensure compliance. Other equipment on the truck is not required to be new, but shall be in excellent condition and is subject to the approval of CHP.

A. Tow Trucks Only

The tow trucks must meet the following criteria which are used to determine the safe towing limits for a truck: 1) the total weight of the truck, including the lifted load, must fall within the manufacturer's Gross Vehicle Weight Rating (GVWR) and not exceed either the Front or Rear Axle Weight Ratings (FAWR, RAWR); 2) the truck must meet all applicable standards; 3) for proper steering and braking, the front axle load must be at least 50% of its normal or unladen weight after the load is lifted.

Each tow truck shall be equipped, at a minimum, with the following:

- Easy or Wheel lift, with a minimum lift rating of 3,000 pounds
- Proper safety straps
- Boom with a minimum static rating of 5,000 pounds
- Boom controls on both left and right side of truck
- Winch - 8,000 pound rating on the first layer of cable
- Trailer hitch capable of handling a 1 & 7/8-inch or 2 inch ball
- Motorcycle transporting capability
- Winch Cable - 100 ft., 3/8-inch diameter, with a working limit of 3,500 pounds
- Tow chains 5/16-inch alloy or OEM specs, J.T. hook assembly (only required for tow trucks with slings)
- Tail lights, brake lights, portable remote with extension cord (1 set)
- Dolly, portable for removing otherwise untowable vehicles (1)
- Safety chains a minimum of 5 ft. in length 5/16 alloy (2)
- Safety chain D-ring or eyelet mounted on rear of truck
- Rubber face push bumper (as referenced in this Appendix A, Section III.E)
- Four ton snatch block with hook (1)
- Twenty foot recovery chain with hooks on both ends (1)
- 4" x 6" x 12" wood blocks (2)
- 4" x 4" x 48" wooden cross beam (only required for tow trucks with slings) (1)
- 4" x 4" x 60" wooden cross beam (only required for tow trucks with slings) (1)

B. Pickup Trucks Only

All pickup trucks are required to have a maximum of 5,000 miles at the onset of the contract and a size of half (1/2) ton. Extended or crew cab pick-up truck is optional. A pickup truck of any other size does not meet specifications.

C. All Trucks and Pickups

Each FSP truck (including pickups) will be required to have a toolbox with the following minimum number of tools/supplies. The list may be supplemented at the Contractor's option and expense. All equipment stored on top of the truck shall be secured to the truck.

- Unleaded gasoline (5 gallons)
- First aid kit (small 5" x 9") (1)
- Fire extinguisher aggregate rating of at least 4-B, C units (1)
- Pry bar - 36" or longer (1)
- Radiator water (5 gallons)
- 24" wide street broom (in good condition) (1)
- Square point shovel (1)
- Fuses (highway flares), 15 minutes (36)
- 28 inch blaze orange traffic cones (labeled "FSP") (6)
- Four way lug wrench (1 std.) (1)
- Four way lug wrench (1 metric) (1)
- REQUIRED IF FEASIBLE FOR TRUCK MAKE/MODEL: Built-in air compressor, 3/8" diameter, quick coupler 50 ft. hose, 90 min. – 130 max. psi. All other vehicles must have a rechargeable air bottle, hoses, and fittings to fit tire valve stems with 100 psi capacity or truck mounted compressor or 12 volt compressor with 75 pound capability and ability to reach a passenger vehicles four mounted tires (includes pickup) parked to the rear or to the front of the service vehicle.
- Flashlight (3 D cell or larger) and spare batteries (1)
- Booster cables, 25 ft. long minimum, 3-gauge copper wire with heavy-duty clamps and one end adapted to truck's power outlets (1 set)
- Funnel, multi-purpose, flexible spout (1)
- 5-gallon can with lid, filled with sand (1)
- Lock out set (1)
- Trashcan with lid (5 gallon) (1)
- Mounted spotlight capable of directing a beam both front and rear.
- Lightbar system with amber warning lights with rear directional flashing capability, with on-off switch in cab. The directional light bar should be capable of displaying at least four (4) different patterns including right, left, split (center to outwards), and warning/flash, similar to Federal Signal Master Model SML8.
- External speaker and public address system.
- Power outlets ("hot boxes"), front and rear mounted, with outlets compatible to 12 volt booster cables.
- Heavy duty, 60+ amp battery.

- Radios with the ability to communicate with the contractor's base office.
- Programmable scanners capable of scanning between the 42 and 47.24 frequencies used by both Caltrans and the CHP.
- Suitable cab lighting.
- Rear work lights.
- Hydraulic jack, 2 ton, trolley jack, lifting range 5 1/2" to 15 1/4" (1)
- Tool Kit including:
 - Screwdrivers- Standard-1/8", 3/16", 1/4", 5/16" (1 each, min.)
 - Phillips head - #1 and #2 (1 each, min.)
 - Needle nose pliers (1)
 - Adjustable rib joint pliers, 2" min. capacity (1)
 - Crescent wrench - 8" (1)
 - Crescent wrench - 12" (1)
 - 4 lb. hammer (1)
 - Rubber mallet (1)
 - Electrical tape, roll (1)
 - Duct tape, 20 yard roll (1)
 - Tire pressure gauge (1)
 - Mechanic's wire (roll) (1)
 - Bolt cutters (1)

D. Push Bumper

All trucks and pickups are required to comply with the "Push Policy" described in the FSP SOP. Proficiency testing will include a "pushing" component. All vehicles should be equipped with Setina and/or a similar model of push bumpers. All mounted push bumpers should comply to the following specifications:

- 16" model or larger
- Rugged one-piece main structure made of 3/8" x 2 1/2" aluminum or steel
- 1/4" x 2 1/2" steel mounting brackets
- 1/4" x 1 1/2" x 1 1/2" cross support brace
- Replaceable 3/4" x 2 1/2" x 12" or 3/4" x 2 1/2" x 16" molded hard rubber push pads
- Black powder coat paint

E. Inspections

Prior to commencement of the contract, the CHP shall inspect each vehicle designated for the FSP, including backup trucks, to ensure that it meets the vehicle specifications and equipment requirements and to ensure that it meets or exceeds safety requirements.

These inspections shall occur approximately three weeks prior to the start of the contract.

Succeeding inspections, announced and unannounced, will occur periodically. Locations of truck inspections will be designated by the CHP. Any unsafe or poorly maintained vehicle(s) or improperly equipped vehicle(s) shall be removed from service or repaired as directed and the Contractor shall be fined accordingly under the SOP.

Documentation of the vehicle identification number and successful completion of the inspection

shall be kept on file at the CHP offices in Vallejo and Contractor's base office.

The driver shall be required to complete a pre-operation inspection of the vehicle as well as inventory the required equipment prior to the start of each shift. An inspection inventory sheet shall be completed prior to the start of each shift. The sheets must be kept on file at the Contractor's office and available for CHP inspection upon request. Any item missing must be replaced prior to the start of the shift.

F. Truck Color, Lettering/Markings and Rooftop Letters

All FSP vehicles shall be painted white and all required lettering including the vehicle identification number on the truck shall be in blocked bold form in solid black only and parallel to the ground. Shading or lettering in any other color is prohibited. Letter size shall be no smaller than two (2) inches by (2) inches and no larger than four (4) inches by four (4) inches. Letters shall only be placed on the lower body of the truck toward the cab. With the exception of the markings listed in the following paragraph, lettering or markings displayed anywhere else is prohibited (i.e., the boom, hood, door, etc.) and will be required to be removed at the Contractor's expense. The intent of these specifications is to maintain a uniform appearance throughout the FSP vehicle fleet.

MTC SAFE will supply each contractor with the appropriate number of vehicle rooftop letters for his/her beat(s). Contractors shall place rooftop letters on the roof of all trucks. If a marking is lost or damaged, the contractor shall be responsible for the cost of the replacement markings. All FSP markings shall be removed at the termination of the contract. FSP markings as well as vehicle numbers ("Truck Number") shall be required on both sides of all trucks. The driver shall be required to keep the logos clean and in readable condition throughout the service patrol's operation.

For FSP tow trucks only, the Carrier Identification Numbers ("CA Numbers") must be displayed on both sides of the vehicle. These numbers may be obtained by contacting the California Highway Patrol Motor Carrier Unit. There is no fee for obtaining this number. The numbers must be in sharp contrast to the background, and be of a size, shape, and color that is readily legible during daylight hours from a distance of 50 feet.

Additionally, all FSP contractors must have a current Motor Carriers of Property Permit. These permits are issued by the Department of Motor Vehicles (DMV). Contractors will not be able to obtain this permit at the local DMV office. There are fees associated with this permit.

G. FSP Signage

All trucks are required to display FSP logo decals on both sides of vehicle which will be supplied by MTC SAFE. White magnetic "Not in Service" placards used to cover the decals to indicate that the vehicle is not in service will also be supplied to the Contractor by MTC SAFE. If a decal or placard is lost or damaged, the contractor shall be responsible for the cost of the replacement. The driver shall be required to keep signs clean and in readable condition throughout the service patrol's operation. The contractor may elect to have a decal or a magnet to fulfill the FSP logo requirement for the backup truck.

H. Dedicated FSP Vehicles

All Freeway Service Patrol Program vehicles will be exclusively dedicated to the FSP at all times. See exception for the backup pickup truck in Section V. FSP vehicles may not be used for any other purposes not related to FSP and must remain at the beat assigned office.

I. Substitution of Trucks

Contractors who have multiple beats are prohibited from swapping FSP vehicles between beats or offices. In addition, the selected Contractor is prohibited from using regular FSP service vehicles as a backup truck.

If any regular FSP service vehicles on Beat 14 are unable to provide service on its designated beat as a result of mechanical problems and/or damage, the backup pickup truck must be used to replace the out of service vehicle.

J. On-Time Delivery of Trucks

All trucks must be ordered no later than three (3) days after contract execution. Documentation verifying the purchase must be submitted to MTC SAFE and failure to do so may result in termination. All trucks must be ready by the start date of beat operation as listed on the Implementation Plan. Contractors must notify MTC SAFE immediately upon notification that any of the trucks may be late. MTC SAFE may allow the temporary use of approved old FSP trucks if the new trucks are not ready at the start date of beat operation. Under no circumstance should any truck be delivered over 30 days past the start date of beat operation. MTC SAFE reserves the right to cancel the contract should any truck be delivered over 30 days late. Records must be kept regarding the ordering/purchasing of the vehicles, with the appropriate date and time stamps included.

IV. COMMUNICATIONS EQUIPMENT

A. MTC SAFE Supplied Communications Equipment

MTC SAFE will furnish and install a voice radio system and an in-vehicle data system with a cellular modem, WiFi router and GPS tracking device, in each FSP truck, collectively referred to as the “FSP communications equipment”. The tow driver will utilize the voice radio for emergencies as well as when the tablet or the LATATrax system is inoperable or inaccessible. The California Highway Patrol will dispatch FSP trucks via the LATATrax system whenever possible. CHP will also dispatch FSP trucks via the voice radio if the LATATrax system is not operable.

Refer to Chapter 5 of the SOP on the correct use of communications equipment as well as procedures for reporting on issues with such equipment. MTC SAFE may deduct the repair costs, or if the equipment cannot be repaired, the full replacement cost of any MTC SAFE communications equipment damaged or destroyed while in Contractor’s custody and control, from the Contractor’s monthly payment for the month in which MTC SAFE must replace or repair equipment. FSP communications equipment and any other MTC SAFE supplied vehicle equipment shall be returned in full working condition upon contract termination. The replacement cost of any equipment not returned shall be deducted from the Contractor’s final

payment.

FSP communications equipment may not be used by the Contractor during non-FSP hours of operation. The Contractor shall be responsible for maintaining the security of the FSP 0 equipment, other than normal wear and tear, occurring while in the care, custody and control of the driver,

B. Contractor Supplied Telecommunications Equipment

Contractors must supply and maintain a working tablet device with WiFi capability that meets the specifications in Chart 1 for each truck, including backup trucks. Tow drivers will access LATATrax, a secure website, through Google Chrome on the tablet to log in and out of shifts and breaks, communicate with dispatch, and document assist information. MTC SAFE will use the LATATrax system to communicate with drivers, track FSP vehicles, and collect information on the FSP program. The option to purchase a tablet data plan is at the sole discretion of the contractor, however, the Contractor must connect to LATATrax via the in-vehicle WiFi network unless given written permission by MTC SAFE. The tablet computer must be installed in the cab of the truck with a mounting system and in a manner to be specified in writing by MTC SAFE.

The Contractor shall also supply and maintain in all working FSP vehicles programmable scanners capable of scanning CHP frequencies. All vehicles, including backup trucks, shall be equipped with radios to enable the driver to communicate with his/her base office.

The Contractor must also install, at its own cost, an external speaker and public address system in all vehicles, including backup trucks. The speaker and address system will have the capability to allow the driver of the disabled vehicle to hear instructions transmitted from the cab of the FSP vehicle when the fleet vehicle is adjacent to the rear of the disabled vehicle.

Thee scanners, radios and speaker system shall be owned and maintained by the Contractor. It is the Contractor's responsibility to ensure that all the equipment described in IV. B. is kept in good working order during service hours.

Chart 1. Tablet Computer Requirements
• WiFi capability
• Minimum screen diagonal of 6 inches and a maximum diagonal of 14 inches
• The most recent or second more recent version of the tablet's Android operating system, unless specific permission is given by MTC SAFE
• Must meet or exceed all the specifications for performance, including but not limited to, those for processor speed and system memory as the Samsung Galaxy Tab 4 7.0©. Other models must be approved by MTC SAFE in writing
• Touchscreen, a working embedded camera, internal speakers and an embedded microphone
• The most recent available version of Google Chrome, or the second most recent version

V. BACKUP TRUCK

Beat 14 is required to have a backup pickup truck to be exclusively used by the contractor to temporarily provide service in the unplanned event that one of the contractor's regular FSP service vehicles is down for mechanical reasons or vehicle damage. The required backup truck must meet all vehicle requirements under Section III this *Appendix A* regarding specifications, signage and storage.

Although the backup truck is not dedicated to the FSP program, fulfilling the contractor's obligated FSP service levels must always be prioritized before the backup pickup truck is used for any other purposes. When the backup truck is utilized to provide backup FSP service, the FSP partners must be notified via the online fleet management system. Pertinent information regarding the reason and duration of the backup truck service must be relayed.

In the event that the contractor requires backup service by a backup contractor per Table 3's Backup Assignment, it is the requesting contractor's responsibility to secure the backup service. The FSP partners will not make backup service arrangements on behalf of the contractor. Failure to secure backup service or illegitimate use of backup service (either through the contractor or a backup contractor) will result in fines as defined by Violation 51 in Chapter 10 of the SOP.

Contractors with backup trucks may also be called upon to temporarily serve as emergency contractors should any of the contracts on the regular beats need to be terminated due to contractor performance issues.

VI. DRIVER QUALIFICATIONS AND REQUIREMENTS

All potential vehicle drivers shall be required to have a safe driving record and current Class C driver's license. All drivers shall be 18 years of age or older. Potential drivers shall be subject to driving record and criminal background checks. The CHP will be permitted to perform the background checks and the driving record and criminal background checks shall be obtained by CHP. Any driver convicted of a crime specified in paragraph (1), (2), (3), or (4) of Subdivision (a) of Section 13377 of the Vehicle Code or any driver not meeting the requirements put forth in the Tow Service Agreement (TSA) for Rotation Tow Operators (HPM 81.2, Vehicle Procedures Manual, Element 15, Annex FF, "Criminal Conviction Disqualifications for Rotation Tow Operators/Drivers"), will be automatically excluded from the FSP. In addition, as a matter of policy, MTC SAFE may, in its sole discretion, require the Contractor to replace any driver whom it determines is not suitable to represent the FSP program based on the CHP background check.

FSP drivers must possess a valid DL-64 (Tow Truck Driver Clearance) application. In addition and in accordance with Vehicle Code section 12804.9, all FSP drivers must possess a DL-51 (medical certificate) approved by the Department of Motor Vehicles that has been issued within two years of the date of the operation of the vehicle, is within the licensee's immediate possession, and a copy of the medical examination report form from

which the certificate was issued is on file with the DMV.

All potential drivers must be capable of demonstrating their tow operating abilities at the tow proficiency test prior to formal CHP training and will be required to adhere to the requirements described in the SOP. The Contractor shall pay drivers at a minimum the requirement noted in Section II.A.8 of the RFQBI for the time spent in the tow proficiency test and any other required FSP training. Additionally, the drivers will be required to exercise sound judgment in carrying out their duties.

The CHP, Caltrans, and MTC SAFE maintain strict drug and alcohol policies. Any FSP vehicle driver found working under the influence of drugs or alcohol will be decertified immediately. The Contractor shall be responsible for finding a replacement driver for that vehicle. The Contractor shall maintain a written substance abuse policy requiring alcohol and drug testing for all drivers who work in the FSP program, consistent with Federal Highway Administration (FHWA), Department of Transportation (DOT) CFR 49 part 382, Regulations on Controlled Substance and Alcohol Use and Testing.

All beats require backup drivers. When necessary and with the approval of the CHP, the provision of completing operations proficiency exams for a backup driver may be waived prior to attending the training session, however, completion of operations proficiency must be completed before certification of a backup driver. Backup drivers must be certified drivers, who have successfully completed the mandatory 3-day certification training conducted by CHP, no exceptions.

If a previous certified backup driver has been away from the program less than twelve (12) months, he/she must successfully complete a criminal history background check conducted by CHP, before operating under the FSP program. However, if a backup driver has been away from the program more than twelve (12) months they must be recertified before operating a vehicle under the FSP program.

Contractors shall refer to the SOP for specific detail regarding driver responsibility.

VII. DRIVER PROFICIENCY, TESTING AND TRAINING

A. General Proficiency and Testing Requirements

All FSP drivers are required to be trained and proficient in towing operations prior to working in the FSP program. The use of dollies and recovery procedures, including the towing of over-turned vehicles and removing vehicles from the lane of traffic using push bumpers, are considered normal towing operations. This requirement is the Contractor's responsibility. New driver applicants shall be tested for basic towing proficiency prior to being allowed in the FSP program. Those drivers found to be deficient in towing skills during the proficiency testing or during any subsequent period shall be removed from the program by the CHP, acting on behalf of MTC SAFE, until their proficiency is satisfactory. Contractors shall ensure that all drivers, including backup drivers, participate in FSP ride-alongs with experienced FSP tow drivers, while performing FSP towing operations, for two (2) full four (4) hour shifts (or

for a total of eight (8) hours) prior to participating in the proficiency test.

B. Proficiency Testing and 3-Day Certification Training Requirement

Those FSP tow driver applicants who are already employed by the FSP contractor and who pass background checks, driver's records checks, the proficiency test, and are otherwise found to be acceptable to work in the program, are required to successfully complete a three (3) day training course provided by the CHP. This course is required by law. There is no charge for the course, however, the Contractor shall be responsible for the students' travel to and from the classes and for the salaries of the students while participating in the course at a minimum the requirement noted in Section II.A.8 of the RFQBI by the Contractor. No driver shall begin patrolling without successful completion of this required course. Any driver who is found on FSP patrol without successful completion of this mandatory training shall be prohibited from any further FSP service and the Contractor's contract will be terminated immediately for cause. If a Contractor runs out of certified drivers, a backup truck and driver must be obtained; uncertified drivers shall not be used at any time. The contractor shall be fined for failure to provide services due to lack of certified driver availability and/or their contract may be terminated for cause.

C. Quarterly Refresher Training Requirement

All FSP drivers are required to participate in two (2) hours of FSP related training once each quarter of the calendar year in order to maintain certification. There is no fee for this training; however, Contractors shall pay the wages of their employees to attend at a minimum the requirement noted in Section II.A.8 of the RFQBI. This required training is presented by the FSP Partners and will occur at hours removed from regular FSP work hours. This training will concern any topic deemed to be important to further develop FSP services or safety for FSP employees. Any drivers who miss a quarterly training must coordinate with CHP to make up for the training hours missed.

D. General Training Information

The Contractor will be allowed to train as many drivers as he/she deems necessary to support his/her operations as long as the training classes have space to accommodate. However, the training for new drivers normally is given only once during each quarter of the calendar year. It is the full responsibility of the Contractor to ensure he/she has sufficient number of trained FSP personnel to support his/her FSP regular and backup operations between scheduled classes. The Contractor must allow for injuries, sick personnel, family emergencies, terminations of employment, and any other incidents which may adversely affect the number of trained personnel available to work.

The required FSP training shall include, but is not limited to, the following:

1. Tow Truck Driver and Motorist Safety;
2. Patrol Responsibilities;
3. Vehicle Operation;
4. Traffic Control and Scene Management;
5. Communications Procedures;

6. Demeanor and Courtesy;
7. How to Handle Gratuities/Tips;
8. How to Handle Unusual Situations; and
9. Sexual Harassment.

VIII. MEETING ATTENDANCE

A. Contractor Quarterly Safety Meetings

Contractors are required to hold quarterly safety meetings for their FSP drivers during non-FSP hours. The safety meetings shall occur for at least one (1) hour to discuss current tow issues, review tow procedures, etc. The meetings shall take place at a location of the Contractor's choice. Contractors shall pay all FSP drivers and backup drivers for attending the training at the minimum requirement noted in Section II.A.8 of the RFQBI. Contractors shall document such meetings with agendas, minutes, and/or sign-in sheets and have them available upon request over the course of the contract to confirm such meetings are being conducted.

B. Tow Contractors' Meetings

The Contractor, Designated Manager or a representative who can make decisions on behalf of the Contractor must attend the Tow Contractors' Meetings, held once every two months on the second Tuesday at one of the FSP Partner's offices. Contractors failing to have the required representation at the meeting will be fined one hundred dollars (\$100).

Contractors may specifically be required to attend Tow Contractors' Meetings, Quarterly Refresher Trainings or special meetings as requested by MTC SAFE.

IX. COMPENSATION

A. General Compensation

Payment of the approved portion of an invoice, less any penalties charged to Contractor as specified in the FSP Operator's Manual, shall be mailed to Contractor by MTC SAFE within 30 days from the last day of that invoicing month. Compensation is based on actual time on the beat; travel time to the beat will not be compensation.

B. Compensation for Overtime

Work provided beyond the regular service hours as listed in Table 2 of this Appendix shall be compensated by MTC SAFE only if legitimate service is provided and is approved by CHP Dispatch or an on-duty CHP FSP officer. Legitimate overtime is described in Chapter 3 of the SOP. MTC SAFE will not compensate contractors for unauthorized overtime. Payment will be made in 15 minute increments on the basis of straight time.

C. Extra Service

Contractors may be requested to provide extra service above and beyond the regular service hours in Table 2 for special events, limited projects, and construction project mitigation as part of Caltrans' Traffic Management Plans (TMP) which may include bridge closures. Contractors will be

paid at their current hourly rate for providing such services and does not require a contract amendment.

D. Fuel Compensation

The contract will specify ranges whereby accommodations for rising or falling fuel prices will be made. For details see *Appendix C, Sample Contract* and *Appendix D, Terms and Conditions*,

E. Non-Allowable Costs

The following is a list of non-allowable costs, which are NOT to be included in the price proposal, and are NOT eligible for reimbursement under the contract:

1. Budgeting for a backup driver, who may be paid overtime if driver has already worked 40 hours during the week; and

No additional compensation will be given for the (1) Bi-monthly Tow Contractor's Meeting; (2) Proficiency Testing and Certification Training; (3) Quarterly Refresher trainings; and (4) Contractor Quarterly Safety Meetings. Since the Contractor is required to pay for these meetings/training sessions, these costs should be incorporated into the four year cost and hourly rate. MTC SAFE reserves the right to inspect or audit maintenance records, fuel costs, or request information on drivers' pay.

F. Legal Actions

If a FSP driver is subpoenaed to testify in regards to a claim against the tow contractor or other legal action, the subpoenaed driver is to be paid the wage requirement noted in Section II.A.8 by the Contractor. Such cost shall be incorporated into the four year cost and hourly rate as MTC SAFE will not reimburse the Contractor.

X. DRIVER UNIFORM

It shall be the responsibility of the Contractor to provide all drivers working thirty (30) or more hours with five (5) sets of uniforms and rain gear. Contractors shall purchase rain gear for all FSP drivers prior to the commencement of service. Contractor shall refer to Chapter 2 of the SOP for complete specifications on FSP driver uniform requirements.

The uniform requirement will be strictly enforced. Failure to meet this uniform requirement will result in Contractor and/or driver violation as listed in the SOP.

XI. OTHER OPERATIONAL REQUIREMENTS

Paperwork that results from the operation of this beat shall be collected and mailed to MTC SAFE's data processing center as specified in the FSP SOP. Mailing costs are part of the Contractor's administrative costs. MTC SAFE is currently in the process of converting the paperwork into an electronic process that shall be established during this contract term.

If a Contractor is terminated for cause or default within the contract period and if directed by

MTC SAFE, the defaulting contractor agrees to sell the vehicles at market value calculated using the Kelly Blue Book, or equivalent, to the Contractor identified by MTC SAFE.

APPENDIX B, STEP 1: QUALIFICATIONS(FORMS A-P)

One original and two hard copies due no later than 1:00 p.m., Monday, December 14, 2015 to MTC SAFE offices.

- Cover Letter for Step 1**
 - Completed and Signed Form A
- Business License**
 - Completed Form B
 - Copy of business license
- Experience**
 - Completed Form C
- Designated Manager/Office Staff**
 - Completed Form D
- Local Office**
 - Completed Form E
- Financial Responsibility***
 - Signed Form F*

Provide only one copy of financial documentation and package it separately.
- Insurance**
 - Completed and Signed Form G
- Wages and Benefits**
 - Completed and Signed Form H
- References**
 - Completed Form I
- Good Standing**
 - Completed Form J
- Certification of Debarment**
 - Completed and Signed Form K
- Certification of Restrictions on Lobbying**
 - Completed and Signed Form L
- Local Agency Proposer DBE Commitment (Consultant Contract), and Local Agency Proposer DBE Information (Consultant Contract)**
 - Completed and Signed Forms M-1 and M-2
- California Levine Act Statement**
 - Completed and Signed Form N
- Vehicle Inspection**
 - Completed Form O
- Facility Inspection**
 - Refer to Form P (does not need to be submitted with Proposal)

Form A COVER LETTER FOR STEP 1

TO: Stefanie Pow
 MTC SAFE
 101 8th Street, Oakland, CA -94607-4700

DATE:

FROM:

In response to the Request for Qualifications Bid Invitation (RFQBI) for the Freeway Service Patrol (FSP), we the undersigned hereby declare that we have carefully read and examined the RFQBI documents and hereby propose to perform and complete the Work as required in the RFQBI and as indicated in these Proposal Documents.

By signing below, you are certifying that all information submitted to MTC SAFE in this RFQBI is accurate.

If awarded a Contract, the undersigned agrees to execute a Contract substantially similar in form to the Contract included in this RFQBI, Appendix C, and to deliver to MTC SAFE prior to execution of the Contract the necessary original Certificates of Insurance and endorsements, as required therein. If changes in the attached contract are desired, they are attached to this Proposal; if no changes are attached, the undersigned agrees to execute the contract substantially "as is."

The undersigned hereby certifies that it will not unlawfully discriminate against any employee or applicant for employment or any motorist intended to be a beneficiary of the FSP service with regard to race, color, religion, sex, national origin, physical or mental disability, marital status, sexual orientation or age.

The undersigned acknowledges receipt, understanding and full consideration of all Addenda to the RFQBI:
 _____ (initial)

Bidder represents that the following person is authorized to negotiate on its behalf with the MTC SAFE in connection with this RFQBI:

Name	Title	Phone
Bidder Company Name	Mailing Address/P.O. Box	
Signature of Authorizing Official	City, State, Zip Code Title	
Bidder Name	Telephone	Fax Number
Business License Number	Business License Classification	
Tax ID	Bidder is a: Sole Proprietorship Corporation Partnership If corporation, state of incorporation:	

Form B BUSINESS LICENSE

All Bidders must attach a copy of their current business license from each city in which their office(s) listed in Form E is located to this form.

Business License Number

City in which business license was obtained

Business License Classification

Bidder Company Name (include any DBA)

Form C EXPERIENCE

Experience since January 1, 2010	# of Years
Number of years on tow rotation with CHP or FSP	
Number of years of highway/freeway tow experience (law enforcement, auto clubs, etc.)	
Total number of years of tow service experience since January 1, 2010	

Form D DESIGNATED MANAGER/OFFICE STAFF

Name of Designated Manager: _____

Designated Manager is (circle one): Bidder or Staff

Office phone number of Designated Manager: _____

Mobile phone number of Designated Manager: _____

Email address of Designated Manager: _____

Number of years of experience in towing industry or similar field: _____

Location/company where experience in towing industry or similar field was obtained:

Please list additional office staff person(s) as appropriate:

1. Name of office staff person who has the authority to conduct business and make decisions on behalf of the Bidder or Designated Manager:

Title/Role: _____

Office phone number of Office Staff: _____

Mobile phone number of Office Staff: _____

Email address of Office Staff: _____

2. Name of office staff person who has the authority to conduct business and make decisions on behalf of the Bidder or Designated Manager:

Title/Role: _____

Office phone number of Office Staff: _____

Mobile phone number of Office Staff: _____

Email address of Office Staff: _____

Form E OFFICE LOCATION

Bidder Name: _____

Beat	Office Location (street address, city, state, zip code) <i>the permanent location where all trucks will be staged, maintained, and parked overnight and in between shifts.</i>	Minutes to Beat from Office
	Street Address: City, State, Zip Code: Office Phone Number: Office Fax Number:	
	Street Address: City, State, Zip Code: Office Phone Number: Office Fax Number:	

By signing below, you acknowledge and agree to stage, maintain, and park all FSP vehicles, including backup trucks, overnight or in between shifts at the beat assigned office listed in Form E.

 Signature of Authorized Official

 Type/Write Name of Authorized Official

 Type or Write Name of Company

Form F FINANCIAL RESPONSIBILITY

All Bidders must submit evidence of financial responsibility. To meet this requirement, each Bidder must submit a Dunn and Bradstreet Report or credit report by a recognized credit reporting service, issued after August 31, 2015 and one of the following:

- (1) A reference letter from its bank;
- (2) Federal Income Tax Returns from the two most recent years available; or
- (3) Profit/Loss Statement for the two most recent quarters available.

Only one copy is necessary and should be packaged separately. The financial responsibility information will be received as confidential by MTC SAFE and will not become part of MTC SAFE's public record.

Form G INSURANCE

Contractor must have original insurance certificates and the required endorsements approved by MTC SAFE on file before contract performance begins. Insurance carriers shall be required to have an established place of business in California.

Contractor acknowledgement to obtain and maintain, at its own expense, in effect for the duration of the contract the following insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, or employees:

	Please certify by checking the boxes at left that required coverages will be provided before contract performance begins.
Yes (√)	A. <u>Minimum Limits of Insurance</u> : CONTRACTOR shall obtain the following types of coverage with limits no less than:
___	(1) Workers' Compensation insurance as required by the State of California with Statutory limits. Such policy shall contain a Waiver of Subrogation endorsement in favor of MTC SAFE;
___	(2) Employer's Liability of at least \$1,000,000 per accident for bodily injury or disease;
___	(3) Commercial General Liability of at least \$1,000,000 per occurrence for bodily injury, personal injury and property damage (if Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project location or the general aggregate limit shall be twice the required occurrence limit). Such policy shall contain a Waiver of Subrogation in favor of MTC SAFE;
___	(4) Owned, Non-Owned and Hired Automobile Liability of at least \$1,000,000 per accident for bodily injury and property damage;
___	(5) On-hook Insurance of at least \$80,000 per accident;
___	(6) Inland Marine Floater Insurance of at least \$10,000 or the replacement cost of the equipment supplied by MTC SAFE, whichever is higher; and
___	(7) Umbrella insurance in the amount of \$2,000,000 providing excess limits over Employers Liability, Automobile Liability, and Commercial General Liability Insurance.
	B. <u>Deductibles and Self-Insured Retentions</u> : CONTRACTOR shall be responsible for payment of any deductible or retention on CONTRACTOR's policies without right of contribution from MTC SAFE. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

C. Other Insurance Provisions: The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. MTC SAFE, the California Highway Patrol (CHP), Caltrans, their Commissioners, directors, officers, employees and agents are to be covered as additional insured under the coverages specified herein Form G, as respects: general liability arising out of activities performed by or on behalf of CONTRACTOR; automobiles owned, leased, hired or borrowed by CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to MTC SAFE, the CHP, Caltrans, their Commissioners, directors, officers, employees and agents.

2. For any claims related to this project, CONTRACTOR's insurance coverage shall be primary insurance as respects MTC SAFE, the CHP, Caltrans, their Commissioners, directors, officers, employees and agents. Any insurance or self-insurance maintained by MTC SAFE, the CHP, Caltrans, their Commissioners, directors, officers, employees and agents shall be excess of CONTRACTOR's insurance and shall not contribute with it.

3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to MTC SAFE, the CHP, Caltrans, their Commissioners, directors, officers, employees and agents.

4. CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. CONTRACTOR must notify MTC SAFE if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

D. Acceptable Insurers: Insurance is to be placed with insurers Best's Rating of A or better with a Financial Size Category of VII or better.

By signing below, you acknowledge and agree to provide the required certificate of insurance providing verification of the minimum insurance requirements listed above before contract performance begins.

(Signature of Authorized Official)

(Type/Write Name of Authorized Official)

(Type or Write Name of Company)

NOTE: If you were unable to check "Yes" for any of the required minimum insurance coverages listed above, a request for exception to the appropriate insurance requirement(s) must be brought to MTC SAFE's attention no later than the closing date and time for requests for clarifications/exceptions. If such objections are not brought to MTC SAFE's attention consistent with the protest provisions of this RFQBI, compliance with the insurance requirements will be assumed.

Form H WAGES AND BENEFITS

MTC SAFE requires that selected Bidders pay FSP drivers a minimum starting wage of \$16.00 per hour. Selected Bidders must also adhere to the same wage requirement in compensating FSP drivers to attend the required trainings and meetings as specified in *Appendix A, Scope of Work*. MTC SAFE reserves the right, through the audit clause in its contract, to confirm a selected Bidder's compliance with this requirement. Bidders must also comply with all applicable federal, state, and local laws related to overtime pay and providing health insurance for employees. Failure to comply may result in termination of the contract.

By signing the below, you acknowledge and agree to adhere to the wages and benefits requirement for the duration of the contract term.

Signature of Authorized Official

Type/Write Name of Authorized Official

Type or Write Name of Company

Form I REFERENCES

Name of Bidder: _____

Representative Name & Title: _____

Phone Number and Email: _____

Bidders must provide three (3) references of which all three (3) references must respond to the MTC SAFE questionnaire in Form I. To be considered for Step 2, Bidders must receive an average of 3.5 on a scale of 1 to 5. References should be from companies, law enforcement agencies, service clubs, or public agencies, etc., who are knowledgeable of the Bidder's experience and capabilities with regard to towing services especially references from public agencies and/or other clients for whom they have performed services similar to those described in this RFQBI. References from relatives and/or current FSP Staff from CHP, Caltrans, or MTC SAFE will not be accepted.

References will be contacted during the week of December 14, 2015. It is the responsibility of the bidder to provide responsive references. The submitted reference information must be complete and current. Incomplete and/or inaccurate reference contact information to the point where the FSP Partners are unable to contact them may result in the Bidder not passing Step 1: Qualification.

1. Client's Name _____

Contact Person _____

Phone _____

Fax _____

E-mail _____

Address _____

Type of Work Performed _____

Best Way to Contact? phone email fax

2. Client's Name _____

Contact Person _____

Phone _____

Fax _____

E-mail _____

Address _____

Type of Work Performed _____

Best Way to Contact? phone email fax

3. Client's Name _____
Contact Person _____
Phone _____
Fax _____
E-mail _____
Address _____
Type of Work Performed _____
Best Way to Contact? phone email fax

The Sample Reference Form to be sent by MTC SAFE to Bidder's listed references is shown on the following page. This is for reference only and should not be completed by Bidder.



Bay Area Freeway Service Patrol Program FY 2016 Tow Procurement Reference Check Form

Tow Contractor:

Your Name/Title/Company:

A Tow Contractor has submitted a proposal with the Bay Area Freeway Service Patrol Program and you were listed as a reference. You have been authorized by the Tow Contractor to provide the following information related to their past experience and performance. Please complete this form and fax to the attention of Stefanie Pow at (510) 817-5965 or e-mail at: spow@mtc.ca.gov by Friday, December 18, 2015.

1.) Please describe your knowledge of Tow Contractor's experience and capabilities with regard to their tow services. Also, please describe the type of work they performed for you.

2.) How satisfied were you with the work the Tow Contractor performed for you, on a scale of 1-5, with 1 being "Completely Dissatisfied" and 5 being "Totally Satisfied"?

1-Completely Dissatisfied 2 3 4 5-Totally Satisfied

3.) On a scale of 1-5, with 1 being "Almost Always" and 5 being "Never", how often did you encounter problems with the Tow Contractor level of performance and/or customer service?

1-Almost Always 2 3 4 5-Never

4.) On a scale of 1-5, with 1 being "Poor" and 5 being "Exceptional", how would you rate the Tow Contractor's overall quality of service?

1-Poor 2 3 4 5-Exceptional

5.) How strongly would you recommend the Tow Contractor for a contract with our program, on a scale of 1-5, with 1 being "Would NOT recommend" and 5 being "Would DEFINITELY recommend"?

1-Not Recommend 2 3 4 5-Definitely Recommend

6.) Is there anything else that you think the FSP Partners might find helpful in making a decision with respect to selecting the Tow Contractor for the Freeway Service Patrol Program?

Thank you for taking the time to complete this reference form!

Form J GOOD STANDING

All Bidders must check all of the following that apply:

_____ At some point in the past 12 months from the RFQBI release date, my company has **not** been in good standing with the CHP rotational tow program.

_____ At some point in the past 12 months from the RFQBI release date, my company has been on probationary status with the FSP program.

_____ My company has received a letter of reprimand from the FSP program partners.

_____ My company has been terminated from the FSP program in the past two (2) years.

Good standing determines the Bidder's procurement eligibility.

To be in good standing with the CHP rotational tow program, the Bidder has not been placed on probation, suspension, or under investigation in the past 12 months from RFQBI release date.

To be in good standing with the FSP Program, the Bidder has not been placed on probation in the past 12 months from RFQBI release date, received a letter of reprimand from the FSP Partners, and/or been terminated from the FSP program in the past two (2) years.

If the Bidder is not in good standing with the CHP rotational tow program or the FSP program, the Bidder may attach an explanation detailing their good standing status.

If a Bidder has been terminated from the FSP program for default in the past two years, the bidder is not eligible to submit a bid for this procurement.

Form K CERTIFICATION OF DEBARMENT

(NAME OF CONTRACTOR)

, certifies to the best of his/her knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-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 the certification; and
4. Have not within a two-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

[NAME OF CONTRACTOR], is **unable** to certify to any of the statements in this certification, the participant shall attach an explanation to this certification).

[NAME OF CONTRACTOR], CERTIFIES OR 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. §§ 3801 *et seq.* ARE APPLICABLE THERETO.

(Signature of Authorized Official)

(Type/Write Name of Authorized Official)

(Type or Write Name of Company)

Form L, CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____, hereby certify on behalf of _____ that:
(name and title of grantee official) (name of grantee)

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 any 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 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 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.
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 is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. 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.

Executed this _____ day of _____, 2015.

(Signature of Authorized Official)

(Type/Write Name of Authorized Official) (Type or Write

Name of Company)

Form M-1 Exhibit 10-O1: Local Agency Consultant DBE Commitment (Inclusive of all DBEs at time of proposal)

1. Local Agency: MTC SAFE 2. Contract DBE Goal: 0%
 3. Project Description: Freeway Service Patrol - Beat 14
 4. Project Location: Alameda County
 5. Consultant's Name: _____ 6. Prime Certified DBE:

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
N/A	N/A	N/A	0%
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	0%
17. Local Agency Contract Number: _____			
18. Federal-Aid Project Number: _____			
19. Proposed Contract Execution Date: _____		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. 12. Preparer's Signature _____ 13. Date _____ 14. Preparer's Name _____ 15. Phone _____ 16. Preparer's Title _____	
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			
20. Local Agency Representative's Signature _____			
21. Date _____			
22. Local Agency Representative's Name _____			
23. Phone _____			
24. Local Agency Representative's Title _____			

DISTRIBUTION: Original – Included with consultant’s proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654- 3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT

CONSULTANT SECTION

1. **Local Agency** - Enter the name of the local or regional agency that is funding the contract.
2. **Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
3. **Project Location** - Enter the project location as it appears on the project advertisement.
4. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
5. **Consultant's Name** - Enter the consultant's firm name.
6. **Prime Certified DBE** - Check box if prime contractor is a certified DBE.
7. **Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
8. **DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
9. **DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
10. **DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
11. **Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
12. **Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
13. **Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
14. **Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
15. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
16. **Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

17. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
 18. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
 19. **Proposed Contract Execution Date** - Enter the proposed contract execution date.
 20. **Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
 21. **Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
 22. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
 23. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
 24. **Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.
-

Form M-2 Exhibit 10-O2: Local Agency Consultant DBE information
 (Inclusive of all DBEs listed at bid proposal)

1. Local Agency: MTC SAFE 2. Contract DBE Goal: 0%
 3. Project Description: Freeway Service Patrol – Beat 14
 4. Project Location: Alameda County
 5. Consultant's Name: _____ 6. Prime Certified DBE: 7. Total Contract Award Amount: _____
 8. Total Dollar Amount for **ALL** Subconsultants: \$0 9. Total Number of **ALL** Subconsultants: 0

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
N/A	N/A	N/A	\$0
Local Agency to Complete this Section			14. TOTAL CLAIMED DBE PARTICIPATION
20. Local Agency Contract Number:		\$0	
21. Federal-Aid Project Number:		0%	
22. Contract Execution Date:			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.	
23. Local Agency Representative's Signature _____		15. Preparer's Signature _____	
24. Date _____		16. Date _____	
25. Local Agency Representative's Name _____		17. Preparer's Name _____	
26. Phone _____		18. Phone _____	
27. Local Agency Representative's Title _____		19. Preparer's Title _____	

DISTRIBUTION: 1. Original – Local Agency
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654- 3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENT

CONSULTANT SECTION

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Location** - Enter the project location as it appears on the project advertisement.
- 4. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
- 8. Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 9. Total number of ALL subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 10. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 12. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 13. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 14. Total Claimed DBE Participation - \$:** Enter the total dollar amounts entered in the "DBE Dollar Amount" column. **%:** Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 15. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 16. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 17. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 18. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 19. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 22. Contract Execution Date** - Enter the date the contract was executed.
- 23. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 26. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 27. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

Form N CALIFORNIA LEVINE ACT STATEMENT

California Government Code § 84308, commonly referred to as the “Levine Act,” precludes an officer of a local government agency from participating in the award of a contract if he or she receives any political contributions totaling more than \$250 in the 12 months preceding the pendency of the contract award, and for three months following the final decision, from the person or company awarded the contract. This prohibition applies to contributions to the officer, or received by the officer on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

MTC SAFE’s commissioners include:

Alicia C. Aguirre	Federal D. Glover	Julie Pierce
Tom Azumbrado	Scott Haggerty	Libby Schaaf
Jason Baker	Anne W. Halsted	Bijan Sartipi
Tom Bates	Steve Kinsey	James P. Spering
David Campos	Sam Liccardo	Adrienne J. Tossier
Dave Cortese	Mark Luce	Scott Wiener
Dorene M. Giacopini	Jake Mackenzie	Amy Rein Worth

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any MTC SAFE commissioner in the 12 months preceding the date of the issuance of this request for qualifications?

YES NO

If yes, please identify the commissioner: _____

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contributions of more than \$250 to any MTC SAFE commissioners in the three months following the award of the contract?

YES NO

If yes, please identify the commissioner: _____

Answering yes to either of the two questions above does not preclude MTC SAFE from awarding a contract to your firm. It does, however, preclude the identified commissioner(s) from participating in the contract award process for this contract.

DATE

(SIGNATURE OF AUTHORIZED OFFICIAL)

(TYPE OR WRITE APPROPRIATE NAME, TITLE)

(TYPE OR WRITE NAME OF COMPANY)

Form O VEHICLE INSPECTION

The California Highway Patrol (CHP) will conduct a vehicle inspection which will consist of a mechanical and condition inspection. The inspection sheet CHP shall use to conduct the vehicle inspection is included for reference. Bidders must identify three (3) vehicles for inspection by the CHP.

The vehicles for inspection do not need to be FSP fleet vehicles; however, they must be light duty tow trucks (not flatbed or pickup trucks). If Bidders have less than three tow trucks, then they will pick two or one vehicles accordingly. The three vehicles must be available during the site visit, at which time the California Highway Patrol (CHP) will randomly select one of the three for inspection.

Not having all three vehicles available or on time for the inspection will result in an automatic fail of Step 1.

Vehicles for Inspection

	Truck 1	Truck 2
Manufacturer		
Model		
Year		
Current Mileage		
License Plate No.		
Vehicle Identification No.		
	Truck 3	Truck 4
Manufacturer		
Model		
Year		
Current Mileage		
License Plate No.		
Vehicle Identification No.		

TABLE 1: VEHICLE INSPECTION

The Inspection will be evaluated based on categories classified as **Major** and **Minor** infractions under the CHP 234B Inspection Form, referenced below. A tow vehicle with three (3) or more “Minor Infractions” will receive a “fail”. A tow vehicle in violation of one (1) or more under the “Major Infraction” category will receive a “fail”. If the truck fails this inspection, the Bidder will not be eligible for contract award.

Major Infraction: Classified as any missing equipment or failed operations of items under the categories labeled California Vehicle Code Requirements, Towing Equipment, Wheel Lift, Conventional, Car Carrier, and Tow Truck Specifications including Class A, Class A Car Carrier, and Class A Car Carrier Two Vehicle.

Minor Infraction: Classified as any missing equipment or failed operations of items under Service and Other Equipment per CHP 234B

Items under Class B, Class B Car Carrier, Class C, and Class D are not applicable to the FSP program and will not be inspected.

Table 1 is for reference only and does not need to be completed by Bidder.

STATE OF CALIFORNIA
 DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
TOW TRUCK INSPECTION GUIDE
 CHP 234B (Rev. 4-14) OPI 061

AREA NUMBER	COMPANY			CA NUMBER	DOT NUMBER	LEGEND
YEAR	MAKE	MODEL	LICENSE NUMBER	VIN	P = Pass F = Fail	
GVMR	EQUIPMENT TYPE (CHECK APPROPRIATE BOX)					
<input type="checkbox"/> CONVENTIONAL <input type="checkbox"/> UNDERLIFT <input type="checkbox"/> TRUCK HITCH <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> CAR CARRIER						

REQUIREMENTS FOR ALL CLASSES

CALIFORNIA VEHICLE CODE REQUIREMENTS

P	F			P	F		
		Current Registration	4000 CVC			Parking Brake	26451 CVC
		Headlights	24400 CVC			Windshield	26700 CVC
		Beam Indicator	24408 CVC			Windshield Wipers	26706 CVC
		Tail Lamps	24600 CVC			Mirrors	26709 CVC
		License Plate Lamp	24601 CVC			Horn	27000 CVC
		Stop Lamps	24603 CVC			Exhaust System	27150 CVC
		Extension Lights	24605 CVC			Fuel Cap	27155 CVC
		Backup Lamps (1969+)	24606 CVC			Tire Tread	27465 CVC
		Reflectors, Rear	24607 CVC			Fenders/Mud Guards	27600 CVC
		Reflectors, Front and Side (1968+)	24608 CVC			Broom	27700 CVC
		Turn Signals	24951 CVC			Shovel	27700 CVC
		Clearance Lamps (>80" Wide)	25100 CVC			Fire Extinguisher 4B, C Rating	27700 CVC
		Amber Warning Lights	25253 CVC			Safety Chains	29004 CVC
		Warning Devices (Reflectors)	25300 CVC			Signs	27907 CVC
		Service Brakes	26311 CVC				

SERVICE AND OTHER EQUIPMENT

		Flashlight				Hydraulic Jack	
		Wrecking Bar (Large Pry Bar)				Tire Changing Equipment	
		Six (6) 30-Minute Flares or 6 ReflectORIZED Cones, Min. 12" Ht.				Rubber Mallet / Hub Cap Tool (Classes A and B)	
		Trash Cans & Absorbent				Lockout Tools (Classes A and B)	
		Shop Rags or Paper Towels				Motorcycle Straps (Class A)	
		Shop to Truck Communications (Cell phones / 2-way radio)				Sledge Hammer	
		Fuel in Approved Containers (Classes A and B)				Tool Kit	
		Booster Battery or Hot Box				Reflective Safety Attire	

TOWING EQUIPMENT

		Manufacturer Rating Plates				Wrecker Controls	
		Controls Labeled				Throttle Control	
		Wrecker Boom Assembly				Hydraulic Rams, Hoses, Valves	
		Wheel Lift Assembly				Cable Sheaves	
		Body and Towing Equipment Mounting Bolts				Recovery Chain	
		Winch Rating: Boom Capacity:					

WHEEL LIFT

		Pivot Pin				"L" Arms	
		Wheel Lift Tie Down Safety Straps or Chains				Claw	

CONVENTIONAL

		Tow Sling Assembly (Check for bent inner tubes)				Sling Pads	
--	--	---	--	--	--	------------	--

CAR CARRIER

		Carrier Bed Frame				Bed Safety Lock	
		Bed Hinges				Slide Pads	
		Loading Bridle					

COMMENTS

INSPECTED BY (NAME & I.D. NUMBER)	DATE	TOW OPERATOR'S SIGNATURE
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MTC SAFE Freeway Service Patrol
 Request for Qualifications Bid Invitation (RFQBI)
 Appendix B, Step 1: Qualifications
 Page 52

STATE OF CALIFORNIA
 DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
TOW TRUCK INSPECTION GUIDE
 CHP 234B (Rev. 4-14) OPI 061

CHP 234B (Rev. 0414) OPI 061 (Page 2)

TOW TRUCK EQUIPMENT SPECIFICATIONS (By Class)			
CLASS A			
P	F	P	F
	Minimum 14,000 Pound GVWR Chassis		Tow Sling "Minimum" 3,000 Pounds (if equipped)
	4-Ton Boom Rating		Tow Chains "Minimum" 5/16" Grade 70 with J/T Hooks
	One 4-Ton Snatch Block		Two (2) Safety Chains 5/16" Alloy or OEM Specifications
	Tow Dolly (with wheel tie down straps)		Wheel Lift Rating - Extended 3,000 Pounds
	Steering Wheel Securement Device		Two (2) Crossbeams, (1) 4"x4"x60" and (1) 4"x4"x48"(Minimum)
	100' 3/8" 6 x 19 Wire Rope or OEM Specifications		
CLASS A CAR CARRIER			
	Minimum 19,000 Pound GVWR Chassis		4 Safety Chains 5/16" Grade 70 or Rated Nylon Straps w/Ratchets
	50' 3/8" 6 x 19 Wire Rope or OEM Specifications		Adequate Crossbeams or Ramping Material
	Loading Bridle with J/T Hooks		
CLASS A CAR CARRIER TWO VEHICLE			
	Minimum 23,500 Pound GVWR Chassis		4 Safety Chains 5/16" Grade 70 or Rated Nylon Straps w/Ratchets
	Loading Bridle with J/T Hooks		2 Safety Chains 5/16" Alloy/OEM Spec & Wheel Straps - Towed Veh
	50' 3/8" 6 x 19 Wire Rope or OEM Specifications		Adequate Crossbeams or Ramping Material
	Alloy/OEM Spec & Wheel Straps - Towed Vehicle		
CLASS B			
	Minimum 33,000 Pound GVWR Chassis		Axle Covers/Caps
	16-Ton Boom Rating		Truck Hitch/Tow Bar with 7,000 Pound Rating (if equipped)
	150' 7/16" 6 x 19 Wire Rope or OEM Specifications		Two (2) - 4"x6"x48" Crossbeams (minimum)
	Safety Chains 1/2" Alloy or OEM Specifications		Tow Chains "Minimum" 1/2" Grade 70 with JT Hooks
	Two 8-Ton Snatch Blocks		Wheel Lift Rating - 10,000 Pounds Retracted / 8,000 Pounds Extended
	Air Brakes or Hydraulic W/Air Hookup Package		Under Lift/Fork Adapters w/Tie-Down Straps or Chains
	Air Hoses and Fittings		Safety Tie-Down Chains and Binders
	Steering Wheel Securement Device		Aluminum Tow Angles (Minimum 2)
CLASS B CAR CARRIER			
	Minimum 33,000 Pound GVWR Chassis		4 Safety Chains 5/16" Grade 70 or OEM Specifications
	50' 3/8" 6 x 19 Wire Rope or OEM Specifications		2 Safety Chains = 5/16" Alloy/OEM Spec & Wheel Straps for Towed Vehicle
	Loading Bridle with J/T Hooks		Adequate Cross Beams or Ramping Material
	Steering Wheel Securement Device		
CLASS C			
	Minimum 52,000 Pound GVWR Chassis		Tow Chains 5/8" Grade 70 or OEM Specifications
	25-Ton Boom Rating		Two (2) 4"x6"x48" Crossbeams (Minimum)
	200' 5/8" 6x19 Wire Rope or OEM Specifications		Grade Hook
	Two (2) Safety Chains 5/8" Alloy or OEM Specifications		Under Lift Rating - 25,000 Pounds / 12,000 Pounds Extended
	Two 12-Ton Snatch Blocks		Under Lift/Fork Adapters w/Tie-Down Straps or Chains
	Air Brakes W/Air Hookup Package		Aluminum Tow Angles (Minimum 2)
	Air Hoses and Fittings		Safety Tie-Down Chains and Binders
	Steering Wheel Securement Device		Truck Hitch/Tow Bar 12,000 Pound Rating (if equipped)
	Axle Covers/Caps		Tow Sling 12,000 Pound Rating (if equipped)
CLASS D			
	Minimum 54,000 Pound GVWR Chassis		Tow Chains 5/8" Grade 70 or OEM Specifications
	35-Ton Boom Rating		Two (2) 4"x6"x48" Crossbeams (Minimum)
	250' 3/4" 6x19 Wire Rope or OEM Specifications		Pintle Hook
	Two (2) Safety Chains 5/8" Alloy or OEM Specifications		Under Lift Rating - 32,000 Pounds / 16,000 Pounds Extended
	Two 12-Ton Snatch Blocks		Truck Hitch/Tow Bar 20,000 Pound Rating (if equipped)
	Air Brakes W/Air Hookup Package		Aluminum Tow Angles (Minimum 2)
	Air Hoses and Fittings		Safety Tie-Down Chains and Binders
	Steering Wheel Securement Device		Tow Sling with 20,000 Pound Rating (if equipped)
	Axle Cover/Caps		Under Lift / Fork Adapters w/Tie-Down Straps or Chains

Not Applicable

MAXIMUM LIFTING CAPACITY (MLC) CALCULATIONS (Refer to HPM 81.2, Chapter 7, Annex B)

FRONT AXLE WEIGHT (FAW), UNLADEN	WHEEL BASE (WB), IN INCHES	OVER HANG (OH), IN INCHES	
FORMULA			
1/2 FAW:	x WB:	÷ BY OH:	= MLC:
CLASS OF VEHICLE BASED ON THE MLC			

Form P FACILITY INSPECTION (for reference only)

The Facility Inspection consists of a site inspection of the office location(s) listed in Form E and validation of all items defined in Table 1 for all Bidders that pass Step 1: Qualification. The Facility Inspection shall be performed by the FSP Partners. Office locations not listed in Form E will not be inspected.

Facility Items Required at Time of Inspection

The following list of items must be in place and operational at the time of inspections, otherwise the Bidder shall be found non-compliant and will not be eligible for contract award.

1. Communication Tools:

- Telephone - A dedicated business telephone is required. A single business telephone that is used for day-to-day business as well as any FSP activity is acceptable. During non-business hours, an answering machine provided at the Contractor's expense, shall be available to log calls, take complaints, etc.
- Fax Machine - A fax machine at the facility at which the Freeway Service Patrol vehicles are to be parked/maintained, must be operational twenty-four (24) hours per day, seven (7) days per week.

2. Accounting records/bookkeeping system:

Bidders must have adequate storage and a backup system for computer files that provides assurance that they meet the MTC SAFE bookkeeping requirements. The FSP Partners may ask to visually inspect physical filing systems and hardcopy of existing business files.

Sample excerpt from Contract:

CONTRACTOR shall maintain full and adequate books, records, and accounts relevant to its performance under the Agreement for a minimum of four (4) years following the fiscal year of the last expenditure under this Agreement. CONTRACTOR shall permit the authorized representatives of MTC SAFE, and any other government agency designated by MTC SAFE (including the United States Department of Transportation, the Comptroller General of the United States, and the State of California) to inspect and audit all such records of CONTRACTOR during the term of this Agreement and for the retention period specified above. CONTRACTOR shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time.

3. Safety Policies:

Bidders must have written safety policies displayed or readily accessible by employees in hardcopy format for tow/vehicle operations and work place safety.

4. Facility Security:

The Bidder shall be responsible for the security of vehicles and property at their facility. At a minimum, Bidders must have a secure area to store vehicles at facility, including contractor controlled access to facility where vehicles are stored such as a fenced or enclosed area. The

Contractor is responsible for the reasonable care, custody, and control of any property contained in its facility.

5. Professional Workplace Environment:
 Bidders must maintain a non-offensive and harassment-free workplace in accordance with federal and state regulations.
6. Computer Equipment:
 A computer, modem, and an Internet/e-mail account to receive e-mail messages from FSP Partners are required. A test email may be sent by the FSP partners during inspection to confirm the email account. All computer equipment must be operable during the duration of the FSP Contract. Computer software must be compatible for Microsoft Office and Acrobat Reader use.
7. Drug Policy:
 The Bidder shall have in place a written substance abuse policy requiring alcohol and drug testing for all drivers, consistent with Federal Highway Administration (FHA), Department of Transportation (DOT) CFR 49 part 382, Regulations on Controlled Substance and Alcohol Use and Testing. For details, refer to the SOP.

Table 1 is for reference only and does not need to be completed by Bidder.

TABLE 1: FACILITY INSPECTION

Towing Company: _____

Site Address: _____

Contractor’s facility must pass inspection. The company will not be eligible for contract award if **any** items required at time of inspection fail (“No” Answers from the following inspection list).

Inspection Items Required at Time of Inspection	Yes	No
Phone Operational		
Confirm Telephone Number		
Fax Machine Operational		
Confirm Fax Number		
Accounting records/bookkeeping: Adequate storage and a backup system for computer files that provides assurance that bookkeeping requirements are met.		

Safety Policies: Written safety policies on display or readily accessible by employees in hardcopy format for tow/vehicle operations and work place safety.		
Facility Security: Secure area to store vehicles at facility, including contractor controlled access to facility where vehicles are stored such as a fenced or enclosed area.		
Professional Workplace Environment: Workplace is non-offensive and harassment-free.		
Computer Operational With E-Mail/Internet Access: Computer software must be compatible for Microsoft Office and Acrobat Reader use.		
Confirm E-Mail Address:		
Drug Policy Program in Place (see SOP for details)		
Motor Carrier Permit Current		

Observations:

Site Inspection Result (Circle)

Pass Fail

Form P FACILITY INSPECTION (Continued)

I have today completed an evaluation of both the facility and working environment of the above listed towing company. I have attempted to remain both fair and reasonable in recording these answers.

Date: _____

Time: _____

FSP Inspector: _____

Signature: _____

The FSP representative listed above has reviewed the facility inspection with me and indicated clearly why particular items were marked "No."

Towing Company
Representative: _____

Signature: _____

APPENDIX B, STEP 2: PRICE PROPOSAL

One original and two hard copies due no later than 1:00 p.m., Friday, January 8, 2016 to MTC SAFE offices.

***The following items are only required of those that pass Step 1: Qualifications.*

- Cover Letter for Step 2**
 - Completed and Signed Form Q
- Price Proposal**
 - Completed and Signed Form R
- Vehicle Information**
 - Completed Form S

Form Q COVER LETTER FOR STEP 2

TO: Stefanie Pow
MTC SAFE
101 – 8th Street, Oakland, CA 94607-4700

DATE: _____

FR: BIDDER:

In response to the Request for Qualifications Bid Invitation (RFQBI) for the Freeway Service Patrol (FSP), we the undersigned hereby declare that we have carefully read and examined the RFQBI documents and hereby propose to perform and complete the Work as required in the RFQBI and as indicated in these Proposal Documents.

The undersigned agrees to supply the proposed services at the price indicated in its price proposal if its proposal is accepted within 180 days from the date specified in the RFQBI for receipt of proposals. Further, the undersigned agrees to initiate such services within 90 days of notification of award.

By signing below, you are certifying that all information submitted to MTC SAFE in this RFQBI is accurate.

If awarded a Contract, the undersigned agrees to execute a Contract substantially similar in form to the Contract included in this RFQBI, Appendix C, and to deliver to MTC SAFE prior to execution of the Contract the necessary original Certificates of Insurance and endorsements, as required therein.

The undersigned hereby certifies that it will not unlawfully discriminate against any employee or applicant for employment or any motorist intended to be a beneficiary of the FSP service with regard to race, color, religion, sex, national origin, physical or mental disability, marital status, sexual orientation or age.

The undersigned acknowledges receipt, understanding and full consideration of the following Addenda to the RFQBI Documents: Addenda Nos. ____, ____, ____, and ____ (if applicable)

Bidder represents that the following person is authorized to negotiate on its behalf with the MTC SAFE in connection with this RFQBI:

Name Title Phone

Bidder Company Name Mailing Address/P.O. Box

Signature of Authorizing Official City, State, Zip Code Title

Bidder Name Telephone Fax Number

Business License Number Business License Classification

Tax ID Bidder is a: Sole Proprietorship Corporation Partnership
If corporation, state of incorporation:

Form R PRICE PROPOSAL

The undersigned’s price per hour per truck represents full compensation for all costs relating to providing all services in accordance with *Appendix A, Scope of Work*. Listed below are items that Bidder should consider when completing the Price Proposal. Items listed are meant to be a reference only and may not be the only items that are incurred while providing FSP service. The hourly rates are fixed over the duration of the contract and are only adjusted for changes in fuel prices according to Section II.C.2.

- | | | |
|--|--|---|
| <p>Labor</p> <ul style="list-style-type: none"> - Management costs - FSP Driver wages - Driver trainings/meetings - Fringe benefits - Travel time | <p>Vehicle/Equipment</p> <ul style="list-style-type: none"> - FSP fleet - Finance charges - Insurance/Registration - Warranty/Maintenance - Fuel (vehicle & motorist) | <p>Administration</p> <ul style="list-style-type: none"> - Office equipment - Internet access - Postage fees - Employer taxes |
|--|--|---|

BEAT # 14

HOURLY RATE* (at assumed fuel price of \$3.50) \$

*The hourly rate shall be used to determine the lowest responsive and responsible bidder

Price is firm fixed sums including all labor and materials required to fulfill the requirement as laid forth in Appendix A and all applicable surcharges such as taxes, insurance, and fringe benefits, as well as indirect costs, overhead, and profit allowance.

 (Signature of Authorized Official)

 (Type/Write Name of Authorized Official)

 (Type or Write Name of Company)

Form S VEHICLE INFORMATION

Provide vehicle information on all trucks that Beat 14 requires. For the backup truck, indicate which vehicle will be the backup truck and provide the same vehicle information.

Vehicle Information
 (**VEHICLE QUOTES MUST BE ATTACHED**)

If you do not currently own all trucks needed for beat service, include an explanation below of how you plan to acquire them. If the Contractor so indicates his/her intention to purchase a new vehicle(s), contractor is obligated to use the new vehicle(s).

	Truck 1	Truck 2
Manufacturer		
Model		
Year		
Current Mileage		
License Plate No.		
Vehicle Identification No.		
	Truck 3	Truck 4
Manufacturer		
Model		
Year		
Current Mileage		
License Plate No.		
Vehicle Identification No.		

Truck Acquisition Explanation: _____

APPENDIX C, SAMPLE CONTRACT

ANNUAL ALLOCATION FUND AGREEMENT
Between METROPOLITAN TRANSPORTATION COMMISSION
SERVICE AUTHORITY FOR FREEWAYS AND
EXPRESSWAYS And _____
For FREEWAY SERVICE PATROL
BEAT No. 14 – FY 2016-17

THIS AGREEMENT is made and entered into as of _____, 2015, by and between the Metropolitan Transportation Commission Service Authority for Freeways and Expressways, a local public agency established pursuant to Streets and Highways Code § 2550 *et seq.* (hereinafter called “MTC SAFE”), and, _____, a California _____ with offices in _____, California, (hereinafter called "CONTRACTOR").

RECITALS

WHEREAS, MTC SAFE, in conjunction with the California Highway Patrol (“CHP”) and the California Department of Transportation (“Caltrans”), operates a Freeway Service Patrol (“FSP”) program, contracting with private tow drivers to provide for the rapid removal of disabled vehicles and those involved in minor accidents from the freeway; and

WHEREAS, a competitive selection process has resulted in the selection of CONTRACTOR to carry out the services required under this Contract.

NOW, THEREFORE, for the consideration hereinafter stated, the parties agree as follows:

1.0 FSP PROGRAM TERMS AND CONDITIONS

The terms and conditions governing this Agreement (“Terms and Conditions”) are set forth in Attachment A, FSP Program Terms and Conditions, attached hereto and incorporated by this reference. By signing this Annual Fund Allocation Agreement, CONTRACTOR agrees to the Terms and Conditions.

2.0 FUNDING PERIOD

The funds provided under this Agreement fund FSP services on the specified Beat for the period from _____, through _____, unless earlier terminated as provided in

Article 7.0 of the Terms and Conditions.

3.0 PAYMENT

A. **Hourly Rate.** MTC SAFE shall pay CONTRACTOR at the hourly rate per truck based on the table below and in accordance with the terms of Article 3 of the Attachment A Terms and Conditions:

Fuel Cost	Department of Energy Range (California)	Hourly Rate
\$3.00	\$2.76 – \$3.25	\$37.64
\$3.50	\$3.26 – \$3.75	\$38.80
\$4.00	\$3.76 – \$4.25	\$40.00
\$4.50	\$4.26 – \$4.75	\$41.20
\$5.00	\$4.76 – \$5.25	\$42.44
\$5.50	\$5.26 – \$5.75	\$43.71

* Numbers are for illustrative purposes only and assumes an hourly rate bid of \$40.00.

The Fuel Price figure, used to calculate the tow service Hourly Rate within a given Department of Energy Range, is the mid-point within that given range. Should the fuel cost fall above or below the above ranges, MTC SAFE shall adjust the hourly rate using the same methodology.

B. **Maximum Payment.** The maximum payment payable to CONTRACTOR for FY 2015-2016 shall not exceed _____ dollars (\$_____) and is subject to the adoption of the FY 2015-2016 SAFE budget.

4.0 MTC SAFE/FSP PROJECT MANAGER

Stefanie Pow shall be the FSP Project Manager for the period covered by this Annual Fund Allocation Agreement.

5.0 NOTIFICATION

All notices or communications to either party by the other shall be deemed given when made in writing and delivered or mailed to such party at their respective addresses as follows:

To MTC SAFE:

Attention: Stefanie Pow

MTC SAFE
101 - 8th Street
Oakland, California 94607-4700

To CONTRACTOR:

Attention: Contractor Contact
Contractor Name
Address
City, State, Zip Code

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date first written above.

METROPOLITAN TRANSPORTATION
COMMISSION SERVICE AUTHORITY
FOR FREEWAYS AND EXPRESSWAYS

TOWING COMPANY

, Owner

Steve Heminger, Executive Director

APPENDIX D, TERMS AND CONDITIONS

FREEWAY SERVICE PATROL (FSP) PROGRAM FISCAL YEARS 2016-20

1.0 DEFINITIONS

A. "MTC SAFE" means the Metropolitan Transportation Commission Service Authority for Freeways and Expressways, a local public agency established pursuant to Streets and Highways Code § 2550 *et seq.*

B. "Caltrans" means the California Department of Transportation.

C. "CHP" means the California Highway Patrol.

D. "FSP" means the Freeway Service Patrol, a program administered by MTC SAFE in conjunction with the CHP and Caltrans to provide for the rapid removal of disabled vehicles and those involved in minor accidents from the freeways and expressways of the San Francisco Bay Area by private tow contractors.

E. "FSP Partner Agency" means MTC SAFE, Caltrans, or CHP.

F. "CONTRACTOR" means the private tow contractor under contract to the MTC SAFE to provide FSP service.

G. "Annual Fund Allocation Agreement" means the agreement signed by MTC SAFE and CONTRACTOR under which CONTRACTOR provides FSP service.

H. "FSP Project Manager" means the MTC SAFE staff person responsible for administering the FSP contract, managing its implementation and overseeing its performance.

2.0 SCOPE OF SERVICES

CONTRACTOR agrees to perform those Freeway Service Patrol (FSP) services, described in the Request for Qualifications Bid Invitation (RFQBI), dated September 2, 2014 (hereinafter, "the RFQBI") for Beat No. 14 in accordance with the terms and conditions of this Agreement. The requirements and provisions of the FSP Operator's Manual, as subsequently revised or amended, are hereby incorporated in this Contract by this reference. In the event of a discrepancy between the RFQBI and the Operator's Manual, the more stringent of the conflicting provisions with respect to CONTRACTOR's performance shall apply.

3.0 PERIOD OF PERFORMANCE

The period of performance shall be March 1, 2016 through June 30, 2019 (“the Term”), unless mutually agreed by both parties to extend said period or unless earlier terminated as provided in Article 6.0 herein.

4.0 PAYMENT

A. **Hourly Rate.** MTC SAFE shall pay CONTRACTOR at an hourly rate per truck as specified in the applicable annual fund allocation agreement, and subject to Article 3.C below. The hourly rate is a fixed unit price that includes all direct costs (including, but not limited to, labor, equipment, materials and operating expenses), applicable surcharges such as taxes, insurance and fringe benefits, other indirect costs, overhead, general and administrative expense, and profit.

If trucks and/or hours are added or deleted during the course of this Agreement, an adjustment to CONTRACTOR’s current hourly rate shall be made by adding or subtracting, as applicable, the dollar amount attributable to the change to or from the dollar amount remaining in the Agreement and dividing the sum by the revised total hours to be expended under the Agreement.

B. **Maximum Payment.** MTC SAFE shall not be obligated to pay costs during a fiscal year within the Term which exceed the maximum payment set forth in the annual fund allocation agreement, except by duly authorized amendment. Further, MTC SAFE shall not be obligated to pay for services not specified in Article 2.0, except as provided in Article 12, Amendments. Any unused funds in the fiscal year shall be aggregated to the maximum payment in the following fiscal year.

C. **Fuel Adjustment.** The proposed hourly rate from Form U of the RFQBI will be increased and decreased by 3% to determine the associated hourly rates for the various fuel price ranges as depicted in Section 3.0, Payment of the Annual Fund Allocation Agreement.

Each month, depending on what fuel range the average of the first three week’s fuel price falls between, the corresponding hourly rate shall be the rate in which the Contractor is compensated for service in that month.

D. **Deduction for Non-payment.** CONTRACTOR agrees that if an audit performed pursuant to Article 5.0 Records and Audit of this Agreement reveals that CONTRACTOR has failed to adhere to the wage requirements and/or has failed to pay drivers to perform the pre-operation vehicle inspections as specified under RFQBI, Appendix A, Section II.F, Inspections or to attend the training and meetings specified under RFQBI Appendix A, Sections VI.B, 3-Day Proficiency Testing and Certification Training Requirement, VI.C, Quarterly Refresher Training Requirement or Section VII.A, Contractor Quarterly Safety Meetings, MTC SAFE may deduct

sums from CONTRACTOR invoices equal to the difference between what CONTRACTOR should have paid and what CONTRACTOR actually paid for each event of non-payment or underpayment uncovered by the audit.

E. **Invoices.** CONTRACTOR agrees to submit weekly to the appropriate FSP Partner Agency paperwork via an online fleet management system as designated by the FSP Project Manager as well as any other documentation that may be reasonably required by MTC SAFE to support invoices. MTC SAFE shall pay CONTRACTOR for the services satisfactorily performed hereunder an amount calculated in accordance with the Annual Fund Allocation Agreement, as invoiced on a monthly basis by the designated FSP Partner Agency. Payment of the approved portion of an invoice, less any penalties charged to CONTRACTOR as specified in the FSP Operator's Manual, shall be mailed to CONTRACTOR by MTC SAFE no later than the 21st day of the month or by the 3rd Monday of the month.

5.0 RECORDS AND AUDIT

CONTRACTOR shall maintain full and adequate books, records, and accounts relevant to its performance under the Agreement including payroll records for a minimum of four (4) years following the fiscal year of the last expenditure under this Agreement. CONTRACTOR shall permit the authorized representatives of MTC SAFE, and any other government agency designated by the MTC SAFE (including the United States Department of Transportation, the Comptroller General of the United States, and the State of California) to inspect and audit all such records of CONTRACTOR during the term of this Agreement and for the retention period specified above. CONTRACTOR shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, work products, materials and data for that period of time.

6.0 FSP PROJECT MANAGER

MTC SAFE shall designate an FSP Project Manager in each Annual Fund Allocation Agreement, who shall be MTC SAFE's designated representative responsible for administering the Contract, managing its implementation and overseeing its performance. CONTRACTOR shall make such oral or written reports to FSP Project Manager as he/she may request, in addition to those specifically required elsewhere by this Agreement.

7.0 TERMINATION

A. MTC SAFE may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, either for MTC SAFE's convenience or because of the failure of the CONTRACTOR to fulfill its Contract obligations. Upon receipt of such notice, CONTRACTOR shall immediately discontinue all affected services, unless the notice directs

otherwise. CONTRACTOR further agrees to sell the tow truck(s) authorized for such beat at market value calculated using the Kelly Blue Book or equivalent to a CONTRACTOR identified by MTC SAFE, if requested by the FSP Project Manager.

B. If the termination is for the convenience of MTC SAFE, MTC SAFE shall pay CONTRACTOR for hours worked up to the effective date of termination and other costs reasonably incurred by CONTRACTOR to implement the termination. CONTRACTOR shall not be entitled to lost profits in the event of termination for convenience.

C. If the termination is due to the failure of CONTRACTOR to fulfill its Contract obligations, MTC SAFE shall issue a ten (10) day cure notice, specifying the reason for the termination, unless MTC SAFE, in its sole discretion, determines that CONTRACTOR's default is of such a nature that it may not be cured or that delay in discontinuing CONTRACTOR's service may result in damage to the FSP program or service. If CONTRACTOR fails to cure the default (or is not given the opportunity to cure by MTC SAFE) MTC SAFE may take over the work, and prosecute the same to completion by contract or otherwise. In such case, CONTRACTOR shall be liable to MTC SAFE for any reasonable cost or damages occasioned to MTC SAFE thereby, which may be deducted from CONTRACTOR's final payment.

D. CONTRACTOR shall not be considered in default in the performance of its obligations under this Agreement to the extent that the performance of any such obligation is prevented or delayed by an excusable delay, reasonably beyond the control and without the fault or negligence of CONTRACTOR. Excusable delays may include, but are not limited to, Acts of God or acts or failures to act of government agencies, including MTC SAFE, in either their sovereign or contractual capacities; or fires, floods, epidemics, quarantine restrictions, or strikes.

E. If, after the notice of termination for failure to fulfill Contract obligations, it is determined that CONTRACTOR is not in default of its obligations, the termination shall be deemed to have been effected for the convenience of MTC SAFE.

F. CONTRACTOR shall be deemed to have waived any and all claims for damages in the event of MTC SAFE's termination for convenience as provided in Subarticle B of this Article.

8.0 INDEPENDENT CONTRACTOR STATUS

In the performance of the services to be provided hereunder, CONTRACTOR's relationship to MTC SAFE shall be that of an independent contractor and not an employee, agent or other representative of MTC SAFE. CONTRACTOR has, and hereby retains, full control over the employment, direction, compensation and discharge of all persons employed by CONTRACTOR who are assisting in the performance of services under this Agreement. CONTRACTOR shall be fully responsible for all matters relating to the payment of its

employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. CONTRACTOR shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

9.0 ASSIGNMENT OR TRANSFER

CONTRACTOR shall not assign, subcontract, transfer or otherwise substitute its interest in this Agreement or its obligations hereunder without the prior written consent of MTC SAFE. This consent shall in no way relieve CONTRACTOR from its primary responsibility for performance of the work. Any such transfer without said consent shall be void and unenforceable.

10.0 INSURANCE

CONTRACTOR shall be required, at its own expense, to obtain and maintain in effect for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONTRACTOR, his agents, representatives, or employees.

A. Minimum Limits of Insurance: CONTRACTOR shall obtain the following types of coverage with limits no less than:

(1) Workers' Compensation insurance as required by the State of California with Statutory limits. Such policy shall contain a Waiver of Subrogation endorsement in favor of MTC SAFE;

(2) Employer's Liability of at least \$1,000,000 per accident for bodily injury or disease;

(3) Commercial General Liability of at least \$1,000,000 per occurrence for bodily injury, personal injury and property damage (if Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project location or the general aggregate limit shall be twice the required occurrence limit). Such policy shall contain a Waiver of Subrogation in favor of MTC SAFE;

(4) Owned, Non-Owned and Hired Automobile Liability of at least \$1,000,000 per accident for bodily injury and property damage;

(5) On-hook Insurance of at least \$80,000 per accident;

(6) Inland Marine Floater Insurance of at least \$10,000 or the replacement cost of the equipment supplied by MTC SAFE, whichever is higher; and

(7) Umbrella insurance in the amount of \$2,000,000 providing excess limits over Employers Liability, Automobile Liability, and Commercial General Liability Insurance.

B. Deductibles and Self-Insured Retentions: CONTRACTOR shall be responsible for payment of any deductible or retention on CONTRACTOR's policies without right of contribution from MTC SAFE. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable.

C. Other Insurance Provisions: The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. MTC SAFE, the California Highway Patrol (CHP), Caltrans, their Commissioners, directors, officers, employees and agents are to be covered as additional insured under the coverages specified in this section, as respects: general liability arising out of activities performed by or on behalf of CONTRACTOR; automobiles owned, leased, hired or borrowed by CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to MTC SAFE, the CHP, Caltrans, their Commissioners, directors, officers, employees and agents.

2. For any claims related to this project, CONTRACTOR's insurance coverage shall be primary insurance as respects MTC SAFE, the CHP, Caltrans, their Commissioners, directors, officers, employees and agents. Any insurance or self-insurance maintained by MTC SAFE, the CHP, Caltrans, their Commissioners, directors, officers, employees and agents shall be excess of CONTRACTOR's insurance and shall not contribute with it.

3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to MTC SAFE, the CHP, Caltrans, their Commissioners, directors, officers, employees and agents.

4. CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. CONTRACTOR must notify MTC if any of the above required coverages are non-renewed or cancelled. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

D. Acceptable Insurers: Insurance is to be placed with insurers Best's Rating of A or better with a Financial Size Category of VII or better.

11.0 INDEMNIFICATION

To the maximum extent permitted by law, CONTRACTOR shall indemnify, keep and hold harmless MTC SAFE, Caltrans, the CHP, identified as additional insureds in Article 10.0, Insurance, and their commissioners, directors, officers, agents, and employees ("MTC Indemnified Parties") against any and all demands, claims, suits or actions arising out of any of

the following:

A. Any injury or death to persons or property or pecuniary, financial or economic losses that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by CONTRACTOR caused by any breach of the Agreement or negligent act or omission or willful misconduct of the CONTRACTOR or its officers, employees, subconsultants or agents; or

B. Any allegation that materials or services provided by CONTRACTOR under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

CONTRACTOR further agrees to defend any and all such claims, actions, suits or other legal proceedings and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered against any of the MTC Indemnified Parties, CONTRACTOR shall, at its expense, satisfy and discharge the same. The provisions set forth in this Article are intended to be applied to the fullest extent allowed under the law and, if any portion of it is found to be void or unenforceable, the remainder is to be severable and enforceable. This indemnification shall survive termination or expiration of this Agreement.

12.0 AMENDMENTS

Any changes to this Agreement shall be incorporated in written amendments to this Agreement, executed by MTC SAFE Executive Director or his designated representative and CONTRACTOR.

13.0 NONDISCRIMINATION

A. In connection with the provision of services under this Agreement, CONTRACTOR shall not discriminate against any person on the basis of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation, consistent with California Civil Code § 51.

B. Equal Employment Opportunity. In connection with the execution of this Agreement, CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, or national origin, ancestry, physical disability, medical condition, or marital status. The applicable regulations of the Fair Employment and Housing Commission implementing Government Code § 12900 *et seq.*, set forth in 2 California Code of Regulations. § 7285.0 *et seq.*, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

C. Nondiscrimination on the Basis of Disability. CONTRACTOR agrees, consistent

with the requirements of the Americans with Disabilities Act of 1990 (42 United States Code §12101 *et seq.*) that no individual with a disability shall, on the basis of the disability, be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in regards to any service provided under this Agreement.

14.0 PROHIBITED INTERESTS

CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree or have the potential of conflicting with the performance of services required under the Agreement or the impartial rendering of assistance or advice to MTC SAFE. CONTRACTOR further covenants that in the performance of the Agreement no person having any such interest shall be employed.

No member, officer, employee or agent of MTC SAFE, during his/her tenure shall have any prohibited interest as defined by California Government Code Sections 1090, *et seq.* and 87100 *et seq.*, direct or indirect, in the Agreement or the proceeds thereof. Prohibited interests include interests of immediate family members, domestic partners, and their employers or prospective employers. Accordingly, CONTRACTOR further covenants that it has made a complete disclosure to MTC SAFE of all facts of which it is aware upon due inquiry bearing upon any possible interest, direct or indirect, which it believes any member, officer, agent or employee of MTC SAFE (or an immediate family member, domestic partner or employer or prospective employer of such member, officer, agent or employee) presently has, or will have in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute grounds for cancellation and termination hereof by MTC SAFE.

14.1 ORGANIZATIONAL CONFLICTS OF INTEREST

CONTRACTOR shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to MTC SAFE; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

CONTRACTOR shall not engage the services of any subconsultant or independent contractor on any work related to this Agreement if the subconsultant or independent contractor,

or any employee of the subconsultant or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement CONTRACTOR becomes aware of an organizational conflict of interest in connection with the work performed hereunder, CONTRACTOR shall immediately provide MTC SAFE with written notice of the facts and circumstances giving rise to this organizational conflict of interest. CONTRACTOR's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the period of performance of this Agreement, MTC SAFE becomes aware of an organizational conflict of interest in connection with CONTRACTOR's performance of the work hereunder, MTC SAFE shall similarly notify CONTRACTOR. In the event a conflict is presented, whether disclosed by CONTRACTOR or discovered by MTC SAFE, MTC SAFE will consider the conflict presented and any alternatives proposed and meet with CONTRACTOR to determine an appropriate course of action. MTC SAFE's determination as to the manner in which to address the conflict shall be final.

Failure to comply with this section may subject the CONTRACTOR to damages incurred by the MTC SAFE in addressing organizational conflicts that arise out of work performed by CONTRACTOR, or to termination of this Agreement for breach.

15.0 COMPLIANCE WITH LAW

CONTRACTOR shall also comply with all Federal, California and local laws and ordinances applicable to any of the work involved in this Agreement, including but not limited to, 49 Code of Federal Regulations Part 18 and the cost principles (as applicable) in 48 Code of Federal Regulations, Chapter 1, Part 31, which are herein incorporated by this reference and made a part hereof, if federal funds are involved.

15.1 EQUAL EMPLOYMENT OPPORTUNITY

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 49 U.S.C. § 5332 for FTA-funded projects CONTRACTOR agrees that it will not, on the grounds of race, religious creed, color, national origin, age, physical disability, sex, discriminate or permit discrimination against any employee or applicant for employment.

15.2 DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY

A. This Agreement is subject to 49 CFR, Part 26 entitled "Participation by

Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.”

B. Effective July, 2012, the California Department of Transportation (Caltrans) requires recipients of DOT grant funds through Caltrans to impose the following DBE utilization requirements on its consultants and contractors. Contractor’s DBE participation on this Agreement will assist Caltrans in meeting its federally mandated statewide overall DBE goal. MTC SAFE has established a DBE goal for this Agreement of 0%.

C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The CONTRACTOR, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. CONTRACTOR shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by CONTRACTOR to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.

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

E. Concurrent with the execution of the Agreement, CONTRACTOR shall resubmit Form M-1 of the RFQBI, Local Agency Proposer DBE Commitment (Consultant Contract) (Exhibit 10-O1), and Form M-2, Form M-2, Local Agency Proposer DBE Information (Consultant Contract) (Exhibit 10-O2).

15.2.1 PERFORMANCE OF DBE CONTRACTORS AND OTHER DBE SUBCONTRACTORS / SUPPLIERS

A. A DBE performs a commercially useful function when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing, and other relevant factors.

B. A DBE does not perform a commercially useful function if its role is limited to that of

an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

C. If a DBE does not perform or exercise responsibility for at least thirty percent of the total cost of its agreement with its own work force, or the DBE subcontracts a greater portion of the work of the agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

15.2.2 DBE RECORDS

A. CONTRACTOR shall maintain records of materials purchased and/or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. A DBE CONTRACTOR shall also show the date of work performed by its own forces along with the corresponding dollar value of the work.

B. Upon completion of the Agreement, a summary of these records shall be prepared and submitted on Attachment ____ entitled, "Final Report-Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontractors," CEM-2402F (Exhibit 17-F in Chapter 17 of the LAP), attached hereto and incorporated here by this reference, certified correct by CONTRACTOR or its authorized representative and shall be furnished to the Project Manager with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONTRACTOR when a satisfactory "Final Report Utilization of Disadvantaged Business Enterprises (DBE) First-Tier Subcontractors" is submitted to the Project Manager.

15.2.3 DBE CERTIFICATION AND DE-CERTIFICATION STATUS

If a DBE subcontractor is decertified during the life of the Agreement, the decertified subcontractor shall notify CONTRACTOR in writing with the date of de-certification. If a subcontractor becomes a certified DBE during the life of the Agreement, the subcontractor shall notify CONTRACTOR in writing with the date of certification. Any changes should be reported

to the MTC SAFE Project Manager within 30 days.

15.2.4 MATERIALS OR SUPPLIES PURCHASED FROM DBES WILL COUNT TOWARDS DBE CREDIT UNDER THE FOLLOWING CONDITIONS:

A. If the materials or supplies are obtained from a DBE manufacturer, 100 % of the cost of the materials or supplies will count toward the DBE participation. A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises, the materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.

B. If the materials or supplies purchased from a DBE regular dealer, count 60 % of the cost of the materials or supplies toward DBE goals. A regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Agreement, are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment, shall be by a long-term lease agreement and not an ad hoc or agreement-by-agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this section.

D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

15.4 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

CONTRACTOR agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000(d)) and the regulations of the Department of Transportation issued thereunder (49 CFR Part 21).

15.5 ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

CONTRACTOR agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. § 5310(f); and their implementing regulations.

15.6 STATE ENERGY CONSERVATION PLAN

CONTRACTOR shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321).

15.7 DEBARMENT

CONTRACTOR certifies that neither it, nor any of its participants, principals or subcontractors is or has been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as they are defined in 49 CFR Part 29, by any Federal agency or department.

15.8 CLEAN AIR AND WATER POLLUTION ACTS

CONTRACTOR agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7501 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

15.9 LOBBYING

CONTRACTOR agrees to comply with the restrictions on the use of federal funds for lobbying activities set forth in 31 United States Code §1352 and 49 C.F.R. Part 20.

16.0 CLAIMS OR DISPUTES

CONTRACTOR shall be solely responsible for providing timely written notice to MTC SAFE of any claims for additional compensation and/or time in accordance with the provisions of the Agreement. It is MTC SAFE's intent to investigate and attempt to resolve any CONTRACTOR claims before CONTRACTOR has performed any disputed work. Therefore,

CONTRACTOR's failure to provide timely notice shall constitute a waiver of CONTRACTOR's claims for additional compensation and/or time.

CONTRACTOR shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by MTC SAFE, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given MTC SAFE due written notice of a potential claim. The potential claim shall set forth the reasons for which CONTRACTOR believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

Such notice shall be given to MTC SAFE prior to the time that CONTRACTOR has started performance of the work giving rise to the potential claim for additional compensation.

If there is a dispute over any claim, CONTRACTOR shall continue to work during the dispute resolution process in a diligent and timely manner as directed by MTC SAFE, and shall be governed by all applicable provisions of the Agreement. CONTRACTOR shall maintain cost records of all work that is the basis of any dispute.

If an agreement can be reached which resolves CONTRACTOR's claim, the parties will execute an Agreement modification to document the resolution of the claim. If the parties cannot reach an agreement with respect to the CONTRACTOR claim, they may choose to pursue dispute resolution pursuant to Article 17, DISPUTE RESOLUTION, or MTC SAFE may terminate the Agreement.

17.0 DISPUTE RESOLUTION

A. Informal Resolution of Disputes. CONTRACTOR and MTC SAFE shall use good faith efforts to resolve all disputes informally at the project manager level. In the event such efforts are unsuccessful, either party may request that MTC SAFE provide a written determination as to the proposed resolution of the dispute. Within twenty-one (21) calendar days of the request, MTC SAFE's Project Manager shall provide a written determination as to the dispute, which shall include the basis for its decision. Upon CONTRACTOR's written acceptance of the Project Manager's determination, the Agreement may be modified and the determination implemented or, failing agreement, MTC SAFE may in its sole discretion pay such amounts and/or revise the time for performance in accordance with the Project Manager's determination.

If the Project Manager's determination is not accepted by CONTRACTOR, the matter shall promptly be referred to senior executives of the parties having designated authority to settle the dispute. The senior executives will exchange memoranda stating the issues in dispute and their respective positions and then meet for negotiations at a mutually agreed time and place. If

the matter has not been resolved within thirty calendar (30) days of commencement of senior management negotiations, the parties may mutually agree to try to settle the dispute by means of alternate dispute resolution methodologies, as set forth below.

B. Controversies Subject to Alternative Dispute Resolution. Any claim or controversy concerning the interpretation, application, or implementation of this Agreement between MTC SAFE and CONTRACTOR which cannot be resolved through the informal efforts described above, may, by specific agreement of the parties, be submitted to alternative dispute resolution (that is, mediation or arbitration) with the parameters for such dispute resolution being agreed to by the parties at the time.

C. Other Remedies. If a dispute is not resolved through discussion or the parties do not agree to alternative dispute resolution, either party may pursue available legal remedies in a California State or Federal court of competent jurisdiction. CONTRACTOR must file a government claim pursuant to Government Code section 910 *et seq.* in order to initiate a civil action.

D. Pending Resolution. CONTRACTOR shall continue to work during the dispute resolution process in a diligent and timely manner as directed by MTC SAFE, and shall be governed by all applicable provisions of the Agreement.

E. Cost of Alternative Dispute Resolution Proceedings. Each party shall bear the costs and expenses incurred by it in connection with such alternative dispute resolution processes. The cost of any mediator or independent decision maker shall be shared equally between the parties.

F. Survival of this Article. This Article shall survive completion or terminations of this Agreement, but under no circumstances shall either party call for an alternative dispute resolution of any claim or dispute arising out of this Agreement after such period of time as would normally bar the initiation of legal proceeding to litigate such claim or dispute under the laws of the State of California.

18.0 REMEDIES FOR BREACH

In the event CONTRACTOR fails to comply with the requirements of the Agreement in any way, MTC SAFE reserves the right to implement administrative remedies which may include, but are not limited to, withholding of progress payments and contract retentions, and termination of the Agreement in whole or in part.

The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by MTC SAFE

or CONTRACTOR shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

19.0 CHOICE OF LAW

All questions pertaining to the validity and interpretation of the Agreement shall be determined in accordance with the laws of California applicable to agreements made and to be performed within the State.

20.0 ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover reasonable attorneys' fees, in addition to all court costs.

21.0 PARTIAL INVALIDITY

If any term or condition of the Agreement is found to be illegal or unenforceable, such term or condition shall be deemed stricken and the remaining terms and conditions shall remain valid and in full force and effect.

22.0 BENEFIT OF AGREEMENT

The Agreement shall bind and benefit the parties hereto and their heirs, successors, and permitted assigns.

23.0 NO THIRD PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

24.0 ENTIRE AGREEMENT; MODIFICATION

The Annual Fund Allocation Agreement, including any attachments or documents incorporated therein by inclusion or by reference, constitutes the complete Agreement between the parties and supersedes any prior written or oral communications. CONTRACTOR represents that in entering into the Agreement it has not relied on any previous representations, inducements, or understandings of any kind or nature. This Agreement may be modified or amended only by written instrument signed by both the CONTRACTOR and MTC SAFE. In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

APPENDIX E, DEPARTMENT OF TRANSPORTATION REQUIREMENTS

1. Equal Employment Opportunity. Contractor shall not, on the grounds of race, color, sex, age, religion, national origin, ancestry, physical handicap, medical condition, or marital status either discriminate or permit discrimination against any employee or applicant for employment in any manner prohibited by Federal, State or local laws. In the event of Contractor non-compliance, MTC SAFE may cancel, terminate or suspend the Agreement in whole or in part. Contractor may also be declared ineligible for further contracts with MTC SAFE.

Contractor and its subcontractors 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, or national origin. 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 all employees and applicants for employment, a notice setting forth these provisions.

2. Disadvantaged Business Enterprise (DBE) and Small Business Enterprise Policy.

2.1. Disadvantaged Business Enterprise (DBE) Participation

A. This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." Contractors who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.

B. DBE and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of agreements financed in whole or in part with federal funds. The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT- assisted agreements. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.

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

2.2. Performance of DBE Contractors and other DBE Subcontractors/Suppliers

A. A DBE performs a commercially useful function when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the Agreement, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, evaluate the

amount of work subcontracted, industry practices; whether the amount the firm is to be paid under the Agreement is commensurate with the work it is actually performing, and other relevant factors.

B. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, Agreement, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

C. If a DBE does not perform or exercise responsibility for at least thirty percent of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a commercially useful function.

3. Title VI of Civil Rights Act of 1964. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d) and its implementing regulations in 49 CFR Part 21.

4. Debarment. In contracts over \$25,000, Contractor is required to certify, prior to executing a contract, that neither it nor its principals have been debarred from certain federal transactions by any Federal agency and to require any subcontractors with subcontracts over \$25,000 to provide a similar certification. (A copy of the required certification is included with this Appendix.)

5. Audit and Inspection of Records. Contractor shall permit the authorized representatives of DOT, the Federal Highway Administration (FHWA), the State of California, and the Comptroller General of the United States to inspect and audit all data and records of the Contractor relating to its performance under this Agreement from the date of this Agreement until three (3) years after the close out of the federal grant from which this Agreement is financed, or four (4) years after the fiscal year of the expenditure, whichever is longer. This requirement must be passed along to subcontractors, excluding purchase orders not exceeding \$25,000.

6. Subcontractors

A. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the MTC SAFE and any subcontractors, and no subcontract shall relieve the Contractor of his/her responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the MTC SAFE for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the MTC SAFE's obligation to make payments to the Contractor.

B. Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to subcontractors.

C. Contractor shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to the Contractor by the MTC SAFE.

D. Any substitution of subcontractors must be approved in writing by the MTC SAFE's Project Manager in advance of assigning work to a substitute subcontractor.

7. Federal Grant Requirements. Those laws, statutes, ordinances, rules, regulations and procedural requirements which are imposed on MTC SAFE as a recipient of federal funds are imposed on Contractor, including compliance with 49 CFR Part 18, FTA Circular 4220.1F, and the current FTA Master Agreement, a copy of which is available through MTC SAFE. Allowability of costs shall be determined in accordance with 48 Code of Federal Regulations Part 31 or Office of Management and Budget (OMG) Circulars A-87 or A-122 as applicable.

8. Identification of Documents. All reports and other documents completed as part of this Agreement shall carry the following notation on the front cover or title page:

The preparation of this report has been financed in part by grants from the Federal Highway Administration U.S. Department of Transportation. The contents of this report do not necessarily reflect the official views or policy of the U.S. Department of Transportation.

9. Rights in Data. The Federal Government reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes: (a) the copyright in any work developed under this Agreement; and (b) any rights of copyright to which MTC SAFE or Contractor purchases ownership under this Agreement.

10. State Energy Conservation Plan. Contractor shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321 *et seq.*).

11. Clean Air and Water Pollution Act. Contractor agrees to comply with the applicable requirements of all standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7501 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).

12. Restrictions on Lobbying. In agreements over \$100,000, Contractor is required to execute a certificate indicating that no federal funds will be used to lobby federal officials and to disclose lobbying activities financed with non-federal funds.