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STEVE HEMINGER
Executive Director

ANDREW B. FREMIER
Deputy Executive Director

May 25, 2012

REQUEST FOR PROPOSAL

for

FasTrak[®] Regional Customer Service Center

Letter of Invitation

Dear Contractor:

The Bay Area Toll Authority (BATA) invites your firm to submit a proposal to design, implement, operate and maintain the FasTrak[®] Regional Customer Service Center (RCSC) in the San Francisco Bay Area. The selected Contractor shall provide the following services:

- Design, implementation and testing of the FasTrak[®] Regional Customer Service Center providing services for BATA, the Golden Gate Bridge Highway and Transportation District (GGBHTD), and Bay Area Express Lanes.
- Operate and maintain the accepted system for the contract term.

This letter, together with its enclosures, appendices and attachments, comprises the RFP for this project. Responses to the RFP should be submitted according to the instructions outlined herein.

Any addenda to this RFP that may be issued by BATA shall be posted at <http://procurements.mtc.ca.gov/>. It is the Proposer's responsibility to check for addenda to this RFP and comply with new or revised requirements that may be stated therein.

Proposal Due Date

Interested firms must submit an original and ten (10) hard copies and one electronic copy in MS WORD or unrestricted PDF format on a CD no later than **4:00 p.m. PST, Friday, July 27, 2012**. Proposals received after that date and time will not be considered. The submission of a Proposal will be considered a firm offer to enter into a contract and perform the work described in this RFP for a period of one hundred twenty (120) days from the proposal due date.

BATA Point of Contact

Proposals and all inquiries relating to this RFP shall be submitted to the Project Manager at the address shown below. E-mail inquiries may be directed to bzelinski@mtc.ca.gov.

Beth Zelinski
Bay Area Toll Authority
Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, California 94607-4700
(510) 817-5715

Scope of Work, Schedule and Budget

BATA has developed a Scope of Work (*Appendix A*) identifying the required tasks necessary to design, implement, operate and maintain the FasTrak® Regional Customer Service Center.

The initial period of performance for this contract shall be 19 months from November 30, 2012 through June 30, 2014. The initial work shall be completed and the operations and maintenance period shall begin upon start of operation on July 1, 2014 and continue for a five (5) year period and shall be annually renewable thereafter at BATA's discretion for up to ten (10) additional years, subject to the annual budgetary approval processes of BATA.

The system will be monitored for performance for the first three (3) months of operation or as long as it takes to accept the system. Final system acceptance shall occur after three (3) consecutive months of successful performance.

Proposer's Conference, Site Visit and Requests for Exceptions

BATA will hold a Proposer's Conference on Friday, June 15, 2012 at 10:00 AM PST at 390 Main Street, San Francisco, CA. A site visit will be conducted immediately following the proposer conference to show potential RFP respondents the location of the facility at 390 Main Street, San Francisco, CA, where the Regional CSC will be located. **Please arrive by the start time listed.** Attendance at the Proposer's Conference is not mandatory.

Any requests for clarification, questions regarding RFP requirements, or requests for exceptions to or modifications of RFP provisions must be received by BATA no later than 4:00 p.m., Friday, June 22, 2012 to guarantee response or consideration. Proposers are required to submit such requests on the form provided in *Appendix E, Requests for Exceptions or Modifications*. Contact the BATA Project Manager for an electronic copy of *Appendix E*.

Proposal Evaluation

Proposals shall be evaluated in accordance with the evaluation factors listed in Section IV of the RFP. BATA reserves the right to accept or reject any or all proposals submitted, waive minor irregularities in proposals, request additional information or revisions to offers or to negotiate with any or all Proposers. Any contract award will be to the Proposer that presents the proposal that, in the opinion of BATA, is the most advantageous to BATA, based on the evaluation criteria specified in Section IV.

Contractor Selection Timetable

| | |
|---|---|
| 10:00 a.m., Friday, June 15, 2012 | Proposer's Conference/Site Visits |
| 4:00 p.m., Friday, June 22, 2012 | Closing date for receipt of requests for clarification or exceptions to, or modifications of RFP requirements |
| No later than 2:00 p.m. three (3) working days prior to the date proposals are due. | Deadline for protesting RFP provisions |
| 4:00 p.m., Friday, July 27, 2012 | Closing date and time for receipt of proposals |
| Week of September 4, 2012 | Interviews/discussions and system demonstrations, if held |
| Week of September 17, 2012 | Issue Request for Best and Final Offers, if requested |
| 4:00 p.m., Friday, October 5, 2012 | Closing date/time for receipt of Best and Final Offers, if requested |
| Wednesday, November 14, 2012 | Recommendation of award to BATA Oversight Committee |
| November 30, 2012 (approximate) | Contract Execution |

(All dates are subject to change at BATA's discretion)

General Conditions

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

The selected Proposer will be required to sign a contract with BATA, the Terms and Conditions of which are provided in *Appendix D, BATA-Contractor Agreement*. Any objections to the contract terms and conditions must be brought to the attention of the Project Manager on or before the date and time established above for receipt of requests for clarification/exceptions; otherwise compliance with the agreement will be assumed.

The selected Contractor will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix D-1, Insurance Requirements*. Contractor agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements listed in *Appendix D-1, Insurance Requirements*, within five (5) days of BATA's notice to firm that it is the successful proposer. Requests to change BATA's insurance requirements should be submitted on or prior to the closing date for receipt of requests for clarifications/exceptions listed above. BATA will review the requests and issue an addendum if

material changes requested by a prospective proposer are acceptable. Objections to BATA determinations on requests to change insurance requirements must be brought to BATA's attention no later than the date for protesting RFP provisions above. If such objections are not brought to BATA's attention consistent with the protest provisions of this RFP, compliance with all material insurance requirements will be assumed.

Authority to Commit BATA

The Executive Director will provide a recommendation for the Regional Customer Service Center to the BATA Oversight Committee, which will commit BATA to the expenditure of funds in connection with this RFP. The award of contract must also be approved by the GGBHTD Board of Directors.

Thank you for your participation.

Sincerely,



Steve Heminger
Executive Director

SH: bz

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REQUEST FOR PROPOSAL

to the

BAY AREA TOLL AUTHORITY

FASTRAK[®] REGIONAL CUSTOMER SERVICE CENTER

May 25, 2012

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

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I. PROJECT REQUIREMENTS AND RESOURCES

A. Project Background

The Bay Area toll bridges consist of eight toll bridges. The Bay Area Toll Authority (BATA) is responsible for the collection and administration of the toll revenue collected on the seven State-owned toll bridges in the San Francisco Bay Area. The seven State bridges, Antioch, Benicia-Martinez, Carquinez, Richmond-San Rafael, Dumbarton, San Mateo Hayward and the San Francisco-Oakland Bay Bridge, are owned and operated by the California Department of Transportation (Caltrans). State toll bridge operations are funded by toll revenues collected by BATA. The Golden Gate Bridge is owned, operated and funded by the Golden Gate Bridge, Highway and Transportation District (GGBHTD). BATA and GGBHTD are also referred to in this RFP as “the Agencies,” or individually, as “the Agency.” In addition to the Bay Area toll bridges, Express Lanes are operated in the Bay Area on I-680 and SR-237. These facilities are operated by the Sunol Smart Carpool Lane Joint Powers Authority and the Santa Clara Valley Transportation Authority respectively.

The Bay Area toll bridges serve approximately 150 million toll crossings each year and generate \$750 million annually. The toll bridges operate electronic toll collection, FasTrak[®], in accordance with Title 21, Public Works, of the California Code of Regulations, 21 CCR §1700 *et seq.*, which established interoperability specifications for California toll agencies. About 60% of the annual toll crossings are paid by electronic tolls.

B. FasTrak[®] Operation

The key functions of electronic toll collection are processing FasTrak[®] customer transactions and toll evasion violations. FasTrak[®] customers mount transponders on their vehicles that are detected by the electronic toll collection equipment as they pass through the toll booths. Data from valid tags is sent from the plaza or host computer to the customer service center (CSC), where the toll transaction is processed. Violations occur when a vehicle passes through the toll lane without paying cash and has no tag or an invalid tag, which is defined as a tag with insufficient funds or that has been reported lost. Cameras at the toll lanes capture images of the violator’s license plate and the images are transmitted to the CSC for processing.

The CSC is responsible for customer account and transaction processing, pay-by-plate tolling, invoice tolling and for violations processing and the Express Lanes on I-680 and SR-237. The CSC opens customer accounts; receives prepaid toll and tag deposits; deposits revenues into agency accounts; provides toll tags to customers; supplies toll tags to retailers for sale; posts toll and other transactions to customer prepaid accounts; sends customer statements; replenishes customer accounts by cash, check or automatic credit card payments; responds to customer inquiries; operates the call center; provides web services; processes reciprocal agency transactions; sends tag status files to plaza systems; closes customer accounts; issues customer refunds; provides reporting and analysis; conducts audits and other associated activities.

For violation processing and pay-by-plate tolling, the CSC reviews license plate images, posts toll of valid customers to their accounts and dismisses the violation; retrieves names and addresses from the California and out-of-state DMV databases; sends violation notices and pay-by-plate invoices; receives violation and pay-by-plate payments and deposits them into agency accounts;

processes and responds to standard violation and pay-by-plate disputes; places DMV vehicle registration holds; and transmits unpaid violations to collections.

The CSC is responsible for providing tenant improvements, systems, equipment, personnel, furnishings, subcontracts and supplies to complete its responsibilities except for toll tags and banking services. The CSC will be located at 390 Main Street, San Francisco, CA under lease terms to be agreed between the Bay Area Headquarters Authority (BAHA), a Joint Powers Authority established pursuant to a Joint Exercise of Powers Agreement between BATA and the Metropolitan Transportation Commission, and the successful proposer.

BATA has a current vendor providing the FasTrak[®] Regional CSC system and operations. The current contract will expire on June 30, 2014. All design, development, testing and account migration under this Contract must be completed by that date and start of operations must begin on July 1, 2014. The current vendor will cooperate in the transition in accordance with their succession plan dated February 2007, updated as necessary.

C. Project Description

The Agencies are authorizing the release of this joint Request for Proposal (RFP) with the intention of selecting a single Proposer to operate the FasTrak[®] Regional Customer Service Centers. BATA is serving as Procurement Agency on behalf of the Agencies, managing the project and directing the efforts of the selected Contractor in coordination with GGBHTD and other agencies responsible for operating the Express Lanes, i.e., the Santa Clara Valley Transportation Authority and the Sunol Smart Carpool Lane Joint Powers Authority.

The scope of the contract to be entered into will consist of:

- Development - Develop, test and migrate to the Regional CSC.
- Maintenance and Operations – Maintain and operate the Regional CSC for a five-year period.
- Extension Options – At BATA's election, BATA may annually extend the maintenance and operations for up to five years.

D. Additional Information

Agency statistics relating to the current toll volumes and other Agency statistics are provided in Attachment L, Statistics. Agency statistics are provided for information only. Future system and policy changes such as toll increases, toll discounts, congestion pricing, marketing activities, HOV policies, and facility improvements may have an impact on FasTrak[®] use. BATA and the Agencies will make every effort to disclose information to Proposers that may affect FasTrak[®] operations; however, this information is provided as background only. BATA and the Agencies shall not be responsible to the Proposer for any such information and the impact on the proposal. Proposers are expected to independently evaluate the growth characteristics of the toll industry and ETC/All Electronic Tolling (AET) in particular when planning for work loads and in preparing cost proposals.

E. Minimum Qualifications

To be considered for this project, Proposers must demonstrate that they meet the Minimum Qualifications described below:

- The Proposer shall have a minimum of five (5) years experience with system design, including integration and data migration, and five (5) years operations experience with a CSC of comparable size and volume.
- The Proposer shall have successfully installed at least two (2) CSC systems currently in operation, with at least one (1) during the past three (3) years.
- The Project Manager shall have a Bachelor's degree or foreign equivalent (or equivalent experience) and shall have served as project manager/lead staff for the design, development, test, and installation of at least two (2) CSC projects, one (1) of which was completed in the past five (5) years.
- The Software Design Manager (lead staff for the system design, development and system implementation) shall have a Bachelor's degree or foreign equivalent (or equivalent experience) in computer science or a related field and have at least two (2) years of experience in a lead role working with the proposed or similar solution product.
- The Customer Service Operations Manager shall have served in a similar role for a minimum of six (6) years, with three (3) years in the toll industry where service is delivered in a high volume electronic toll transaction processing environment.
- The Finance Manager (the financial reporting and reconciliation lead) shall have served in similar roles for a high volume transaction environment(s), not necessarily in the toll industry. The Financial Manager shall have a minimum of five (5) years of experience with the preparation of financial statements according to Generally Accepted Accounting Principles (GAAP) and at least three (3) year experience in a management or leadership position overseeing accounting operations including the preparation of financial statements and internal control policies and procedures.

The Minimum Qualifications may be met by the Proposer's direct firm experience or the experience of a subcontractor for which the Proposer is responsible.

F. Performance and Payment of Bonds

The Proposer awarded the Contract shall be required to furnish a performance bond, a payment bond and a letter of credit, all in a form satisfactory to BATA at the time of Contract execution. Proposers shall furnish, along with their proposals, evidence satisfactory to BATA of their present and expected ability to provide the required bonds and Letter of Credit. If proposer wishes to substitute the performance bond for a Letter of Credit, a copy of the letter as well as the identity of the issuing financial institution must be provided. Full compensation for furnishing the following contract bonds and Letter of Credit is included in the prices paid for the various contract items of work and no separate payment will be made for the bonds and Letter of Credit.

Performance Bond. The Proposer to whom the Contract is awarded shall provide a Performance Bond in an amount not less than one hundred percent (100%) of the price of the Contract Implementation phase of the Contract (as inserted by Proposer on Line P9, Implementation Price to Appendix B, Price Form), including complete design, supply, installation, testing, migration, commissioning, and go-live of the RCSC, but not including the cost of operating and maintaining

the system. The Performance Bond shall guarantee the Contractor's faithful performance of the Contract in compliance with all terms, conditions, and requirements specified in the Contract Documents. The Performance Bond shall remain in full force and effect until system acceptance and BATA authorizes release of the bond. The performance bond is intended to secure but not cap nor limit any liability of the Contractor for damages. A Letter of Credit issued in a form and from a bank satisfactory to BATA is an acceptable substitute for a Performance Bond.

Payment Bond. The successful Proposer shall also provide a Payment Bond in an amount equal to the cost of the installation work (as inserted by Proposer on Line P4, Facilities Readiness to Appendix B, Price Form). The Payment Bond shall provide BATA with security for Contractor's full payment to all subcontractors for costs of materials, equipment, supplies, and labor furnished in the course of performing any work that may be required for the above referenced line item.

Letter of Credit. The successful Proposer shall also provide a Letter of Credit to secure contractor's obligations for the maintenance and operations. The Letter of Credit shall be issued by a bank whose long-term debt is rated "A7" or better by either Moody's, Fitch, or Standard & Poor's in the amount of \$5,000,000, with a term of one year. The Letter of Credit shall be continuously renewed, extended or replaced so that it remains in effect, as required herein. BATA shall be authorized under the Letter of Credit to make one or more sight drawings upon certification to the issuing bank that an event of default by the Contractor has occurred. The Letter of Credit must also permit a drawing in the full stated amount in the event that any required renewal, extension or replacement is not made prior to 30 days of its expiration.

G. Documentation

In order to promote equitable competition during the procurement process, BATA will make available to the extent possible documents to help Proposers understand the operations, policies and business rules. These materials are available on disk, and Proposers must contact the BATA Project Manager in writing in order to make arrangements for a copy to be sent or it can be picked up from BATA at the Proposers conference if prior arrangements have been made.

II. SCOPE OF WORK, PERIOD OF PERFORMANCE AND BUDGET

A. Scope of Work

The selected Contractor shall perform all work necessary to complete the Scope of Work to design, develop, install and maintain the FasTrak[®] Regional Customer Service Center (RCSC).

BATA has developed a Scope of Work (*Appendix A*) identifying required work tasks for the RCSC.

B. Period of Performance

Contractor's services hereunder shall commence on or after November 30, 2012 and shall be completed no later than June 30, 2019, unless extended by amendment or earlier terminated, as hereinafter provided. Contractor's services shall be performed in accordance with the schedule included in *Appendix A, Scope of Work* under Project Schedule, attached hereto and incorporated herein by this reference.

C. Guaranteed Completion Date

Contractor shall start operation of the Customer Service Center on July 1, 2014. Failure to meet this date will be subject to liquidated damages of \$250,000 per month, or any portion thereof.

D. Budget

BATA has not established a budget for this Contract. The price section of the selected Contractor's proposal will form the basis for BATA's compensation to the Contractor, based on the contract payment provisions in Article 3 of the terms and conditions contained in *Appendix B, Price Form*.

III. Proposal Form

Proposals must be typed with a minimum 12-point font and submitted on 8 ½" x 11" paper, using a single method of fastening. Proposers are encouraged to print on double-sided paper. Proposals shall not exceed 200 pages, excluding proposal covers, the letter of transmittal, title page, table of contents, resumes and required forms. Proposal content, completeness and demonstrated clear understanding of what is required for RCSC project are most important. Clarity is essential and will be considered in assessing the Proposer's capabilities.

Proposers may refine or modify the requirements of the FasTrak[®] RCSC to better support the overall goals of the project. When proposing such changes, the Proposer must clearly explain the benefits of the modifications and any tradeoffs associated with them.

Performance requirements are provided in *Appendix A, Scope of Work*. The selected Contractor will be contractually obligated to meet the measurements and targets included in the final contract. Failure to meet finalized performance requirements may result in contract termination.

All proposals should contain the following:

A. Letter of Transmittal

An official authorized to bind the Proposer must sign the transmittal letter. The transmittal letter should identify the project team, including lead Contractor and any subcontractors. The transmittal letter should also include the name, telephone number and email address of the primary contact person. The transmittal letter should include a statement that the proposal is a binding offer to contract with BATA according to the requirements of this RFP for a period of 120 days from the due date for submission of proposals.

B. Title Page

The title page shall include the RFP subject, the name of the Proposer's firm, local address, telephone number, name of contact person, and the date.

C. Table of Contents

Provide a table of contents that includes a clear identification of the material by section and page number.

D. Team Structure and Organization

1. Describe the firms that make up the project team and the distribution of work among them. For each firm and major subcontractor include number of years in business; size of company (employees, annual revenue); and type of organization (individual, partnership, corporation). Include descriptions of the roles of any subcontractors and their specific responsibilities and how their work will be supervised.
2. Identify the Project Team
 - Identify the project manager and how/why this individual was selected for this position.
 - Identify key staff proposed to work on the project and proposed project position or title; identify the specific project tasks for which each key staff member will be responsible. At a minimum, key personnel shall include Project Manager, Software Design Manager, Data Migration Manager, Operations Manager, Financial Manager, Test Manager, Quality Assurance Manager and Maintenance Manager.
 - For key personnel:
 1. Describe the role(s) they have had on similar projects.
 2. Provide the percentage of their time that will be dedicated to this project.
 3. Provide the name and location of other projects they will be working on concurrent with this BATA assignment.
 4. Provide the percentage of their time they will be available on-site.
 - Provide a project organization chart – include position (name is not necessary) for entire project team in addition to key staff.

E. Project Approach and Work Plan

1. Approach Overview: Provide an overview of your approach to the project, including how the system will be designed to meet performance criteria, system requirements, and implementation processes and schedules, while providing the best value to BATA.
2. Description of Technical Approach and Work Plan: Provide a detailed description of the proposed approach, describing how all of the functions and components of the proposed CSC system and operation will be designed, tested, implemented, and maintained, including how the project will be managed, and operated. Description shall also include, the following:
 - a. Address each requirement, milestone and deliverable listed in *Appendix A, Scope of Work*, indicating whether or not you can meet the requirements. This portion of the complete proposal response shall be addressed by completing the matrix form attached hereto as *Appendix G, Response Matrix*. As indicated on the matrix form, if a Proposer does not directly meet a specified requirement, the proposal should explain any alternative solutions proposed to meet or mitigate that requirement.
 - b. Provide all information required to clearly and completely describe the ability of your proposed approach to accomplish program goals and objectives as well as Key Performance Indicators (KPI's), whether or not there is a related requirement or milestone in the Scope of Work. Provide information on additional functionality

- not addressed in *Appendix A, Scope of Work* that your firm can provide which would benefit the project.
- c. Provide a complete systems diagram detailing hardware type, physical location, communication method, all required software and O/S specifications for development, test, and production environments.
 - d. Describe your approach for data migration and transition from the current system to your system including planning, testing, training, installation and operational conversion as well as your plan to coordinate with BATA, GGBHTD, and Express Lane operators and their toll systems.
 - e. Describe your approach for ongoing quality management and process improvement programs.
 - f. Address the flexibility of your proposed equipment and system design in regards to hardware and software scalability and the ability to accommodate new functions (e.g. Express Lanes Network, All Electronic Tolling, non-toll services, Clipper Support Services, etc.).
 - g. Describe the technical, business, and internal control processes that shall be in place to safeguard personally identifiable information as defined in *Appendix D, BATA-Contractor Agreement*.
3. Proposer shall provide sample documents from similar projects for the following:
- a. Data Migration Plan
 - b. Quality Management Plan
 - c. Transition and Implementation Plan
4. Schedule and Work Plan: Provide a schedule and associated work plan explaining how the Proposer will complete the requirements identified in *Appendix A, Scope of Work*.

F. Qualifications and References

1. Demonstrate how the Proposer meets the minimum qualifications in Section I.E of this RFP.
2. Describe the Proposer's experience and qualifications. "Team Experience and Qualifications" listed in the Proposal Evaluation.
3. Provide at least three references from previous projects. References shall include the project title, a brief description (one page maximum per project) of the project, the period of performance, performance standards required by the project and whether they were met, the project budget, the sponsoring agency and sponsor Project Manager, and roles played by individuals proposed for this RFP. Include the name of the contact person, agency for whom the work was performed, telephone number, and year that the work was done.
4. Provide resumes for each key staff person assigned to the project (one page maximum per person), summarizing the individual's training and experience relevant to this project. Include resumes for key Subcontractor personnel, as well. (This section may be included as an Attachment to the proposal, which will not be included in the proposal page count referred to in Section III.)

5. List any contracts with BATA or GGBHTD entered into by the Proposer or any of its Major Subcontractors in the past three years, including a brief description of the scope of work, the contract amount, and date of execution.

G. Cost Proposal

Provide a full description of the expected expenditures of funds for the work described in *Appendix A, Scope of Work* to this RFP, as follows:

1. *Appendix B, Price Form*. This form shall be used to submit price information. Unit prices shall be multiplied by the quantities to arrive at the total costs for the project. For purposes of the Contract and payments due the Contractor for work performed under the Contract, the Unit Price is the governing amount. In the event of a discrepancy, BATA reserves the right to recalculate the Total Price based on the Proposers unit price and the estimated quantity. The prices in *Appendix B* should represent the Proposer's full proposed compensation (including all applicable surcharges such as taxes, insurance, and fringe benefits, as well as indirect costs, overhead and profit allowance, Subcontractors costs, travel, and ordinary materials and supplies) for all work performed under the resulting contract.
2. *Appendix B-1, Bill of Materials*. Proposer shall provide the required information for all the proposed equipment and software and licenses that are included in the equipment price items submitted in *Appendix B, Price Form*. Bill of Materials shall also include component replacement price that will be used for equipment replacement costs during the maintenance period.

H. California Levine Act Statement

Submit a signed California Levine Act statement (*Appendix C*)

I. Software License and Contractor Data

Submit any supplemental software license provisions, provided that they guarantee all of the rights set forth in Section V.G of the RFP and *Appendix D, BATA-Contractor Agreement*.

Identify any proprietary materials, data or software required for the performance of this project that proposer considers to be Contractor Data, per Section V.G.3 of this RFP and *Appendix D, BATA-Contractor Agreement*.

J. Financial Responsibility Qualifications

In a separate sealed envelope, provide two years of your firm's most recent audited financial statements. The statements will be reviewed to determine responsibility only. All statements will be returned to all Proposers prior to contractor selection.

K. Bid Guaranty

Bids must be accompanied by a bid bond executed by an admitted surety insurer (“A7” Rating or better), in the amount of \$100,000, payable to BATA. Such bond shall be given as a guaranty that the Proposer will, within the time period specified by BATA, enter into a contract and provide the required performance and payment bonds and certificates of insurance. The bid bond must conform in all material respects to the form provided in *Appendix F, Bid Bond* of this RFP.

If the Bidder to whom the work has been awarded refuses or fails to enter into a contract and/or provide the required bonds or certificate of insurance within the specified time, the principal and surety on the bond shall be liable to BATA for the principal amount thereof in accordance with its terms. Bid bonds will be held until the contract is fully executed, after which all Bidders’ guarantees except any guarantees which have been forfeited, will be returned to the respective Bidders whose proposals they accompany, but in no event will Bidder’s securities be held by BATA beyond one hundred eighty (180) days from the time set for receiving bids.

L. Bonding Assurance

Proposers shall furnish, along with their proposals, written assurance from a surety that it will issue performance and payment bonds with Proposer as principal and BATA as sole obligee. Such surety must be authorized to do business in California and have an A.M. Best Rating of not less than A7. Respondents shall provide a letter from their surety company, not their surety broker, confirming the surety relationship, evidence satisfactory to BATA of their present and expected ability to provide the required bonds and Letter of Credit. If Proposer wishes to substitute the performance bond for a Letter of Credit, a copy of the letter as well as the identity of the issuing financial institution must be provided.

M. Insurance Requirements

Submit a signed Insurance Provisions Document (*Appendix D-1*).

IV. Proposal Evaluation

A. Review for General Responsiveness

The BATA Project Manager, in consultation with the BATA Office of General Counsel, will conduct an initial review of the proposals for general responsiveness and satisfaction of the Minimum Qualifications in Section I.E. Any proposal that does not meet the Minimum Qualifications or include enough information to permit the evaluators to rate the proposal in any one of the evaluation factors listed below will be considered non-responsive and will not be evaluated. BATA reserves the right to request additional information from responsive firms prior to evaluation. A proposal that fails to include one or more items requested in Section III, Proposal Form, may be considered complete and generally responsive, if evaluation in every criteria is possible.

B. Evaluation Factors

Responsive proposals that meet the Minimum Qualifications listed in Section I.E, will then be evaluated by a panel comprised of BATA and GGBHTD staff on the basis of the following evaluation factors, listed in descending order of relative importance. Sub-factors are not inclusive and are not weighted; they are provided to illustrate some of the considerations that will affect factor evaluations.

1. Price: 35 Points

- Total price as listed on last line of *Appendix B, Price Form* incorporating Implementation Price, 5-year Operations and Maintenance Price and Transition to Successor Price.

2. Approach to Performance (Technical Approach, Schedule and Work Plan): 30 Points

- Specificity, logic, and completeness of the work plan by task and subtask.
- Compliance with the requirements in the Scope of Work.
- Ability of the system to accomplish program goals and objectives and meet performance standards.
- Sufficiency, feasibility, appropriateness, thoroughness and clarity of proposed technical approach.
- The ease of installation and the maintainability of the proposed solution.
- Accuracy and reliability of the proposed system.
- Appropriateness and logic of the project schedule.
- Sufficiency of the resources to meet the schedule.
- Flexibility of the proposed system for future changes.
- Sufficiency, feasibility, appropriateness, thoroughness and continuing quality of the Proposers operations and maintenance solution.
- Stringency and effectiveness of technical, business, and internal controls to safeguard personally identifiable information.
- Reasonable resource rates.

3. Team and Key Personnel Experience and Qualifications: 25 Points

- Proposer, Subcontractor and key project staff experience and qualifications related to *Appendix A, Scope of Work*, including, but not limited to, experience in system design, development, installation, testing, and operations and maintenance and specific experience with electronic toll operations, customer service management, revenue collection and financial systems.
- Proposer, Subcontractor and key project staff experience in project management.
- Proposer, Subcontractor and key project staff experience with public agencies.

4. Past Performance: 10 Points

- Past Performance demonstrating a commitment to quality, client satisfaction, cooperative working relationships, and timely completion of work within budget. Past performance will be assessed based on client/project references. References will be contacted for all proposers.

Following the initial evaluation, the panel may elect to recommend award to a particular Proposer based on written proposals alone, with or without interviews. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and technical viewpoint. The panel may also elect to enter into discussions with a “short list” of Proposers, consisting of those Proposers reasonably likely, in the opinion of the panel, to be awarded the contract.

C. Interviews

Interviews, if held will consist of a contractor presentation and an introduction to key staff, who shall be expected to be present and respond to questions.

D. Proposer Discussions and Best and Final Offers

The purpose of discussions with a Proposer on the “short-list” will be to identify to that Proposer specific deficiencies and weaknesses in its proposal and to provide the Proposer with the opportunity to consider possible approaches to alleviating or eliminating them in its Best and Final Offer (BAFO). These deficiencies or weaknesses may include such things as technical issues, management approach, cost, or team composition. Discussions may take place through written correspondence (including e-mail) and/or face-to-face meetings. The BATA Project Manager is expected to be the primary respondent and he/she may be supported by other key personnel identified by the evaluation panel.

E. Request for Best and Final Offer (BAFO)

Following discussions, if held, BATA shall issue a Request for Best and Final Offer (BAFO) to the proposers on the short list. In their BAFOs, those proposers will be given the opportunity to revise their written proposals to address the concerns raised during discussions or to make any other changes. Following receipt of the BAFOs, the evaluation panel will evaluate the BAFOs against the evaluation criteria.

F. Recommendation for Award

The panel will recommend a Contractor to the BATA Executive Director, based on its evaluation of the written proposals or BAFOs and oral interviews or discussions (if held). The Executive Director will review the recommendation and, if he agrees, forward the recommendation to the BATA Oversight Committee for approval.

V. General Conditions

A. Limitations

This Request for Proposals (RFP) does not commit BATA to award a contract or to pay any costs incurred in the preparation of a proposal in response to this RFP.

B. Award

Any award made will be to the Proposer whose Proposal is most advantageous to BATA based on the evaluation criteria outlined in Section IV.B of this RFP.

If the selected firm fails to enter into a contract with BATA in a timely manner as determined by BATA, in accordance with the terms and conditions of this RFP, BATA reserves the right to reject the proposal of the selected firm and enter into a contract with the next highest scoring firm.

C. Binding Offer

A signed proposal submitted to BATA in response to this RFP shall constitute a binding offer from Proposer to contract with BATA according to the terms of the proposal for a period of 120 days after the due date for submission of proposals to BATA.

D. Contract Arrangements

BATA's contract provisions are enclosed for your reference as *Appendix D, BATA's Contractor Agreement*. If a proposer wishes to propose a change to any standard BATA contract provision, the provision and the proposed alternative language must be submitted prior to the closing date for receipt of requests for clarifications/exceptions listed above. If no such change is requested, the Contractor will be deemed to accept BATA's standard contract provisions.

The selected Contractor will be required to maintain insurance coverage, during the term of the contract, at the levels described in *Appendix D-1, Insurance Requirements*. Contractor agrees to provide the required certificates of insurance providing verification of the minimum insurance requirements listed in *Appendix D-1, Insurance Requirements*, within five (5) days of BATA's notice to firm that it is the successful proposer. Requests to change BATA's insurance requirements should be submitted on or prior to the closing date for receipt of requests for clarifications/exceptions listed above. BATA will review the requests and issue an addendum if material changes requested by a prospective proposer are acceptable. Objections to BATA determinations on requests to change insurance requirements must be brought to BATA's attention no later than the date for protesting RFP provisions set forth below in Section V.E. If such objections are not brought to BATA's attention consistent with the protest provisions of this RFP, compliance with all material insurance requirements will be assumed.

The Contract will include a provision permitting BATA to terminate the Contract with the selected Contractor within one hundred twenty (120) days of contract execution, at its sole discretion: (a) if selected Contractor has not satisfactorily complied with the requirements of the Contract's scope of work, as set forth in this RFP and (b) if the areas of noncompliance are such that by their nature are unlikely to be capable of cure. In such event, BATA will provide no less than forty-five (45) days advance notice to Contractor of the intent to terminate, and BATA will have the right to enter into a contract with the next highest ranked proposer under the terms of the RFP. BATA also

reserves the right to cancel this procurement and re-procure the Contractor for this project if it is determined to be in its best interest to do so.

E. Protest Procedures

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

- 1) No later than three (3) working days prior to the date proposals are due, for objections to RFP provisions;
- 2) No later than three (3) working days after the date on which the proposer is notified that it was found to be nonresponsive or failed to meet Minimum Qualifications; or
- 3) No later than three (3) working days after the date on which contract award is authorized or the date the Proposer is notified that it was not selected, whichever is later, for objections to Contractor selection.

Except with regard to initial determinations of non-responsiveness, the evaluation record shall remain confidential until the BATA Oversight Committee authorizes award.

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

The BATA Executive Director will respond to the protest in writing, based on the recommendation of a staff review officer. Authorization to award a contract to a particular firm by BATA's Oversight 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 Executive Director.

Should the protesting Proposer wish to appeal the decision of the Executive Director, it may file a written appeal with the BATA Oversight Committee, no later than three (3) working days after receipt of the written response from the Executive Director. The BATA Oversight Committee's decision will be the final agency decision.

F. Public Records

This RFP and any material submitted in response to this RFP are subject to public inspection under the California Public Records Act (Government Code § 6250 *et seq.*), unless exempt by law. Proposals will remain confidential until the BATA Oversight Committee has authorized award. Other than proprietary information or other information exempt from disclosure by law, the content of proposals submitted to BATA will be made available for inspection consistent with its policy regarding Public Records Act requests.

Each proposer must clearly mark each page of the proposal, including financial responsibility information submitted under Section III.J. of this RFP, that the proposer considers to contain trade secrets or other commercial or financial information that the proposer believes would cause

substantial injury to the proposer's competitive position, if disclosed, and include the following notice at the front of its proposal:

“The data on the following pages of this proposal, including financial responsibility information submitted under Section III.J. of the RFP, marked along the right margin with a vertical line, contain technical or financial information which are trade secrets and/or which, if disclosed, would cause substantial injury to the proposer's competitive position. The proposer requests that such data be used for review by BATA only, but understands that exemption from disclosure will be limited by BATA's obligations under the California Public Records Act. [List pages].”

Failure to include this notice with relevant page numbers shall render any individual markings inadequate. Individual pages shall accordingly not be treated confidentially. **Any language purporting to render the entire proposal or the cost proposal confidential or proprietary will be regarded as ineffective and will be disregarded.**

In the event properly marked data is requested pursuant to the California Public Records Act, the proposer will be advised of the request and given the opportunity to provide to BATA a detailed statement indicating the reasons it believes the information should be withheld from disclosure. The proposer may be asked by BATA, as a condition of non-disclosure, to indemnify and hold BATA harmless, in the event of claims made as a result of non-disclosure.

G. Intellectual Property and Work Product Ownership Rights

1. BATA Data

All data, reports, surveys, studies, drawings, software (object, script source code), electronic databases and the data contained within, and any other information, documents or materials (“BATA Data”) made available to the Contractor by BATA or GGBHTD for use in the RCSC remains the property of BATA or GGBHTD. No license to such BATA Data, beyond the Scope of Work of the Project, is conferred or implied by the Contractor's use or possession of such BATA Data. Any updates, revisions, additions or enhancements to such BATA Data made by Contractor in the context of the Project shall be the property of the owner of the original data (BATA or GGBHTD).

Neither the Contractor nor its Subcontractors will be permitted to use or disseminate any BATA Data outside of the context of the Regional Customer Service Center without the prior written approval of BATA. All authorized uses of BATA Data by the Contractor outside of the context of the Regional Customer Service Center project shall include a copyright notice on behalf of the owner (BATA or GGBHTD). Contractor will be required to enter into a non-disclosure agreement prior to receipt of any BATA Data. Contractor will also be required to abide by DMV policy and sign a written agreement. See Attachment H, DMV Information Security Statement, to Appendix A.

2. Ownership and Use of Work Products

All work products, as defined herein, prepared or assembled for BATA and/or furnished to BATA by Contractor or any of its Subcontractors shall be the property of and owned by BATA or

GGBHTD (to be determined at BATA's sole discretion). The term "Work Product" as used in this RFP means recorded information, whether or not copyrighted, developed in whole or in part with Project funds and/or delivered or specified to be delivered under the Agreement, including but not limited to Contractor-generated enhancements, modifications, fixes, or upgrades to BATA Data. "Work Product" includes, but is not limited to: software developed and paid for under the Regional Customer Service Center contract, reports, surveys, manuals, technical reports and memoranda, electronic data, and related information. "Work Products" does not include financial, administrative, and cost and pricing information incidental to the Work. "Work Product" does not include software and related documentation developed by the selected Contractor and proposed to be used under a license that meets the terms of Section V.G.3 below.

Copies of Work Products must be delivered to BATA promptly upon their satisfactory completion of the Work, upon earlier termination of the Regional Customer Service Center contract, or at any time during the term of the contract at the request of BATA. In the case of software developed and paid for (in whole or in part) under this contract, the Contractor will be required to make available to BATA, upon such request, the source code and source code documentation for such software, along with a list of all applicable software development tools, i.e., all software required to edit/alter the source code and successfully recompile and operate the software, including operating systems, libraries, tools and utilities, data base structures and code and compilers.

BATA's contract with the Contractor will include an assignment to BATA of all right, title and interest in and to Work Products, including ownership of the entire copyright in the Work Products, and an agreement to execute all papers necessary for BATA to perfect its ownership of the entire copyright in the Work Products. Proprietary information used to create Work Products is not included.

Neither the Contractor nor its Subcontractors will be permitted to use or disseminate any Work Products outside of the context of the Regional Customer Service Center without the prior written approval of BATA. All authorized uses of Work Products by the Contractor outside of the context of the Regional Customer Service Center shall include a copyright notice on behalf of BATA.

A draft Work Product is considered by BATA to be confidential information unless it is incorporated into a Work Product that becomes a public document or is intentionally released by BATA to the public in another form. Neither Contractor nor its Subcontractors shall use, publish, or base other work on such draft Work Products, without the prior written consent of BATA.

3. Contractor Software

The Contractor or its Subcontractors and/or third party licensors of software will be expected to retain ownership of the copyright to any software programs, code, materials or data used in the performance of this project that pre-exist this RFP; are developed outside its scope of services; or are a new translation, version or derivative of an existing program, code, material or method that is the intellectual property of the Contractor, its Subcontractors, or a third party licensor of software, subject to the following conditions.

PROPOSERS MUST IDENTIFY ANY PROPRIETARY MATERIALS OR SOFTWARE REQUIRED FOR THE PERFORMANCE OF THIS PROJECT IN THEIR PROPOSALS. The selected Contractor will then be required to provide to BATA and GGBHTD a nonexclusive, royalty-free, irrevocable, perpetual license to use Contractor Data for the benefit and operation of

the Regional Customer Service Center, effective upon payment to Contractor for such materials, provided that BATA agrees that it will not publish or disclose Contractor Data to which the “trade secret” privilege, as defined in California Evidence Code Section 1061 would apply.

With the exception of commercially available third-party software, all source code, including source code to modifications, updates, and fixes, as well as detailed source code documentation, shall be deposited in escrow prior to System Acceptance. Source code documentation shall be sufficient to allow for compiling and testing of the source code including at a minimum a list of applicable proprietary software development tools. Additionally, the Contractor agrees to include in the escrow the identities of and most current available contact information for one or more senior programmers who had or have responsibility for the creation of the Software and the methodology such that they can explain the source code and the methodology. With the exception of those costs related to BATA-requested deposits (see below) the selected contractor shall be responsible for paying all costs for the escrow account. Such costs shall be reflected on *Appendix B-1*. Every 6 months for the duration of the maintenance contract and within 30 days following a major software change, the latest version of the source code and detailed source code documentation shall be placed in escrow. Additionally, BATA may request additional escrow deposits at BATA’s cost. If BATA requests such a deposit, it shall be complete within 30 days of request by BATA. BATA shall have the right to retain the services of a reputable expert to compile and test the source code and documentation deposited in the escrow account to determine that they are sufficient to permit BATA to exercise its rights to access such source code and documentation, at BATA's cost, subject to such expert’s signing a nondisclosure agreement with the Contractor or subcontractor owning the software.

The escrow agreement shall include a release provision providing for the escrowed software and source code to be released to BATA in the event that Contractor: (1) ceases to function as a going concern; makes an assignment for the benefit of creditors; becomes the subject of a proceeding in bankruptcy, receivership, insolvency or similar laws, which proceeding is not dismissed within thirty (30) days after it is instituted; or liquidates, dissolves or sells substantially all of its assets; (2) is unable or fails to adequately and at reasonable cost to BATA support and maintain the licensed software, even after receiving reasonable notice from BATA of such failure; or (3) materially breaches its agreement with BATA in a manner that directly interferes with BATA’s ability to use the licensed software as agreed.

H. Examination of Specifications and Sites

Proposers shall satisfy themselves as to the character, quality, and quantities of work to be performed, materials to be furnished, and as to the requirements of the proposed contract. The submission of a proposal shall be prima facie evidence that a Proposer has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the proposed contract. Failure to do so will be at Proposers’ own risk and they cannot secure relief on the plea of error.

I. Prevailing Wage Rates, Apprenticeship and Payroll Records

As applicable, the Contractor shall comply with California Labor Code Sections 1720 *et seq.* and Title 8 of the California Code of Regulations Sections 16000 *et seq.* governing the payment of prevailing wages, as determined by the Director of the California Department of Industrial Relations. In particular, the Contractor’s attention is drawn to Labor Code Sections 1770 (payment

of prevailing wage rate), 1775 (penalty for non-payment), 1776 (payroll records), and 1777.5 (use of apprentices).

J. Subcontractors

Contractor will not assign or subcontract any part of the Agreement without the prior consent of BATA, and any attempt to do so will be void and unenforceable.

K. Organization 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 the agreement resulting from this and other BATA solicitations. 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 BATA; 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 Project. Whenever BATA is awarding a contract that involves the rendering of advice, it will consider whether there exists the potential for bias, because of other activities, relationships or contracts of the consultant, and if so, whether any potential bias can be mitigated acceptably by BATA and the consultant.

Proposer shall not engage the services of any subcontractor or independent contractor on any work related to this Agreement if the subcontractor or independent contractor, or any employee of the subcontractor or independent contractor, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

L. Ex Parte Communications

Proposers and Proposers' representatives may not communicate with an officer, director, commissioner, employee or agent of BATA or GGBHTD, with the exception of the BATA Project Manager, regarding this procurement until after a notice of award has been issued by BATA. Proposers and their representatives are not prohibited, however, from making oral statements or presentations regarding the procurement in public to one or more representatives of the three agencies during a public meeting.

In the context of these Instructions to Proposers, an "ex parte communication" is any communication between a Proposer (or the Proposer's representative) and the BATA Executive Director, Commission member, other BATA officer or employee, or a director, officer or employee of GGBHTD regarding the procurement regardless of who initiates the communication, before BATA has issued a Notice of Award. A "Proposer or Proposer's representative" includes all of the Proposer's employees, officers, directors, consultants and agents, any subcontractors or suppliers listed in the Proposer's proposal, and any individual or entity who has been requested by the Proposer to contact BATA or GGBHTD on the Proposer's behalf. Any written *ex parte* communication between a Proposer (or the Proposer's representative) and BATA, GGBHTD, or their representatives will be subject to disclosure pursuant to the California Public Records Act.

APPENDIX A, SCOPE OF WORK

Please visit <http://procurements.mtc.ca.gov/> to download and/or view Appendix A.

APPENDIX B, PRICE FORM

Please visit <http://procurements.mtc.ca.gov/> to download and/or view Appendix B.

APPENDIX B-1, BILL OF MATERIALS

Please provide detailed information. Add more lines if necessary in each category. Replacement unit price will be used for equipment replacement costs during the maintenance period.

| No. | Equipment | Manufacturer/ Part Number | Description | Quantity | Replacement Unit Price | Notes |
|-----|-----------|------------------------------|-------------|----------|---------------------------|-------|
| 1.0 | | | | | \$ | |
| 1.1 | | | | | \$ | |
| 1.2 | | | | | \$ | |
| 1.3 | | | | | \$ | |
| 2.0 | | | | | \$ | |
| 2.1 | | | | | \$ | |
| 2.2 | | | | | \$ | |
| 2.3 | | | | | \$ | |
| 3.0 | | | | | \$ | |
| 3.1 | | | | | \$ | |
| 3.2 | | | | | \$ | |
| 3.3 | | | | | \$ | |
| 4.0 | | | | | \$ | |
| 4.1 | | | | | \$ | |
| 4.2 | | | | | \$ | |
| 4.3 | | | | | \$ | |
| 5.0 | | | | | \$ | |
| 5.1 | | | | | \$ | |
| 5.2 | | | | | \$ | |
| 5.3 | | | | | \$ | |

APPENDIX C, 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.

BATA’s commissioners include:

| | | |
|---------------------|-----------------|---------------------|
| Tom Azumbrado | Mark Green | Kevin Mullin |
| Tom Bates | Scott Haggerty | Bijan Sartipi |
| David Campos | Anne W. Halsted | James P. Spering |
| Dave Cortese | Steve Kinsey | Adrienne J. Tissier |
| Bill Dodd | Sam Liccardo | Amy Rein Worth |
| Dorene M. Giacomini | Jake Mackenzie | Scott Weiner |
| Federal D. Glover | | |

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 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 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 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)

APPENDIX D, BATA-CONTRACTOR AGREEMENT

Please visit <http://procurements.mtc.ca.gov/> to download and/or view Appendix D.

APPENDIX D-1, INSURANCE REQUIREMENTS

Minimum Coverages. The insurance requirements specified in this section shall cover CONTRACTOR’s own liability and the liability arising out of work or services performed under this Agreement by any subconsultants, subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that CONTRACTOR authorizes to work under this Agreement (hereinafter referred to as “Agents.”) CONTRACTOR shall, at its own expense, obtain and maintain in effect at all times during the life of the Agreement as a result of this RFP, the following types of insurance against claims, damages and losses due to injuries to persons or damage to property or other losses that may arise in connection with the performance of work under the Agreement as a result of this RFP.

CONTRACTOR is also required to assess the risks associated with work to be performed by Agents under subcontract and to include in every subcontract the requirement that the Agent maintain adequate insurance coverage with appropriate limits and endorsements to cover such risks. To the extent that an Agent does not procure and maintain such insurance coverage, CONTRACTOR shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling CONTRACTOR’s indemnity obligation as to itself or any of its Agents in the absence of coverage.

In the event CONTRACTOR or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that CONTRACTOR’s insurance be primary without right of contribution from BATA. Prior to beginning work under this contract as a result of this RFP, CONTRACTOR shall provide BATA with satisfactory evidence of compliance with the insurance requirements of this section.

| | |
|----------------|--|
| <p>Yes (✓)</p> | <p>Please certify by checking the boxes at left that required coverages will be provided within five (5) days of BATA’s notice to firm that it has been selected.</p> |
| <p>_____</p> | <p><u>Workers' Compensation Insurance</u> with Statutory limits, and Employer’s Liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per accident, and any and all other coverage of CONTRACTOR’s employees as may be required by applicable law. Such policy shall contain a Waiver of Subrogation in favor of BATA. Such Workers Compensation & Employers Liability may be waived, if and only for as long as CONTRACTOR is a sole proprietor or a corporation with stock 100% owned by officers with no employees.</p> |
| <p>_____</p> | <p><u>Commercial General Liability Insurance</u> for Bodily Injury and Property Damage liability, covering the operations of CONTRACTOR and CONTRACTOR’s officers, agents, and employees and with limits of liability which shall not be less than \$1,000,000 combined single limit per occurrence with a general aggregate liability of not less than \$2,000,000, and Personal & Advertising Injury liability with a limit of not less than \$1,000,000. Such policy shall contain a Waiver of Subrogation in favor of BATA. BATA and those entities listed in Section I of this Appendix D-1, and their commissioners, directors, officers, representatives, agents and employees are to</p> |

| | |
|---|--|
| | <p>be named as additional insureds. Such insurance shall be primary and contain a Separation of Insureds Clause as respects any claims, losses or liability arising directly or indirectly from CONTRACTOR's operations.</p> |
| — | <p><u>Business Automobile Insurance</u> for all automobiles owned (if any), used or maintained by CONTRACTOR and CONTRACTOR's officers, agents and employees, including but not limited to owned (if any), leased (if any), non-owned and hired automobiles, with limits of liability which shall not be less than \$1,000,000 combined single limit per accident.</p> |
| — | <p><u>Umbrella Insurance</u> in the amount of \$10,000,000 providing excess limits over Employer's Liability, Automobile Liability, and Commercial General Liability Insurance. Such umbrella coverage shall be following form to underlying coverage including all endorsements and additional insured requirements.</p> |
| — | <p><u>Errors and Omissions Professional Liability Insurance</u> for errors and omissions and the resulting damages, including, but not limited to, economic loss to BATA and having minimum limits of \$10,000,000 per claim. Such policy shall contain cyber risk coverages including network and internet security liability coverage, privacy liability coverage and media coverage.</p> <p>The policy shall provide coverage for all work performed by CONTRACTOR and any work performed or conducted by any subcontractor/consultant working for or performing services on behalf of the CONTRACTOR. No contract or agreement between CONTRACTOR and any subcontractor/consultant shall relieve CONTRACTOR of the responsibility for providing this Errors & Omissions or Professional Liability coverage for all work performed by CONTRACTOR and any subcontractor/consultant working on behalf of CONTRACTOR on the project.</p> |
| — | <p><u>Employee Dishonesty/Crime Insurance</u> insurance policy covering CONTRACTOR's employees for loss of or damage to money, securities or other property resulting from theft. The following limits of liability should apply: (a) Employee Dishonesty - \$5,000,000; and (b) Client Property Blanket Bond - \$5,000,000. CONTRACTOR shall reimburse BATA for any and all losses within the deductible, for insured losses, the cost to prove the loss, accountants' fees, defense costs including attorneys' fees and any other fees associated with a claim. In lieu of a Client Property Blanket Bond, the policy shall contain a Joint Loss Payee endorsement or other Third Party coverage naming BATA.</p> |
| — | <p><u>Property Insurance</u> covering CONTRACTOR's own business personal property and equipment to be used in performance of this Agreement, materials or property to be purchased and/or installed on behalf of BATA (if any). Coverage shall be written on a "Special Form" policy that includes theft, but excludes earthquake, with limits at least equal to the replacement cost of the property. Such policy shall contain a Waiver of Subrogation in favor of BATA.</p> |

B. Acceptable Insurers

All policies will be issued by insurers acceptable to BATA, generally with a Best's Rating of A-VIII or better.

C. Self-Insurance

CONTRACTOR's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance, upon evidence of financial capacity satisfactory to BATA.

D. Deductibles and Retentions

CONTRACTOR shall be responsible for payment of any deductible or retention on CONTRACTOR's policies without right of contribution from BATA. 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.

In the event that BATA seeks coverage as an additional insured under any CONTRACTOR insurance policy that contains a deductible or self-insured retention, CONTRACTOR shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy, for any lawsuit arising from or connected with any alleged act of CONTRACTOR, subconsultant, subcontractor, or any of their employees, officers or directors, even if CONTRACTOR or subconsultant is not a named defendant in the lawsuit.

E. Claims Made Coverage

If any insurance specified above is written on a "Claims-Made" (rather than an "occurrence") basis, then in addition to the coverage requirements above, CONTRACTOR shall:

Ensure that the Retroactive Date is shown on the policy, and such date must be before the date of this Agreement or the beginning of any work under this Agreement;

Maintain and provide evidence of similar insurance for at least three (3) years following project completion, including the requirement of adding all additional insureds; and

If insurance is cancelled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the Agreement effective date, CONTRACTOR shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.

F. Failure to Maintain Insurance

All insurance specified above shall remain in force until all work or services to be performed are satisfactorily completed, all of CONTRACTOR's personnel, subcontractors, and equipment have been removed from BATA's property, and the work or services have been formally accepted. CONTRACTOR must notify BATA 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.

G. Certificates of Insurance

Prior to commencement of any work hereunder, CONTRACTOR shall deliver to BATA Certificates of Insurance verifying the aforementioned coverages. Such certificates shall make reference to all provisions and endorsements referred to above and shall be signed on

behalf of the insurer by an authorized representative thereof.

H. Disclaimer

The foregoing requirements as to the types and limits of insurance coverage to be maintained by CONTRACTOR are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONTRACTOR pursuant hereto, including, but not limited to, liability assumed pursuant to Indemnification of the Agreement.

I. Additional Insureds

The following entities are to be named as Additional Insureds under applicable sections of insurance and as BATA Indemnified Parties, pursuant to Indemnification of the Agreement.

- Bay Area Toll Authority (BATA)
- Golden Gate Bridge Highway and Transportation District (GGBHTD)
- California Department of Transportation (Caltrans)
- Santa Clara Valley Transportation Authority (VTA)
- Alameda County Transportation Commission (ACTC)
- Sunol Smart Carpool Lane Joint Powers Authority

By signing below, you acknowledge and agree to provide the required certificate of insurance providing verification of the minimum insurance requirements listed above within five (5) days of BATA’s notice to firm that it is the successful proposer.

| | |
|-------------------------------|--|
| Representative Name and Title | |
| Name of Authorizing Official | |
| Authorized Signature | |
| Date | |

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 BATA’s attention no later than the date for protesting RFP provisions. If such objections are not brought to BATA’s attention consistent with the protest provisions of this RFP, compliance with the insurance requirements will be assumed.

APPENDIX E, REQUESTS FOR EXCEPTIONS OR MODIFICATIONS

| RFP Section | Relevant Provision | <i>Requested Action</i> |
|--------------------|---------------------------|--------------------------------|
| | 1. | |
| | 2. | |
| | 3. | |
| | 4. | |
| | 5. | |
| | 6. | |
| | 7. | |
| | 8. | |
| | 9. | |
| | 10. | |

APPENDIX F, BID BOND

BID BOND

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS,

That we, _____, as principal, hereinafter called "the Principal," and _____ of _____, a corporation duly organized under the laws of the State of _____, as Surety, hereinafter called "the Surety," are held and firmly bound unto the Bay Area Toll Authority as Obligee, hereinafter called the Obligee, in the sum of _____ dollars (\$_____), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for:

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and materiel furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty thereof between the amount specified in said bid and such larger amount of which the Obligee may in good faith contract with another party to perform the Word covered by said bid, then this obligation shall be null and void, other wise to remain in full force and effect.

Signed and sealed this _____ day of _____ A.D., 2012.

(Seal)

Witness

Principal

(Seal)

Witness

Surety

(Seal)

Witness

Attorney in Fact

APPENDIX G, RESPONSE MATRIX

Please visit <http://procurements.mtc.ca.gov/> to download and/or view Appendix G.