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Deputy Executive Director

March 10, 2017

REQUEST FOR QUALIFICATIONS BID INVITATION
Freeway Service Patrol
FY 2018-21
Beat 32

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) in the San Francisco Bay 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.

The RFQBI documents for this project are available for download on the MTC SAFE website at https://mtc.bonfirehub.com. Bidders are responsible for checking the website for any Addenda to this RFQBI. Responses should be submitted in accordance with the instructions set forth in the RFQBI.

Bidders must submit one (1) original and one (1) unbound hard copies of the required documentation to the SAFE offices at the address given on the next page, in a sealed envelope labeled "Freeway Service Patrol Proposal" for each of the Steps 1 and 2 by the deadlines set forth below. Documentation received after the set dates and times will not be considered. **Please note that due to the abbreviated schedule of this RFQBI, the Qualifications and Inspection phases of the RFQBI, which are normally two separate steps have been combined into one step: Step 1: Qualifications and Inspections.**

I. Step 1: Qualifications and Inspections

All forms under Section II.A of this RFQBI and *Appendix B*, Step 1: Qualifications (Forms A-N) and Inspections (Forms O-Q) must be submitted **no later than 2:00 p.m. on Wednesday, March 29, 2017**. Bidders will only be scheduled for an inspection if they meet all qualifications set forth in Forms A through N. Bidders that do not pass the inspections will not be eligible to move onto Step 2.

II. Step 2: Price Proposal

Forms under Section II.C of this RFQBI and *Appendix B*, Step 2: Price Proposal (Forms R-T) shall be submitted **no later than 2:00 p.m., on Friday, April 14, 2017** and must be accompanied by a performance guaranty in the form of a $1,000 cashier's check for each beat the Bidder is seeking.

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III. MTC SAFE Point of Contact

Proposals and all inquiries relating to this RFQBI shall be submitted to the MTC SAFE FSP Project Manager at the address shown below. All new bidders are strongly encouraged to email the MTC SAFE FSP Project Manager if they have any questions about this RFQBI.

Giovanni DiFabio
MTC SAFE
375 Beale St. Suite 800
San Francisco, CA 94105
Email: gdifabio@mtc.ca.gov
Phone: (415) 778-5233

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

MTC SAFE anticipates awarding a 48-month contracts covering Beat 32. Please refer to the *Appendix A*, Scope of Work for a detailed description of the services to be provided under this RFQBI and the proposed Implementation Plan for the exact patrol route, contract period of performance, and scheduled time of service. Any award of contracts under this RFQBI is contingent upon final funding approval. All beats may be funded, in part, with federal funds. Accordingly, federal contracting requirements are in *Appendix E*, Department of Transportation Requirements.

V. 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(s) are 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 subcontractors 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.

VI. Qualifications and Bid Review

Contract awards will be recommended to the Bidders that meet all qualifications and inspections detailed in this RFQBI and have the lowest responsive and responsible hourly rate in the price proposal, subject to the limitation on the number of beats set out in Section II.B.4.

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. In addition, MTC SAFE reserves the right to alter the number of contract awards to any one Bidder.

MTC SAFE, in cooperation with Caltrans and the CHP, intends to recommend one (1) Bidder to patrol each beat to the MTC Operations Committee which will commit MTC SAFE to the expenditure of funds in connection with this RFQBI. If awarded a contract by this Committee, a Bidder shall have five (5) days from the date of the contract execution to provide MTC SAFE proof of purchase for the

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respective beats and the bidder shall have 90 days to acquire the required equipment and have it inspected and, hire, train and certify drivers and be ready to operate. Submission of a bid proposal shall constitute a promise to meet the five-day proof of purchase and 90-day operational requirement. Failure to meet either deadline may result in contract termination.

Bidders who have not been selected but meet all requirements may be placed on a "qualified bidders" list to solicit for emergency contracts due to contractor termination or in the event a beat does not receive a responsive bid proposal. 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.

VII. Notice of Addenda and Requests for Clarification/Exceptions

Any addenda to this RFQBI that may be issued by MTC SAFE will be posted at https://mtc.bonfirehub.com. 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 **2:00 p.m. on March 15, 2017** to guarantee response or consideration.

VIII. Contractor Selection Timetable

Wednesday, March 22, 2017 – 2:00 p.m.	Closing date/time for receipt of requests for clarification/exceptions
Wednesday, March 29, 2017 – 2:00 p.m.	**Closing date/time for:** **Step 1: Qualifications and Inspections**
March 29 – April 5, 2017*	Reference Checks
Week of April 3, 2017 *	Inspections (To Be Scheduled if Qualifications are met)
Friday, April 14, 2017 - 2:00 p.m.	**Closing date/time for:** **Step 2: Price Proposal**
Friday, May 12, 2017*	MTC Operations Committee review
June 2016*	Execution of contracts
September 2017	Start of Beat Operation (see Implementation Plan for exact start dates for each beat)

* Dates are approximate and are subject to change before or after the closing date of the RFQBI

IX. General Conditions

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

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Selected Bidders will be required to sign a contract with MTC SAFE substantially identical to *Appendix C,* Sample Contract, of this RFQBI. *Appendix D,* Terms and Conditions and 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, the insurance requirements in Section II.A.7, and *Appendix D*, Terms and Conditions of this RFQBI. Willingness to comply with the contracted terms, including the insurance requirements will be assumed.

Thank you for your participation.

Sincerely,

DocuSigned by:
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Andrew B. Fremier
Deputy Executive Director

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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 2018-2021

BEAT 32

Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105

March 10, 2017

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Table of Contents

REQUEST FOR QUALIFICATIONS BID INVITATION 1

I. Freeway Service Patrol Program 1
A. Scope of Work and Period of Performance 1
II. Bidder Requirements and Evaluation Process 1
A. Step 1: Qualification and Inspections 2
B. Step 2: Price Proposal 6
III. General Conditions 8
A. Examination of RFQBI Documents 8
B. Interpretation of RFQBI Documents 8
C. Preparation of Bid Proposals 8
D. Modified or Conditional Bid Proposals 9
E. Signing of Bid Proposal/Authorization to Negotiate 9
F. Withdrawal of Bid Proposals 9
G. Submission of Bid Proposal/Period of Acceptance 9
H. Award of Contract 9
I. MTC SAFE Rights 10
J. Selection Disputes 10
K. Disadvantaged Business Enterprise (DBE) Policy 11

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

Request for Qualifications Bid Invitation

I. Freeway Service Patrol Program

A. 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 with exception to the flexible backup trucks. 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 contractors abide by the terms of the contracts.

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 made available on MTC's website at https://mtc.bonfirehub.com 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 each selected Bidder.

Tow service under contracts resulting from this RFQBI will begin in approximately September 2017 and will continue for four (4) years for the one (1) beat..

II. Bidder Requirements and Evaluation Process

To be considered for the contract award, Bidders must submit an original and one (1) unbound hard copy 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:

Giovanni DiFabio, Project Manager
MTC SAFE
375 Beale St., Suite 800
San Francisco, CA 94105

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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: Qualification and Inspections

Bidders must submit an original and one unbound hard copy of the forms in *Appendix B*, Step 1: Qualifications and Inspections **no later than 2:00 p.m., Wednesday, March 29, 2017.** Under this Step, Bidders do not need to submit a form for every beat the Bidder wishes to qualify for.

1. Cover Letter for Step 1 (Form A)

Bidders must sign and submit the Proposal Cover Letter which includes an acceptance of the contract provisions contained in *Appendix C*, Sample Contract and *Appendix D*, Terms and Conditions. It shall be understood that the Bidder accepts the Contract in its entirety unless the Bidder requests an exception.

2. Business License (Form B)

Bidders must currently hold and provide a photocopy of their current business license from each city in which the bidder wishes to operate FSP is located.

3. Experience (Form C)

Bidders must have a minimum of 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, 2011 to present.

4. Designated Manager/Office Staff (Form D)

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/Beats for Qualification (Form E)

At the time of Step 1: Qualifications and Inspections submittal and throughout the contract period, all Bidders must maintain an office within **30 minutes** driving time (at the speed limit) prior to the AM shift of the beat(s) for which the Bidder has submitted a proposal. The office

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must pass the Inspection specified in Step 1 and uphold all office supply requirements regarding communications including a document scanner or similar equipment that can convert documents into portable document format (PDF) for record keeping. 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 with exception of the flexible backup truck, 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)

Bidders must submit a Dunn and Bradstreet Report or credit report by a recognized credit reporting service, issued after January 1, 2016 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)

Bidders awarded a contract under this RFQBI must fully comply with the insurance requirements as listed. If the lowest responsive bidder cannot provide the required insurance to MTC SAFE within five (5) business days from date as requested by MTC SAFE Project Manager, MTC SAFE at its sole discretion may deem that bidder unresponsive and move the award to the next lowest responsive responsible bidder.

Each selected Bidder 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 perform pre-inspections to the FSP vehicles, and to travel to and 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.

Should the FSP driver minimum wage increase over the duration of the contract, MTC SAFE shall make adjustments to the winning bidder's contracted hourly rate and the Bidder must adhere to this new driver minimum wage.

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9. References (Form I)

Bidders must provide four (4) references of which a minimum of 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 sources such as companies, law enforcement agencies, service clubs, or public agencies that are knowledgeable of the Bidder's experience and capabilities with regard to towing services. Bidders are strongly encouraged to provide 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 at some point in the period from March 22 through March 31, 2017. It is the responsibility of the Bidder to provide responsive references. Incomplete and/or inaccurate reference contact information to the point where the FSP Partners are unable to contact the references may result in the Bidder failing to pass Step 1 Qualifications.

10. Good Standing (Form J)

Sign and submit the form regarding standing with the CHP rotational tow program and the FSP program. Good standing determines the Bidder's procurement eligibility and the number of beats for which the Bidder qualifies.

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

To be in good standing with the FSP Program, the Bidder must have not been placed on probation in the past 12 months from RFQBI release date, nor received a letter of reprimand from the FSP Partners, nor been terminated from the FSP program in the past two (2) years.

If a Bidder is not in good standing with either the CHP rotational tow program or the FSP program, MTC SAFE may limit the number of beats the Bidder is eligible for under Step 1 for Inspections/Beat Determination.

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 or has been terminated from an FSP beat within the past two years, the bidder is not eligible to submit a bid for this procurement.

11. Certification of Debarment and Verification of SAM Registration (Form K-1 and K-2)

Submit the certification regarding debarment. Bidder must also submit verification of System for Award Management (SAM) registration. https://www.sam.gov/portal/SAM/##11.

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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 regardless of whether it applies. 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 to check the items listed in Form P. Prior to the scheduled inspection, Bidders must identify three (3) tow trucks for inspection by the CHP by completing and submitting Form P. 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 P available for the inspection will result in an automatic fail of Step 1 Qualification.

16. Facility Inspection (Form P)

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 Q. 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 it passes the inspection, it 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 Q is for reference only and does not need to be submitted.

4. Beat Determination (Form Q)

Bidders shall complete Table 1 and submit Form R to facilitate the FSP Partners in determining the ability of the Bidder to operate one (1) or more beats based on the Bidder's good standing status as detailed in Form J and on the following criteria:

- Whether the bidder is in good standing with the CHP rotational tow program and the FSP

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program as discussed in Section II.A.10 and Form J.

- First time bidders or those that have been away from the program for more than two (2) years, are eligible for a maximum of two (2) beats.
- Current contractors with one (1) beat may be awarded a maximum of two (2) additional beats from this procurement, for a total of three (3) beats.
- All other current contractors are eligible to be awarded one (1) additional beat than the total number of beats they will hold in September 2017, up to a maximum total of five (5) beats.

These criteria were developed to ensure companies are able to keep up with the demands of the program. MTC SAFE reserves the right to alter the criteria for specific Bidders if it does not receive enough bids for specific beats or if it believes that a contractor is at its operational limit. MTC SAFE will utilize FSP statistics, letters of performance, and good standing status to determine the operational limit of existing Contractors.

B. Step 2: Price Proposal

If Bidders pass Step 1: Qualification and Inspections, they are required to submit an original and one unbound hard copies of each set of items listed in Step 2: Price Proposal (Forms R-T) and a performance guaranty for each beat**, no later than 2:00 p.m., Friday, April 14, 2017**. Proposals shall be valid for one hundred eighty (180) days after the proposal due date.

1. Cover Letter for Step 2 (Form R)

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 S)

Bids shall be based on the contract hours listed in Table 2, Implementation Plan of Appendix A, Scope of Work and represent full compensation for all costs relating to providing all services in accordance with *Appendix A*, Scope of Work.

The fully-loaded price shall include and not be limited to the:

1. 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*;
2. 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, and incidentals as required in this RFQBI and potential fluctuations in these costs over four years;
3. Office to office communication between the FSP Partners and the Bidders is mostly over email, thus Bidders must have Internet access and be able to run a recent version of Microsoft Office as well as equipment to convert documents into portable data formats (PDF); and
4. Costs associated with drivers' travel time to and attendance at the mandatory training classes and safety meetings and FSP partners meetings required in this RFQBI, and the

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required pre-operation vehicle inspections of FSP vehicles.

MTC SAFE has set the tow vehicle fuel price of $3.00 for the purpose of calculating the proposed hourly rate in Form S. 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.

Should the FSP driver minimum wage increase over the duration of the contract, MTC SAFE shall make adjustments to the winning bidder's contracted hourly rate and the Bidder must adhere to this new driver minimum wage.

3. Performance Guaranty

Each bid proposal must be accompanied by a performance guaranty in the form of a one thousand dollar ($1,000) cashier's check made out to MTC SAFE. Each check must not expire within a year from the date of this procurement and must include the company name and the beat number for which the performance guaranty is being submitted. **Other forms of payment will not be accepted and may result in disqualification.**

Guaranty checks will be returned to unsuccessful Bidders within ten (10) days of their notification of non-selection and to successful Bidders after the successful completion of three (3) months of service. If an existing Contractor defaults within the first three (3) months of service, the guaranty will be forfeited.

4. FSP Fleet Vehicle Information (Form T)

Complete and submit Form T for each beat separately. 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. Information on the flexible backup truck must also be provided on this form.

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 with the exception of the flexible backup truck. Selected bidders are prohibited from using regular FSP service vehicles as a flexible backup truck.

Dedicated FSP vehicles must be staged, maintained, parked overnight and in between shifts at the beat assigned office listed on Form E. Any substitutions or shifting of regular FSP 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. See

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Section I of *Appendix A*, Scope of Work, regarding the limits to the rebuilding of the bed of tow trucks. Vehicle quotes must be attached to the Vehicle Information Form (Form T).

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 the contract start date. Selected Bidders will be paid at 10% less of the hourly rate for the beat until the new FSP vehicles are available for use. If one vehicle is late, including a backup truck, all vehicles serving that beat will be paid at this lower rate.

5. Selection of Contractors

At the conclusion of Step 2, the FSP Partners will recommend that contract awards be made to contractors based on the lowest responsive and responsible hourly rate submitted per beat, subject to the limitation on the number of beats that may be awarded to any one contractor as set out in Section II.B.4 above and subject to the criminal history screening per California Vehicle Code 2431(a).

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. It is the responsibility of the Bidder to check online for any addenda. 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 Q, included in *Appendix B,* Step 1: Qualifications and Inspections shall be completed and submitted for Step 1. If the Bidder passes Step 1, Forms R through T 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.

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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

Each 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

Each 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 that if its bid proposal is accepted, within one hundred eighty (180) days from the date specified in the RFQBI for receipt of proposals, the bidder shall provide the services at the price stipulated in its Form S, 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.

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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. Ask bidders for a cost breakdown of their bid proposal should MTC SAFE deem it unreasonable based on the average bid prices received for that beat;
8. 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;
9. Limit or increase the number of beats to any one Bidder;
10. To award beats based on what is most advantageous to MTC SAFE, if a contractor is the low Bidder on more beats than which they are eligible for; and
11. 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 2:00 p.m. three (3) working days prior to the date Step 1: Qualifications and Inspections are due for objections to RFQBI provisions; or
2. No later than 2:00 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 either Step 1: Qualifications and Inspections; or
3. No later than 2:00 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.

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

Should a Bidder be found to be non-responsive with respect to or does not pass either Step 1: Qualifications and Inspections or Step 2: Price Proposal 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 a Beat 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 and Inspections, 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 SAFE has established a Disadvantaged Business Enterprise (DBE) contract goal of 0% for this contract. The selected Bidder(s) are not 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.

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

Table of Contents

REQUEST FOR QUALIFICATIONS BID INVITATION....1
I. Freeway Service Patrol Program....1
A. Scope of Work and Period of Performance....1
II. Bidder Requirements and Evaluation Process....1
A. Step 1: Qualifications/Inspections....2
B. Step 2: Price Proposal....6
III. General Conditions....8
A. Examination of RFQBI Documents....8
B. Interpretation of RFQBI Documents....8
C. Preparation of Bid Proposals....8
D. Modified or Conditional Bid Proposals....9
E. Signing of Bid Proposal/Authorization to Negotiate....9
F. Withdrawal of Bid Proposals....9
G. Submission of Bid Proposal/Period of Acceptance....9
H. Award of Contract....9
I. MTC SAFE Rights....9
J. Selection Disputes....10
K. Disadvantaged Business Enterprise (DBE) Policy....11
APPENDIX A, SCOPE OF WORK....12
I. GENERAL DESCRIPTION....12
II. STANDARD OPERATING PROCEDURES....12
TABLE 1: Map of Proposed Beats Included in this RFQBI....14
TABLE 2: Proposed Implementation Plan....15
III. VEHICLES....16
A. Tow Trucks Only....17
B. Pickup Trucks Only....17
C. Flatbed Trucks Only....17
D. All Trucks and Pickups....18
E. Push Bumper....19
F. Inspections....20
G. Truck Color, Lettering/Markings and Rooftop Letters....22
H. FSP Signage....21
I. Dedicated FSP Vehicles....21
J. Substitution of Trucks....21
K. On-Time Delivery of Trucks....21
IV. FLEXIBLE BACKUP TRUCK....22
V. COMMUNICATIONS EQUIPMENT....22
A. MTC SAFE Supplied Communications Equipment....22
B. Contractor Supplied Telecommunications Equipment....23
VI. DRIVER QUALIFICATIONS AND REQUIREMENTS....24
VII. DRIVER PROFICIENCY, TESTING AND TRAINING....25
A. General Proficiency and Testing Requirements....25
B. Proficiency Testing and 3-Day Certification Training Requirement....26

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

C. Quarterly Refresher Training Requirement 26
D. General Training Information 26
VIII. DRIVER UNIFORM 27
IX. MEETING ATTENDANCE 27
A. Contractor Quarterly Safety Meetings 27
B. Tow Contractors' Meetings 27
X. COMPENSATION 27
A. General Compensation 27
B. Compensation for Overtime 28
C. Extra Service 28
D. Fuel Compensation 28
E. Non-Allowable Costs 28
F. Legal Actions 28
XII. OTHER OPERATIONS REQUIREMENTS 28
APPENDIX B, STEP 1: QUALIFICATION (FORMS A-N) AND STANDARD INSPECTIONS (FORMS O-Q) 30
Form A COVER LETTER FOR STEP 1 31
Form B BUSINESS LICENSE 32
Form C EXPERIENCE 33
Form D DESIGNATED MANAGER/OFFICE STAFF 34
Form E OFFICE LOCATION/BEATS FOR QUALIFICATION 36
Form F FINANCIAL RESPONSIBILITY 37
Form G INSURANCE 38
Form H WAGES AND BENEFITS 39
Form I REFERENCES 40
Form J GOOD STANDING 43
Form K-1 CERTIFICATION OF DEBARMENT 44
Form K-2 SYSTEM FOR AWARD MANAGEMENT 45
Form L CERTIFICATION OF RESTRICTIONS ON LOBBYING 47
Form M-1 EXHIBIT 10-O1: LOCAL AGENCY CONSULTANT DBE COMMITMENT 48
Form M-2 EXHIBIT 10-O2: LOCAL AGENCY CONSULTANT DBE INFORMATION 50
Form N CALIFORNIA LEVINE ACT STATEMENT 52
Form O VEHICLE INSPECTION 53
Form P FACILITY INSPECTION 57
Form Q BEAT DETERMINATION 61
APPENDIX B, STEP 2: PRICE PROPOSAL 62
Form R COVER LETTER FOR STEP 2 63
Form S PRICE PROPOSAL 64
Form T VEHICLE INFORMATION 65
APPENDIX C, SAMPLE CONTRACT 67
APPENDIX D, TERMS AND CONDITIONS 70
1.0 DEFINITIONS 70
2.0 SCOPE OF SERVICES 70

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

3.0 PERIOD OF PERFORMANCE 70
4.0 PAYMENT 71
5.0 RECORDS AND AUDIT 72
6.0 FSP PROJECT MANAGER 72
7.0 TERMINATION 72
8.0 INDEPENDENT CONTRACTOR STATUS 73
9.0 ASSIGNMENT OR TRANSFER 74
10.0 INSURANCE 74
11.0 INDEMNIFICATION 75
12.0 AMENDMENTS 76
13.0 NONDISCRIMINATION 76
14.0 PROHIBITED INTERESTS 77
14.1 ORGANIZATIONAL CONFLICTS OF INTEREST 77
15.0 COMPLIANCE WITH LAW 78
15.1 EQUAL EMPLOYMENT OPPORTUNITY 78
15.2 DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY 78
15.2.1 PERFORMANCE OF DBE CONTRACTORS AND OTHER DBE SUBCONTRACTORS / SUPPLIERS 79
15.2.2 DBE RECORDS 80
15.2.3 DBE CERTIFICATION AND DE-CERTIFICATION STATUS 80
15.2.4 MATERIALS OR SUPPLIES PURCHASED FROM DBES WILL COUNT TOWARDS DBE CREDIT UNDER THE FOLLOWING CONDITIONS: 81
15.4 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 81
15.5 ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES 81
15.6 STATE ENERGY CONSERVATION PLAN 82
15.7 DEBARMENT 82
15.8 CLEAN AIR AND WATER POLLUTION ACTS 82
15.9 LOBBYING 82
16.0 CLAIMS OR DISPUTES 82
17.0 DISPUTE RESOLUTION 83
18.0 REMEDIES FOR BREACH 84
19.0 CHOICE OF LAW 84
20.0 ATTORNEYS' FEES 85
21.0 PARTIAL INVALIDITY 85
22.0 BENEFIT OF AGREEMENT 85
23.0 NO THIRD PARTY BENEFICIARIES 85
24.0 ENTIRE AGREEMENT; MODIFICATION 85
APPENDIX E, DEPARTMENT OF TRANSPORTATION REQUIREMENTS 86

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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 as displayed in *Table 1*, Map of Proposed Beats. Each beat has specific hours of operation including holidays, number of vehicles to patrol the beat, and coverage area as detailed in *Table 2*, Proposed Implementation Plan and *Table 3*, Holiday Schedule of this Appendix. 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

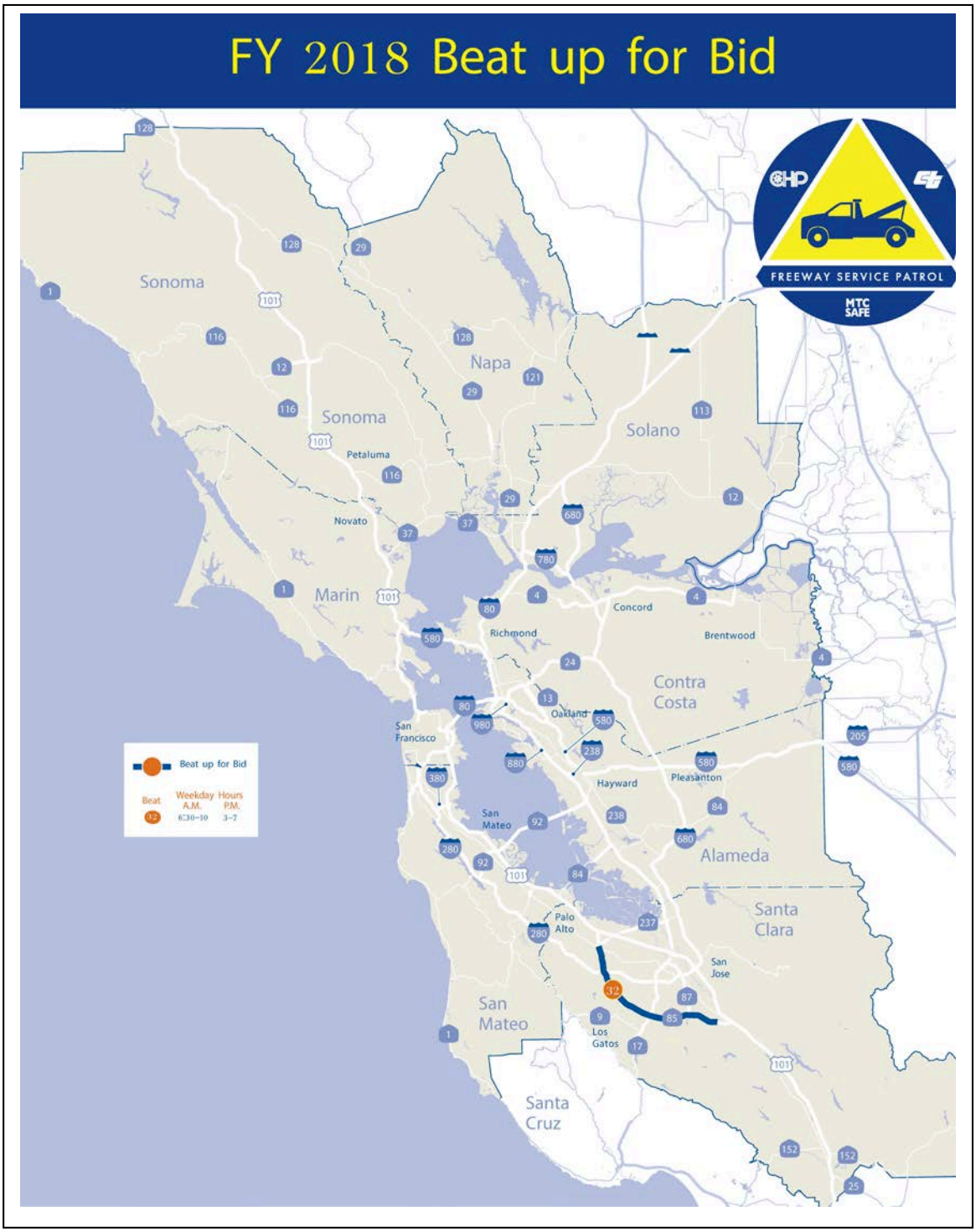
DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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. 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.**

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

TABLE 1: Map of Proposed Beat 32 Included in this RFQBI



DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

TABLE 2: Proposed Implementation Plan (subject to change)

BEAT	MILES	SERVICE AREA	Start/End Date	WEEKDAYS			FLEET VEHICLES				Contract Hours	Notes	BEAT
				AM	MIDDAY	PM	TOW	PICKUP	FLATBED	BACKUP			
32	19.78	SC-85: El Camino Real to Cottle Rd.	9/1/17-7/16/21	06:30-10:00		15:00-19:00	1	1	0	1	13,275		**32**

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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 2016 or newer; MTC SAFE or CHP will check the original purchase dates to ensure compliance.

Due to continual upgrades in tow truck equipment technology, it is recommended that the tow truck bed not be older than four (4) years old at the start of the contract and may only be refurbished one (1) time for the FSP program not to exceed a total of 8 years. Any refurbished beds must be certified by a qualified tow truck builder. The accompanying certificate shall state the tow truck bed's boom, wheel lift, moving parts, hoses, mounting bolts wiring, safety chains, winch cable, sling straps, paint and control labels have either been replaced or are in good working order prior to using the bed for the new contract period.

The exterior and interior of all FSP vehicles, including the flexible backup truck, must be kept in excellent condition over the duration of the contract term including repairing damage to the vehicle's exterior caused by accident or operational damage. 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, including the flexible backup 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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

- 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
- A 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. Flatbed Trucks Only

N/A

D. All Trucks and Pickups

Each FSP truck 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 in colored or marked containers (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.

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

- 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 for FSP radio.
- Power outlets ("hot boxes"), front and rear mounted, with outlets compatible to 12 volt booster cables.
- Heavy duty, 60+ amp battery.
- Wired radios with the ability to communicate with the contractor's base office (cell phones are prohibited)
- 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)

E. 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 and without exception unless with prior approval by CHP:

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

- 16” model or larger
- Rugged one-piece main structure made of 3/8” x 2 ½” aluminum or steel
- ¼” x 2 ½” steel mounting brackets
- ¼” x 1 ½” x 1 ½” cross support brace
- Replaceable ¾” x 2 ½” x 12” or ¾” x 2 ½” x 16” molded hard rubber push pads
- Black powder coat paint

F. 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.

G. Truck Color, Lettering/Markings and Rooftop Letters

All FSP vehicles and its associated equipment including the flexible backup truck shall be painted white and all required lettering including the vehicle identification number on the truck shall be displayed on the vehicle at all times while engaged in FSP operations and must meet the following requirements also described in the SOP:

- Color: Black is the only authorized color that will be used for lettering.
- Style: Block lettering only, no shadowing will be allowed. Lettering shall be parallel to the ground.
- Size: Letter size shall be no smaller than two (2) by two (2) inches and no larger than four (4) by four (4) inches.
- Location: Lettering shall only be placed on the lower body of the truck toward the cab (left justified on the left side and right justified on the right side) and on the roof. Lettering/Markings shall not be placed on the boom, at the front of the truck, bumper/fender, or in any other location.
- With the exception of the FSP decals, no other signage is permitted on the front doors of an FSP vehicle

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

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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.

H. FSP Signage

All dedicated FSP vehicles 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. The flexible backup truck is required to display FSP logo magnets while working FSP which will be supplied by MTC SAFE on a one-time basis. The driver shall be required to keep signs clean and in readable condition throughout the service patrol's operation. If a decal, placard, or magnet is lost or damaged, the contractor shall be responsible for the cost of the replacement.

I. Dedicated FSP Vehicles

All Freeway Service Patrol Program vehicles, excluding the flexible backup trucks, will be exclusively dedicated to the FSP at all times. FSP vehicles may not be used for any other purposes not related to FSP and must remain at the beat assigned office.

J. Substitution of Trucks

Contractors who have multiple beats are prohibited from swapping FSP vehicles between beats or offices with the exception of the flexible backup truck. However, this flexible backup truck must remain the flexible backup truck over the duration of the contract. Selected bidders are prohibited from using regular FSP service vehicles as a backup truck.

If any regular FSP service vehicles are unable to provide service on its designated beat as a result of mechanical problems and/or damage, the flexible backup truck must be used to replace the out of service vehicle. Refer to Section V of this Appendix and the SOP, Chapter 6 for the proper usage of the flexible backup truck and the procedure in notifying the FSP partners of such usage.

K. On-Time Delivery of Trucks

All trucks must be ordered no later than five (5) business days after contract execution.

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Documentation verifying the purchase must be submitted to MTC SAFE and failure to do so may result in contract 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. Contractors will be paid 10% lower than the new rate for the beat until all new truck(s) are available for use. If one truck is late, including a flexible backup truck, all trucks serving that beat will be paid at this lower rate. 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. FLEXIBLE BACKUP TRUCK

Contractors awarded beats from this procurement are required to purchase one flexible backup tow truck for Beat 32.

The purpose of the flexible backup truck is to temporarily provide service in the unplanned event that one of the contractor's regular FSP service vehicles is down for mechanical reasons, vehicle damage, or other legitimate reasons as defined in the SOP. 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. The flexible backup truck must remain the flexible backup pickup truck over the duration of the contract and shall not be used as a regular FSP vehicle. The flexible backup truck shall have the same specifications and appearance as a regular FSP vehicle.

In the event that the contractor cannot cover FSP service with its own flexible backup truck and 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.

The use of a backup truck other than the contractor's flexible backup truck shall only be limited to a maximum of seven (7) calendar days and a $100 per shift backup fee is charged to the requesting contractor. It is the responsibility of the requesting contractor to repair their out of service vehicle and relieve the backup contractor as soon as possible. Should the requesting contractor require backup service beyond the seven days, a different backup contractor must be requested unless previous arrangements are made with the original backup contractor.

Contractors may be called upon by the FSP partners to utilize their flexible backup trucks to temporarily provide additional service during construction projects, special

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events or replacement service on regular beats should a contractor be terminated.

V. 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 communications equipment and is liable for any stolen equipment or damage to the 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 that is safe for the driver.

The Contractor shall also supply and maintain in all working FSP vehicles programmable scanners capable of scanning CHP frequencies. All vehicles, including the flexible backup

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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 the flexible 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's office base radio and FSP radio of the FSP vehicle when the fleet vehicle is adjacent to the rear of the disabled vehicle.

The programmable 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

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 F, "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

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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 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.

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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. Contractors shall be fined for failure to provide services due to lack of certified driver availability and/or their contracts 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 to avoid being decertified.

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;

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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. DRIVER UNIFORM

FSP drivers must wear the required uniform as specified under Chapter 2 of the SOP anytime the driver is working. It shall be the responsibility of the Contractor to provide all drivers with uniforms and rain gear: three (3) sets for drivers working thirty (30) hours or less and five (5) sets for drivers working thirty-one (31) or more hours. Contractors shall purchase rain gear for all FSP drivers prior to the commencement of service. 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.

The FSP Partners reserve the right to update the uniform specifications to comply with state and federal mandate and require the FSP contractors to provide new uniforms to FSP drivers under a reasonable timeline.

IX. 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.

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X. 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. See Section C for backup truck service 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

Budgeting for a backup driver, who may be paid overtime if driver has already worked 40 hours during the week is a non-allowable cost and shall not be included in the price proposal and is not eligible for reimbursement under the contract.

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.

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XI. OTHER OPERATIONS REQUIREMENTS

The FSP program utilizes a web based application to manage the program's fleet operations. Contractors are required to submit paperwork per Chapter 7 of the SOP via this website. These forms include notification of out of service vehicles, requesting of backup service (other than service by the Contractor's flexible backup truck), and paperwork for when the in-vehicle tablet computers are not functioning. To fulfill these operational requirements, the Contractor must have internet access, standard programs and equipment to send emails, PDFs, and access the FSP web application such as a computer and a document scanner that converts documents into PDF.

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.

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

APPENDIX B, STEP 1: QUALIFICATIONS (FORMS A-N) AND INSPECTIONS (FORMS O-Q)

One original and one hard copy due no later than 2:00 p.m., Wednesday, March 22, 2017 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/Beats for Qualification**
  - 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 and Verification of SAM Registration**
  - Completed and Signed Form K-1
  - Proof of SAM registration Form K-2
- ☐ **Certification of Restrictions on Lobbying**
  - Completed and Signed Form L
- ☐ **Local Agency Proposer DBE Commitment (Contractor Contract), and Local Agency Proposer DBE Information (Contractor 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)
- ☐ **Beat Determination**
  - Completed Form Q

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Form A COVER LETTER FOR STEP 1

TO: Giovanni DiFabio
MTC SAFE
375 Beale St., Suite 800 San Francisco, CA 94105

DATE:

FROM:

BEAT(s):

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.

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

Name Title Email

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:

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

Form B BUSINESS LICENSE

All Bidders must attach a copy of their current business license from the 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)

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Form C EXPERIENCE

Experience since January 1, 2011	# 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.)	

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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: _____

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

Form E OFFICE LOCATION/BEATS FOR QUALIFICATION

Bidder Name: _____

Beat	**Office Location (street address, city, state, zip code)** *The permanent location where all trucks will be staged, maintained, and parked overnight and in between shifts.*	**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 dedicated vehicles, 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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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 January 1, 2016 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.

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

Form G INSURANCE

Each 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.

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:

Yes (√)	**Please certify by checking the boxes at left that required coverages will be provided before contract performance begins.** 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 or 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.

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____	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 with a current A.M. Best's rating of A- or better with a Financial Size Category of VIII 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.

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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.

Should the FSP driver minimum wage increase over the duration of the contract, MTC SAFE shall make adjustments to the selected Bidder's contracted hourly rate and the Bidder must adhere to this new driver minimum wage.

By signing the below, the Bidder agrees to adhere to the FSP driver minimum wage requirement for the duration of the contract term.

_____ _____

Signature of Authorized Official | Type/Write Name of Authorized Official

_____

Type or Write Name of Company

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Form I REFERENCES

Name of Bidder: _____

Representative Name & Title: _____

Phone Number and Email: _____

Bidders must provide four (4) references of which a minimum of 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 March 29 through April 5, 2017. 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 the Qualifications component of Step 1.

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

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

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

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

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.

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Bay Area Freeway Service Patrol Program
FY 2018 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 Giovanni DiFabio at (415) 536-9800 or e-mail at: gdifabio@mtc.ca.gov by April 4, 2017.

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"?

Select One

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?

Select One

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?

Select One

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"?

Select One

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?

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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 and the number of beats the Bidder qualifies for.

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.

By signing below, you confirm the truthfulness of the above statements.

_____ _____

Signature of Authorized Official Type/Write Name of Authorized Official

_____

Type or Write Name of Company

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Form K-1 CERTIFICATION OF DEBARMENT

_____, certifies to the best of his/her
(NAME OF CONTRACTOR)

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)

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Form K-2 SYSTEM FOR AWARD MANAGEMENT

All Bidders must attach a copy of their System for Award Management (SAM) registration in the form of an email confirmation or the sample provided in the following page. SAM is the Official U.S. Government system that consolidated the capabilities of Central Contractor Registration / Federal Agency Registration (CCR/FedReg), Online Representations and Certifications Application (ORCA), and Excluded Parties List System (EPLS).

Bidders submitting a bid proposal must register on the SAM website at https://www.sam.gov/portal/SAM/##11 prior to bid submission.

DUNS Number	Name of Company
Activation Date	
Expiration Date	

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For Reference Only – Sample Verification of SAM Registration

SAM Search Results **List of records matching your search for :** **Search Term : metropolitan* transportation* commission* Record Status: Active**
ENTITY METROPOLITAN TRANSPORTATION COMMISSION Status:Active
DUNS: 074644501 +4: CAGE Code: 4QEQ6 DoDAAC:
Expiration Date: Feb 28, 2018 Has Active Exclusion?: No Delinquent Federal Debt?: No
Address: 101 8TH ST 3RD FL City: OAKLAND State/Province: CALIFORNIA ZIP Code: 94607-4707 Country: UNITED STATES

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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_____, 2017.

_____
(Signature of Authorized Official)

_____
(Type/Write Name of Authorized Official)

_____
(Type or Write Name of Company)

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Form M-1 EXHIBIT 10-O1: LOCAL AGENCY CONTRACTOR DBE COMMITMENT

_____

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: MTC Service Authority for Freeways and Expre 2. Contract DBE Goal: 0%
3. Project Description: Beat 32
4. Project Location: Freeway Service Patrol - Towing Service
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		
17. Local Agency Contract Number: _____ 18. Federal-Aid Project Number: _____ 19. Proposed Contract Execution Date: _____	**11. TOTAL CLAIMED DBE PARTICIPATION**	0 %
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 _____	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 _____	

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.

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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 Description - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
4. Project Location - Enter the project location as it appears on the project advertisement.
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.

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Form M-2 EXHIBIT 10-O2: LOCAL AGENCY CONSULTANT DBE INFORMATION

_____

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: MTC Service Authority for Freeways and Expre 2. Contract DBE Goal: 0%
3. Project Description: Beat 32
4. Project Location: Freeway Service Patrol - Towing Service
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: _____

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

20. Local Agency Contract Number: _____
21. Federal-Aid Project Number: _____
22. Contract Execution Date: _____

Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.

23. Local Agency Representative's Signature _____ 24. Date _____
25. Local Agency Representative's Name _____ 26. Phone _____
27. Local Agency Representative's Title _____

14. TOTAL CLAIMED DBE PARTICIPATION $ 0 / 0 %

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.

15. Preparer's Signature _____ 16. Date _____
17. Preparer's Name _____ 18. Phone _____
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.

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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 Description - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
4. Project Location - Enter the project location as it appears on the project advertisement.
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.

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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	Bijan Sartipi
Jeannie Bruins	Anne W. Halsted	Libby Schaaf
Damon Connolly	Nick Josefowitz	Warren Slocum
Dave Cortese	Sam Liccardo	James P. Spering
Carol Dutra-Vernaci	Jake Mackenzie	Amy R. Worth
Dorene M. Giacopini	Alfredo Pedroza	

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)

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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 the Inspection specified in 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.		

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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.

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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 P = Pass F = Fail
YEAR	MAKE	MODEL	LICENSE NUMBER	VIN		
GVWR	EQUIPMENT TYPE *(CHECK APPROPRIATE BOX)* ☐ CONVENTIONAL ☐ UNDERLIFT ☐ TRUCK HITCH ☐ WHEEL LIFT ☐ 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

Page 1 of 2 Destroy Previous Editions Chp234B_0414.pdf

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STATE OF CALIFORNIA
DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

TOW TRUCK INSPECTION GUIDE

CHP 234B (Rev. 4-14) OPI 061

TOW TRUCK EQUIPMENT SPECIFICATIONS *(By Class)*

P	F		P	F	
		CLASS A			
		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			Pintle 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

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Form P FACILITY INSPECTION

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 the Qualifications component in Step 1. 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 as indicated in Step 1: Qualifications and 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.
   - Document scanner or similar equipment – if applicable at the inspection, the FSP partners will confirm that the Bidder has equipment to convert documents into a portable data format (PDF) which is required at the start of the contract. Not having this equipment at the time of inspection will **not** disqualify the Bidder.

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:

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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.

1. Professional Workplace Environment:
   Bidders must maintain a non-offensive and harassment-free workplace in accordance with federal and state regulations.

2. 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.

3. 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 (FHWA), 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: _____

_____

Beats: _____

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			

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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			

<u>Observations:</u>

_____

_____

_____

_____

_____

_____

Site Inspection Result (Circle) **Pass** **Fail**

Record of Facility and Working Environment Inspection

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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: _____

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Form Q BEAT DETERMINATION

Bidders shall complete Table 1 and submit Form R to facilitate the FSP Partners in determining the ability of the Bidder to operate one (1) or more beats based on the Bidder's good standing status as detailed in Form J and on the following criteria:

- Whether the bidder is in good standing with the CHP rotational tow program and the FSP program.
- First time Bidders or those that have been away from the program for more than two (2) years, are eligible for a maximum of two (2) beats.
- Current contractors with one (1) beat may be awarded a maximum of two (2) additional beats from this procurement, for a total of three (3) beats.
- All other current contractors are eligible to be awarded one (1) additional beat than the total number of beats they currently hold (as of March 2017), up to a maximum total of five (5) beats.

Examples:

• Contractor A had two (2) beats from the FY 2014 procurement and currently has two (2) beats from the FY 2016 procurement. Contractor A is eligible for a maximum of three (3) new beats from the FY 2018 procurement, for a total of five (5) beats.

• Contractor B had one (1) beat from the FY 2014 procurement and currently has two (2) beats from the FY 2016 procurement. Contractor B is eligible for a maximum of two (2) beats from the FY 2018 procurement, for a total of four (4) beats.

• Contractor C had one (1) beat from the FY 2014 procurement and currently has one (1) beat from the FY 2016 procurement. Contractor C is eligible for a maximum of two (2) beats from the FY 2018 procurement, for a total of three (3) beats.

These criteria were developed to ensure companies are able to keep up with the demands of the program. MTC SAFE reserves the right to alter the criteria for specific Bidders if MTC SAFE does not receive enough bids for specific beats or if MTC SAFE believes that a contractor is at its operational limit. MTC SAFE will utilize FSP statistics, letters of performance, and good standing status to determine the operational limit of existing Contractors.

Table 1

Number of Beats Awarded in FY 2014:	
Number of Beats Awarded in FY 2016:	
Number of Beats Awarded in FY 2018:	
Number of Beats Bidding on in FY 2018:	1
Number of Beats Willing to Accept in FY 2018:	1

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APPENDIX B, STEP 2: PRICE PROPOSAL

One original and two hard copies due no later than 2:00 p.m., Friday, April 17, 2017 to MTC SAFE offices.

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

- ☐ **Cover Letter for Step 2**
  - Completed and Signed Form R
- ☐ **Price Proposal**
  - Completed and Signed Form S
- ☐ **$1,000 Performance Guaranty Check**
  - Checks must be in the form of a cashier's check.
- ☐ **Vehicle Information**
  - Completed Form T

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Form R COVER LETTER FOR STEP 2

TO: Giovanni DiFabio
MTC SAFE
375 Beale St., Suite 800 San Francisco, CA 94105

DATE:_____

FR: BIDDER:_____ BEAT (S): _____

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 all Addenda to the RFQBI.

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

_____
Email Address

_____
Bidder Company Name

_____
Signature of Authorizing Official

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Form S Price Proposal

Bids shall be based on the contract hours listed in Table 2, Implementation Plan of *Appendix A*, Scope of Work and represent full compensation for all costs relating to providing all services in accordance with *Appendix A*, Scope of Work.

If bidding on more than one Beat, Bidders shall submit a separate price proposal for each bid.

Beat #: _____

Hourly Rate* (at assumed fuel price of $3.00): $_____

*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.

Adjustments shall be made to the contracted hourly rate of the winning bidder if the FSP driver minimum wage increases over the duration of the contract.

_____
(Signature of Authorized Official)

_____
(Type/Write Name of Authorized Official)

_____
(Type or Write Name of Company)

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Form T VEHICLE INFORMATION

Beat: _____ Total No. of Trucks (including flexible backup tow truck): _____

Provide vehicle information on all trucks that the specific beat requires. If the beat requires two (2) tow trucks, excluding the flexible backup truck, the Bidder may choose to substitute one (1) tow truck for one (1) flatbed, which must be upheld throughout the duration of the contract, by indicating the vehicle below. The flexible backup truck must be a tow truck. Please attach vehicle quotes to this form.

	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.		
	Flexible Backup Truck	
Manufacturer		
Model		
Year		
Current Mileage		
License Plate No.		
Vehicle Identification No.		

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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) on the specific beat noted on this form.

Truck Acquisition Explanation

_____

_____

_____

_____

_____

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APPENDIX C, SAMPLE CONTRACT

FUND ALLOCATION AGREEMENT
Between METROPOLITAN TRANSPORTATION COMMISSION SERVICE AUTHORITY FOR FREEWAYS AND EXPRESSWAYS And _____
For FREEWAY SERVICE PATROL
BEAT No. 32 – FY 2017-18 to 2020-21

THIS AGREEMENT is made and entered into as of_____, 2017, 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 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

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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

* 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 each of the four fiscal years (FY 2017-18, 2018-2019, 2019-20, and 2020-21) shall not exceed dollars ($_____) and is subject to the inclusion and adoption of each fiscal year's SAFE budget.

4.0 MTC SAFE/FSP PROJECT MANAGER

Stefanie Pow shall be the FSP Project Manager for the period covered by this 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:

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To MTC SAFE: Attention: Giovanni DiFabio
MTC SAFE
375 Beale Street, Suite 800
San Francisco, CA 94105

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
_____	_____
Steve Heminger, Executive Director	_____,Owner

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APPENDIX D, TERMS AND CONDITIONS

FREEWAY SERVICE PATROL (FSP) PROGRAM
FISCAL YEARS 2017-21

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. "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 _____, 2016 (hereinafter, "the RFQBI") for Beat 32 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 September 1, 2017 through, June 30, 2021 ("the Term"), unless mutually agreed by both parties to extend said period or unless earlier

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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 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.

Should the driver minimum wage increase over the contract period, the contract hourly rate will be increased by the same dollar amount the driver minimum wage is increased by.

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 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 T 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 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 III.F, Inspections or to attend the training and meetings specified under RFQBI *Appendix A,* Sections VII.B, 3-Day Proficiency Testing and Certification Training Requirement, VI.C, Quarterly Refresher Training Requirement or Section IX.A, Contractor Quarterly Safety Meetings, MTC SAFE may deduct sums from CONTRACTOR invoices equal to the difference between what CONTRACTOR

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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 paperwork to the appropriate FSP Partner Agency 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 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 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

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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

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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 or 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

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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 with a current A.M. Best's rating of A- or better with a Financial Size Category of VIII 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:

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

§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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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.

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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 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.

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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

DocuSign Envelope ID: D15BE152-2A47-4650-9446-D9081F417482

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. I 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 2 CFR Parts 180 and 1200, by any Federal agency or department.

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.

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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 Office of Management and Budget (OMB) Circulars A-87, or A-122, or 48 Code of Federal Regulations Chapter 1 Part 31, or 49 Code of Federal Regulations Part 18, or in 2 Code of Federal Regulations Parts 200 and 1201, 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.