



MONTEREY-SALINAS TRANSIT

## ***IFB 17-03 Trolley Rehabilitation and Repair Project***

LEGAL NOTICE

### ***INVITATION FOR BID (IFB)***

Rehabilitation and Repair Up to Six (6) Optima Trolleys

**Release Date: October 14, 2016**

**Deadline for Submission: November 30, 2016 (12 Noon)**

**Contact Person: Sandra Amorim**

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## **1 INVITATION FOR BID**

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## 1.1 INVITATION FOR BID

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### 1.1.1 SOLICITATION DATA

#### 1.1.1.1 INTRODUCTION

Monterey-Salinas Transit (MST) provides service using up to six (6) Optima Trolleys between downtown Monterey and Cannery Row on a 10-12 minute frequency between Labor Day and Memorial Day. Trolley service is also provided to and from Cannery Row on weekends between Memorial and Labor. MST trolleys are also used on several other routes on the Monterey Peninsula and in the City of Salinas. One (1) of the six (6) trolleys identified for this rehabilitation project (MST Vehicle Identification number 1901) was converted from a diesel trolley to and all electric powered trolley in 2015 and is powered by a ZEBS electric motor, with an overnight "plug in" charging capability and an integrated Wireless Advanced Vehicle Electrification (WAVE) system allowing for "opportunity charges" along the route.

MST is requesting bids from firms experienced in bus and/or trolley remanufacturing, rehabilitation and repair work. Each individual trolley identified in this document will have varying levels of rehabilitation and or repair work. MST reserves the right to reduce the scope of work identified in this document for one or all of the trolleys, or to eliminate one or more trolleys from the project.

#### 1.1.1.2 BID AND SCOPE

No bids will be accepted after the time and date listed in this document. Any bids received after the closing time will not be accepted. MST reserves the right to reject any and all bids. Only qualified responders meeting the criteria outlined in this Invitation for Bid (IFB) will be considered for this project.

This IFB does not commit MST toward a contract, to pay costs incurred in the preparation of a bid responding to this request, or to award or procure a contract for service. MST reserves the right to accept or reject any or all bids received as a result of this request, to negotiate with qualified service providers the restructuring of scope of work, or to cancel in part or in its entirety this IFB if it is in the best interests of MST to do so. MST may also require the selected bidders to participate in negotiations concerning contract price.

Parties interested in obtaining a copy of this IFB, may do so by visiting MST's website at [www.MST.com](http://www.MST.com) and downloading the document. A request may also be emailed to Sandra Amorim, Purchasing Manager at [samorim@mst.org](mailto:samorim@mst.org), please include the following information:

- Name of firm
- Email address
- Contact person
- Telephone number

MST staff contact information for questions regarding the IFB is as follows:

Sandra Amorim, Purchasing Manager  
 Monterey-Salinas Transit  
 19 Upper Ragsdale Drive, Suite 200  
 Monterey CA 93940  
[samorim@mst.org](mailto:samorim@mst.org)  
 831-264-5884

Project Manager:  
 Michael Hernandez, Assistant General Manager/COO  
 Monterey-Salinas Transit  
 19 Upper Ragsdale Drive, Suite 200  
 Monterey CA 93940  
[mhernandez@mst.org](mailto:mhernandez@mst.org)  
 831-393-8132

#### 1.1.1.3 PROJECT SCHEDULE

The following is the schedule for this Invitation for Bid (*subject to change via addenda*):

|   |  |
|---|--|
| <b>IFB Issued:</b>  | <b>October 14, 2016</b>  |
| <b>Vehicle Inspection/Pre-bid Conference</b>                  | <b>November 3rd &amp; 9th, 2016 @ 8:30 AM<br/>(PST &amp; PDT as time change occurs<br/>November 6)</b> |
| <b>Bidder Written Questions Due:</b>                          | <b>November 14, 2016 by 12:00 PM PST</b>   |
| <b>MST's Response to Written Questions:</b>                   | <b>November 18, 2016</b>   |
| <b>Bids Due:</b>  | <b>November 30, 2016 <u>by 12:00 PM</u> PST</b>  |
| <b>Notification of Award:</b>                                 | <b>December 12, 2016</b>   |
| <b>1<sup>st</sup> Group of 3 Trolleys Available for Rehab</b> | <b>December 13, 2016</b>   |
| <b>1<sup>st</sup> Group of 3 Trolleys Return from Rehab</b>   | <b>February 24, 2017</b>   |
| <b>2<sup>nd</sup> Group of 3 Trolleys Available for Rehab</b> | <b>February 24, 2017</b>   |
| <b>2<sup>nd</sup> Group of 3 Trolleys Return from Rehab</b>   | <b>May 1, 2017</b>   |

## 1.1.2 PRE-BID

### 1.1.2.1 PRE-BID CONFERENCE

The pre-bid conference will be held in conjunction with the vehicle viewing at MST's Salinas location. The address is 443 Victor Way, Salinas CA 93907.

All prospective bidders **are required** to attend the vehicle inspection on November 3rd or November 9th at 8:30 a.m. Bidders will not be able to inspect the Trolley after the pre-bid Conference. Bidders are reminded that any changes to the IFB will be by written addenda only and nothing stated verbally shall change or qualify in any way any of the provisions in the IFB and shall not be binding on MST.

### 1.1.2.2 BIDDER COMMUNICATIONS AND REQUESTS

All correspondence, communication and/or contact in regard to any aspect of this solicitation or offers shall be with the Purchasing Manager. Bidders and their representatives shall not make any contact with or communicate with any members of MST or MST, or its employees and consultants, other than the Purchasing Manager in regard to any aspect of this solicitation or offers.

At any time during this procurement up to the time specified in "Project Schedule" (Section 1.1.1.3), Bidders may e-mail a request for a clarification or interpretation of any aspect, or a change to any requirement of the IFB or any addenda to the IFB. Requests may include suggested substitutes for specified items and for any brand names, which whenever used in this solicitation shall mean the brand name or approved equal. Such written requests shall be made to the Project Manager and may be transmitted by e-mail. The Bidder making the request shall be responsible for its proper delivery to the Project Manager on the form provided in "Request for Pre-Offer Change or Approved Equal" (Section 1.1.6.1). Any request for a change to any requirement of the Agreement documents must be fully supported with technical data, test results, or other pertinent information evidencing that the exception will result in a condition equal to or better than that required by the IFB, without substantial increase in cost or time requirements. Any responses to such written requests shall be provided by the Purchasing Manager in the form of addenda only. Only written responses provided as addenda shall be official and all other forms of communication with any officer, employee or agent of MST shall not be binding on MST.

### 1.1.2.3 ADDENDA TO IFB

MST reserves the right to amend the IFB at any time. Any amendments to or interpretations of the IFB shall be described in written addenda. MST shall provide copies of Addenda to all prospective Bidders officially known to have received the IFB. Prospective Bidders, or their agents, shall be responsible to collect the addendum from the Purchasing Manager. Notification of any addendum will be emailed to the Bidders who have requested copies of the IFB. It is the responsibility of each Bidder to check the MST website at [www.mst.org](http://www.mst.org) to ensure they have all addenda. **MST assumes no responsibility for those who choose to not check for updates.** Failure of any prospective Bidder to check for the addenda shall not relieve the Bidder from any obligation under its bid as submitted or under the IFB, as clarified, interpreted or modified. All addenda issued shall become part of the IFB. Prospective Bidders shall acknowledge the receipt of each individual addendum and all prior

addenda in their bids using form 1.1.6.2. Failure to acknowledge in their bids receipt of addenda may at MST's sole option disqualify the bid.

If MST determines that the addenda may require significant changes in the preparation of bids, the deadline for submitting the bids may be postponed by the number of days that MST determines will allow Bidders sufficient time to revise their bids. Any new Due Date shall be included in the addenda.

#### **1.1.2.4 CONDITIONS, EXCEPTIONS, RESERVATIONS OR UNDERSTANDINGS**

Bids stating conditions, exceptions, reservations or understandings (hereinafter "deviations") relating to the IFB may be rejected. Bidders may propose alternates either within one overall bid or by submitting more than one bid. Any alternate bid shall include a price bid in accordance with "Price Bid Requirements" (Section 1.1.3.3).

Any and all deviations should be explicitly, fully and separately stated in the bid by completing form(s) provided in "Form for Bid Deviation" (Section 1.1.6.3), setting forth the specific reasons for each deviation so that it can be fully considered and, if appropriate, evaluated by MST. All deviations found by MST to be acceptable shall be evaluated in accordance with the appropriate evaluation criteria and procedures, and may result in the Bidder receiving a less favorable evaluation than without the deviation.

### **1.1.3 INSTRUCTIONS TO BIDDERS**

#### **1.1.3.1 DUE DATE**

Bids must be received by the date/time specified in the Project Schedule. Bidders shall submit bids via email. The electronic version of the bid shall be sent to MST's Purchasing Manager. Bids must be in Microsoft WORD format. Bidders will receive an email confirming receipt of the bid by MST. If Bidder does not receive an email receipt within twenty-four (24) hours after submission, not including weekends or holidays, Bidders should call MST's Purchasing Manager.

All labor, equipment and materials shall be furnished in strict accordance conditions of the Agreement Documents. Bids and subsequent offers shall be valid for a period of 90 days.

#### **TECHNICAL BID REQUIREMENTS**

A letter of transmittal shall be addressed to the Project Manager and must, at a minimum, contain the following:

1. Identification of the offering firm(s), including name, address and telephone number ;
2. Acknowledgement of receipt of IFB addenda, if any;
3. Name, title, address and telephone number of contact person during the period of bid evaluation;
4. A statement to the effect the bid shall remain valid for a period of not less than 90 days from the date of submittal; and must certify that they fully agree with the Terms and Conditions contained herein if selected.
5. Signature of a person authorized to bind the offering firm to the terms of the bid.

Bids should not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged, and presentations should be brief and concise. Information should be presented in the order in which it is requested.

#### **1.1.3.1.1 TECHNICAL BID**

The Bidder may propose enhancements to the Specification, which do not materially deviate from the objectives or required content of the program. State any exceptions to or deviations from the requirements of this IFB, segregating “technical” exceptions from “contractual” exceptions.

**WORK PLAN.** The Contractor shall furnish brief documented work plan containing the following:

- Key staff contact information
- List of project manager/contact(s) and qualifications of firm
- Proposed work plan:
  - Model and Brand specifications for all major components
  - A detailed specification sheet including emission certification numbers
  - Clearly specify all items and actions relative to the installation and operation of the system that the successful Bidder shall be responsible for providing

**TRANSPORTATION.** The Contractor shall be responsible for delivery of the trolley from MST to the Contractor, and for delivery to MST’s office at Ryan Ranch Road, or a nearby alternative MST site due to construction at the Ryan Ranch facility in early 2017.

#### **OPENING OF BIDS**

Bids will not be publicly opened.

#### Qualification Requirements

The following are the requirements for qualifying responsible Bidders. All of these requirements should be met; therefore, they are not listed by any particular order of importance. The Bidder of any bid that cannot be made to meet these requirements may be determined not to be responsible and its bid may be rejected. The requirements are as follows:

- I. Sufficient financial strength and resources and capability to finance the work to be performed and complete the Agreement in a satisfactory manner as measured by:
  - A. Ability to obtain required insurance with coverage values that meet minimum requirements evidenced by a letter from an underwriter confirming that the Bidder can be insured for the required amount.
  - B. A statement of financial solvency and capacity.
- II. Evidence that resources are sufficient to perform the Agreement as specified and assure delivery of all equipment and services within the time agreed to in the Agreement, to include:
  - A. Adequate manufacturing facilities sufficient to produce and factory-test equipment on schedule.



- B. Documented history of remanufacturing/rehabilitation work experience, evidence of technical capability, and previous experience in similar projects especially electric bus/trolley remanufacturing.
  - C. List of three (3) references, including Name, Organization, Title, Phone Number, E-mail Address
- III. Evidence that Bidder is qualified in accordance with Part 3: Quality Assurance Provisions.

#### 1.1.4 BID EVALUATION, NEGOTIATION AND SELECTION

Bids will be selected based on total lowest cost to MST. Bidders are required to complete the **bid sheet (Attachment A) in Section 1.1.6.4.**

Interviews with selected Bidders may be held. Notifications of acceptance or rejection of a firms bid will be made in writing to all Bidders by MST.

MST staff shall score each bid and shall make a recommendation to the MST Purchasing Manager based on the criteria set forth below.

1. General: MST has published this IFB. It is the intent to award the Agreement to the Bidder that most closely meets the specific needs of MST, not solely on the basis of price.
2. Initial Screening: MST staff will make an initial evaluation of all bids. Upon that initial evaluation, the staff will rank the bids received in general order of quality, and by how closely the bids meet MST's needs. MST reserves the right to award Agreement to other than the lowest cost bid allowing for a more responsive bid that addresses all of the above criteria and best satisfies MST's needs. MST also reserves the right to reject all bids. MST staff may consider criteria other than those listed below, as necessary, in the selection process.
3. Interviews, Inspections, Best and Final Offer (BAFO): Bidders may be required, and shall be prepared to attend an interview with MST staff. MST may choose, at its sole option, not to interview all Bidders or conduct any interviews. MST may reject any or all bids submitted, or at its sole discretion, award an Agreement to the best Bidders without any interviews. MST may ask all Bidders or only those determined to be within the competitive range to submit a Best and Final Offer (BAFO).
4. Selection Criteria: After the initial screening of bids for completeness, and to verify that minimum MST requirements are met will be undertaken, and MST may, in its sole discretion, reject as non-responsive any bid which does not include all the required documents or meet the minimum requirements, and no further evaluation of non-responsive bids will be performed. MST may request additional information while reviewing bids.
5. Firms bidding on this project **are required** to meet the delivery schedule as these trolleys are required to be in service in late May 2017.

6. Evaluation Criteria:

- Lowest price from qualified bidder
- Demonstrated experience with rehabilitation and repairs on heavy-duty buses or trolleys
- Ability to meet required delivery schedule

### 1.1.5 RESPONSE TO BIDS

#### 1.1.5.1 ACCEPTANCE/REJECTION OF BIDS

MST reserves the right to reject any or all bids for sound business reasons, to undertake discussions with one or more Bidders, and to accept that bid or modified bid which, has the lowest price. MST reserves the right to consider any specific bid that is conditional or not prepared in accordance with the instructions and requirements of this IFB to be noncompetitive. MST reserves the right to waive any defects, or minor informalities or irregularities in any bid, which do not materially affect the bid or prejudice other Bidders.

If there is any evidence indicating that two or more Bidders are in collusion to restrict competition or otherwise engaged in anti-competitive practices, the bids of all such Bidders shall be rejected and such evidence may be a cause for disqualification of the participants in any future solicitations undertaken by MST.

MST may reject a bid that includes unacceptable deviations as provided in “Conditions, Exceptions, Reservations or Understandings”.

#### 1.1.5.2 SINGLE BID RESPONSE

If only one bid is received in response to this IFB and it is found by MST to be acceptable, a detailed price/cost bid may be required of the single Bidder. A price or cost analysis, or both, possibly including an audit, may be performed by or for MST of the detailed price/cost bid in order to determine if the price is fair and reasonable. The Bidder hereby agrees to such analysis by submitting a bid in response to this IFB. A price analysis is an evaluation of a proposed price that does not involve an in-depth evaluation of all the separate cost elements and the profit factors that comprise a Bidder's price bid. It should be recognized that a price analysis through comparison to other similar procurements must be based on an established or competitive price of the elements used in the comparison. The comparison must be made to a purchase of similar quantity, involving similar specifications and in a similar time frame. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto. Where it is impossible to obtain a valid price analysis, it may be necessary to conduct a cost analysis of the proposed price. A cost analysis is a more detailed evaluation of the cost elements in the Bidder's Offer to perform. It is conducted to form an opinion as to the degree to which the proposed costs represent what the Bidder's performance should cost. A cost analysis is generally conducted to determine whether the Bidder is applying sound management in proposing the application of resources to the contracted effort and whether costs are allowable, allocable and reasonable. Any such analyses and the results therefrom shall not obligate MST to accept such a single bid; and MST may reject such bid at its sole discretion.

### 1.1.5.3 GENERAL TERMS AND CONDITIONS

IFB does not commit MST to award an Agreement, to pay any cost incurred in the preparation of the firm's IFB response or to procure or contract for services or supplies.

Submission of a bid means that the Bidders hereby agrees to all terms and conditions set forth in all the pages of this solicitation. The Bidder must contain within the bid, a description of those terms and/or conditions to which the Bidder does not agree.

1. Award: The firms/entities chosen to provide services may be required to participate in negotiations and to submit such revisions of their bids as may result from negotiations. Agreements for services will be awarded to firms based upon the availability of staff and cost of services. MST reserves the right to award a contract/select a provider without discussion based upon the initial bids received, without interviews. MST reserves the right to introduce additional terms and conditions at the time the final Agreement is negotiated.
3. Business License: The Bidder shall be required to obtain and maintain a current business license from the place of operation.
4. Professional Licensing: The Bidder, and any subBidders, shall possess any necessary license(s) relative to the work to be performed required by an appropriate licensing authority of the State of California, and shall provide evidence of such to MST with their bid or prior to commencement of the work in such form as MST shall require.
5. Assignment/Subcontracting: The selected Bidder shall not assign or subcontract services or responsibilities without the prior written consent of MST. MST acknowledges that subcontracting can be in MST's best interest, but reserves the right of final approval.

### 1.1.5.4 PROTESTS

Any protests by an interested party regarding this procurement shall be made in accordance with Protest Procedures shown below. After such administrative remedies have been exhausted, an interested party may file a protest with the Federal Transit Administration (FTA) pursuant to the procedures provided in FTA C 4220.1D. Failure to comply with the protest procedures will render a protest untimely and/or inadequate and shall result in its rejection.

#### 1.1.5.4.1 PROTEST PROCEDURES

All protests must be in writing, stating the name and address of protestor, a contact person, Contract number and title. Protests shall specify in detail the grounds of the protest and the facts supporting the protest.

##### 1.1.5.4.1.1 Pre-Bid Protests

Pre-Bid protests are protests based upon the content of the solicitation documents. Three copies of Pre-Bid protests must be received by MST no later than five (5) calendar days prior to the Due Date. Protests will be considered and either denied or sustained in part or in whole, in writing, in a manner that provides verification of receipt, prior to the Due Date for Bids. A written decision specifying the grounds for sustaining all or part of or denying the protest will be transmitted to the protestor prior to the Due Date for Bids in a manner than provides verification of receipt prior to the Due Date for Bids. If the protest is sustained, the Bid Due Date may be postponed and an addendum issued to the

solicitation documents or, at the sole discretion of the Agency, the solicitation may be canceled. If the protest is denied, Bids will be received and opened on the scheduled date unless a protest is filed with FTA. See “FTA Review,” below.

#### **1.1.5.4.1.2 Protests on the Recommended Award**

All Bidders will be notified of the recommended award. This notice will be transmitted to each Bidder at the e-mail address contained in its Bid form. Any Bidder whose Bid has not lapsed may protest the recommended award on any ground not specified in “Pre-Bid Protests,” above. Three (3) copies of a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest must be received by MST, no later than five (5) calendar days after the date such notification is received. Prior to the issuing of the Notice of Award, a written decision stating the grounds for allowing or denying the protest will be transmitted to the protestor and the Bidder recommended for award in a manner that provides verification of receipt.

#### **1.1.5.4.1.3 FTA Review**

After such administrative remedies have been exhausted, an interested party may file a protest with the Federal Transit Administration of the U.S. Department of Transportation pursuant to the procedures provided in the FTA C 4220.1F or its successor. FTA review is limited to the alleged failure of the Agency to have written protest procedures, the alleged failure of the Agency to follow those procedures, the alleged failure of the Agency to review a protest or the alleged violation of federal law or regulation.

### 1.1.6 REQUIRED FORMS

#### REQUEST FOR PRE-OFFER CHANGE OR APPROVED EQUAL

This form must be used for requested clarifications, changes, substitutes or approval of items equal to items specified with a brand name, and must be submitted as far in advance of the Due Date as specified in "Bidder Communications and Requests".

|  |             |                |
|--|-------------|----------------|
| IFB: <b><i>Trolley Rehabilitation and Repair Project</i></b> |             | Bidder:        |
| Solicitation Ref: _____                                      | Page: _____ | Section: _____ |
| Questions/Clarification or Approved Equal: _____             |             |                |
|  |             |                |
|  |             |                |
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| MST: _____   |             |                |
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|  |             |                |

**1.1.6.1 ACKNOWLEDGMENT OF ADDENDA**

The following form shall be completed and included in the price bid.

Failure to acknowledge receipt of all addenda may cause the bid to be considered nonresponsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Offer.

The undersigned acknowledges receipt of the following addenda to the documents:

|              |       |   |       |       |
|--------------|-------|---|-------|-------|
| Addendum No. | _____ | , | Dated | _____ |
| Addendum No. | _____ | , | Dated | _____ |
| Addendum No. | _____ | , | Dated | _____ |
| Addendum No. | _____ | , | Dated | _____ |

|         |                                |
|---------|--------------------------------|
| Bidder: |                                |
| Name    |                                |
|         | Street Address                 |
|         | City, State, Zip               |
|         | Signature of Authorized Signer |
|         | Title                          |
|         | Phone                          |

**1.1.6.2 FORM FOR BID DEVIATION**

The following form shall be completed for each condition, exception, reservation or understanding (i.e., deviation) in the bid according to “Conditions, Exceptions, Reservations and Understandings”

|   |             |                |
|---|-------------|----------------|
| Deviation #: _____                      |             | Bidder: _____  |
| Solicitation Ref: _____                 | Page: _____ | Section: _____ |
| Complete Description of Deviation _____ |             |                |
|   |             |                |
|   |             |                |
|   |             |                |
|   |             |                |
| Rationale (Pros & Cons): _____          |             |                |
|   |             |                |
|   |             |                |
|   |             |                |
|   |             |                |

**1.1.6.3 BID (PRICING) SHEET - ALL PRICES TO BE IN U.S. DOLLARS**

**SEE ATTACHMENT A**

**ATTACHMENT A IS AN EXCEL SPREADSHEET WHERE BIDDER SHALL INPUT PRICING.**



#### **1.1.6.4 CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Primary Participant \_\_\_\_\_ (Name of CONTRACTOR) certified to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b. Have not, within a three year period preceding this bid, been convicted, 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;
- c. 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 (b) of this certification; and
- d. Have not within a three-year period preceding this bid had one or more public transactions (Federal, State or local) terminated for default.

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

**THE PRIMARY PARTICIPANT, \_\_\_\_\_ (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 USC SECTIONS 3801 ET SEQUA ARE APPLICABLE THERETO.**

Signature of Authorized Official: \_\_\_\_\_ Title: \_\_\_\_\_

The undersigned chief legal counsel (or corporate secretary) for the \_\_\_\_\_ hereby certifies that the \_\_\_\_\_ has authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Attorney/Secretary: \_\_\_\_\_ Date: \_\_\_\_\_

**1.1.6.5 CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_, hereby certify on behalf of \_\_\_\_\_, that:

a. No Federal appropriated funds have been paid or will be paid, by on or behalf of the undersigned, to any person for influencing, or attempting to influence an officer or employee of any Federal 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.

b. 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 Federal 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.

c. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, loans, and cooperative agreements) which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made, or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, USC. 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 \_\_\_\_\_, of 20\_\_\_\_

Signature of Authorized Official: \_\_\_\_\_

Title of Authorized Official: \_\_\_\_\_

**1.1.6.6 CERTIFICATION DISADVANTAGED BUSINESS ENTERPRISE PROGRAM/****EQUAL EMPLOYMENT OPPORTUNITY**

CONTRACTOR: \_\_\_\_\_

1. CONTRACTOR overall DBE participation rate: \_\_\_\_\_

2. Names/Locations of DBEs contacted by CONTRACTOR:

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3. Names/Locations of DBEs selected by CONTRACTOR:

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4. CONTRACTOR work force breakdown by race and gender:

TOTAL EMPLOYEES (as of \_\_\_\_\_): \_\_\_\_\_

**JOB CATEGORIES****EMPLOYEES**

|  | <b>Male</b> |     |     |     |     | <b>Female</b> |     |     |     |     |
|--|-------------|-----|-----|-----|-----|---------------|-----|-----|-----|-----|
|  | Wht         | Blk | Hsp | Asn | Nat | Wht           | Blk | Hsp | Asn | Nat |

Officials &amp; Managers:

Professional:

Technical:

Sales:

Office/Clerical:

Craftsmen:

Laborers:

Service:

Note: The above DBE/EEO Affidavit is part of CONTRACTOR Bid. Signing this Bid, on the signature portion thereof, shall also constitute signature of this DBE/EEO Affidavit.

By: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_

### 1.1.6.8 Buy America Requirements

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

The Offeror must submit to MST the appropriate Buy America certification (below). Any bid that is not accompanied by a completed Buy America certification will be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

#### *Certificate of Compliance with 49 U.S.C. 5323(j) (2) (C) 28*

The Vendor hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 C.F.R. 661.11:

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

#### Certificate of Non-Compliance

The Vendor hereby certifies that it cannot comply with the requirement of 49 U.S.C. Section 5323(j)(2)(C) and Section 165(b) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirement consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

***This form MUST be prepared and signed by the Bidder and submitted with all Bids on FTA-funded contracts. Bids not accompanied by this form will be REJECTED***

#### **1.1.6.9 Pre-Award and Post-Delivery Audits**

The Contractor agrees to comply with 49 USC § 5323(l) and FTA's implementing regulation at 49 CFR Part 663 and to submit the following certifications:

- 1. Buy America requirements:** The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the recommended Bidder certifies compliance with Buy America, it shall submit documentation that lists (1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and (2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly. This list shall be provided prior to the production of the Trolley(s).
- 2. Solicitation specification requirements:** The Contractor shall submit evidence that it will be capable of meeting the bid specifications.
- 3. Federal Motor Vehicle Safety Standards (FMVSS):** The Contractor shall submit (1) manufacturer's FMVSS self-certification sticker that the vehicle complies with relevant FMVSS or (2) manufacturer's certified statement that the contracted Trolley(s) will not be subject to FMVSS regulations.

## **2 GENERAL CONTRACTUAL PROVISIONS**

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## **2.1 AGREEMENT AND MODIFICATIONS**

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### **2.1.1 AGREEMENT AWARD AND EXECUTION**

The acceptance of an Offer for award, if made, shall be evidenced by a notice of award of Agreement in writing delivered in person, via electronic mail, over the telephone, or by registered mail to the Bidder whose Offer is accepted. No other act by MST shall evidence acceptance of an Offer. Such notice shall obligate said Bidder to enter into final contract negotiations.

### **2.1.2 AGREEMENT DOCUMENTS**

The Agreement consists of the following:

- Part 1 – Contractor’s Offer and MST’s Notice of Award
- Part 2 – General Contractual Provisions
- Part 3 – Quality Assurance Provisions
- Part 4 – Warranty Provisions
- Part 5 – Technical Specifications
- Addenda – As issued
- Any additional terms determined during final contract negotiations

In case of any conflict among these documents where the parties' intended resolution is not clear, the order of precedence shall be:

- First – Signed Contract
- Second – Addenda Issues
- Third – IFB
- Fourth – Contractor’s Offer

### **2.1.3 MODIFICATIONS TO AGREEMENT**

#### **2.1.3.1 CONTRACTOR CHANGES**

Any proposed change in this Agreement shall be submitted to MST for its prior approval.

#### **2.1.3.2 WRITTEN CHANGE ORDERS**

Oral change orders are not permitted. No change to Agreement shall be made unless the Project Manager gives prior written approval therefore. The Contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting, any specification change not properly ordered by written modification to the Agreement and signed by the Project Manager.

#### **2.1.3.3 PRICE ADJUSTMENT FOR REGULATORY CHANGES**

If price adjustment is indicated, either upward or downward, it shall be negotiated between MST and the Contractor for changes that are mandatory as a result of legislation or regulations that are promulgated and become effective after the Due Date. Such price adjustment will be audited, where required.

## **2.1.4 SPECIFICATION AND OFFER OMISSIONS**

Notwithstanding the provision of drawings, technical specifications, or other data by MST, the Contractor shall have the responsibility of supplying all parts and services required to make the Trolley complete and ready for service even though such details may not be specifically mentioned in the drawings and specifications.

Any request, condition, exception, reservation, understanding or other deviation by Contractor not separately stated as required by "Instructions to Bidders" (Section 1.1.3) by completing the specified form(s) shall be invalid and shall not be binding on MST.

## **2.1.5 TERMINATION OF AGREEMENT**

### **2.1.5.1 TERMINATION FOR CONVENIENCE**

The performance of work under this Agreement may be terminated by MST in accordance with this clause in whole, or from time to time in part, whenever the Purchasing Manager shall determine that such termination is in the best interest of MST. Any such termination shall be effected by delivery to the Contractor of a notice of termination specifying the extent to which performance of work under the Agreement is terminated, and the date upon which such termination becomes effective.

Settlement of claims by the Contractor under this termination for convenience clause shall be in accordance with the provisions set forth in Part 49 of the Federal Acquisition Regulations (48 CFR 49) except that wherever the word "Government" appears it shall be deleted and the word "MST" shall be substituted in lieu thereof.

### **2.1.5.2 TERMINATION FOR DEFAULT**

MST may, by written notice of default to the Contractor, terminate the whole or any part of this Agreement if the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 (ten) days (or such longer period as the Purchasing Manager may authorize in writing) after receipt of notice from the Purchasing Manager specifying such failure.

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

If the Agreement is terminated in whole or in part for default, MST may procure, upon such terms and in such manner as the Purchasing Manager may deem appropriate, supplies or services similar to those so terminated. The Contractor shall be liable to MST for any excess costs for such similar supplies or services, and shall continue the performance of this Agreement to the extent not terminated under the provisions of this clause.



Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Agreement arises out of causes beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

Payment for completed supplies delivered to and accepted by MST shall be at the Agreement price. MST may withhold amounts otherwise due the Contractor for such completed supplies as the Purchasing Manager determines to be necessary to protect MST against loss because of outstanding liens or claims of former lien holders.

If, after notice of termination of this Agreement under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of the Procurement Agency.

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

### **2.1.6 COMMUNICATIONS**

Communications in connection with this Agreement shall be in writing and shall be delivered via e-mail; or by regular, registered, or certified mail addressed to the MST Project Manager and the designated officer(s) or employee(s) of the Contractor designated to receive such communications. Telephone calls may be used to expedite communications but shall not be official communication unless confirmed in writing.

Communications shall be considered received at the time actually received by the addressee or designated agent.

## **2.2 DELIVERY AND TITLE**

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### **2.2.1 DELIVERIES**

#### **2.2.1.1 TROLLEY DELIVERY PROCEDURE**

Delivery of Trolley shall be determined by signed receipt of MST's Project Manager. The final delivery location will be determined once the trolley is ready for delivery.

Delivery of trolley shall be between the hours of 8 a.m. to 4 p.m. Pacific Standard Time Monday through Friday. The Contractor shall be responsible for delivery of the trolley. Delivery and pick-up shall be scheduled in 48 hours advance.

**2.2.1.2 DELIVERY SCHEDULE**

Delivery shall be completed within agreed upon timelines of the executed Agreement documents. Bidders shall submit a delivery schedule for the first Trolley in their bid.

**2.2.2 REPAIRS AFTER NONACCEPTANCE**

The Contractor or its designated representative shall perform the repairs on-site after non-acceptance. If the Contractor fails or refuses to make the repairs within 5 (five) days, then the work may be done by MST's personnel with reimbursement by the Bidder Contractor.

Any work corrected by MST staff will be billed back at \$70.00 per hour plus the cost of parts and materials.

**2.2.2.1 REPAIRS BY CONTRACTOR**

After non-acceptance of the Trolley, the Contractor must begin work within 5 (five) working days after receiving notification from MST of failure of acceptance tests. MST shall make the Trolley available to complete repairs timely with the Contractor repair schedule. Contractor will provide an estimate on the repair time and if Contractor's repair is delayed, the Contractor shall, at their own expense, expedite all product shipments, and expedite shipment of the Trolley back to MST or MST at its own expense.

The Contractor shall provide, at its own expense, all spare parts, tools, and space required to complete the repairs. At MST's option, the Contractor may be required to remove the Trolley from MST's or MST's property while repairs are being affected. If the Trolley is removed from MST's or MST's property, repair procedures must be diligently pursued by the Contractor's representatives, and the Contractor shall assume risk of loss while the Trolley is under its control. Contractor shall cover all expenses associated with removing and returning the Trolley from/to MST's or MST's property. Contractor shall coordinate the pickup and return date and time in advance with MST.

**2.2.3 UNAVOIDABLE DELAYS****2.2.3.1 CONTRACTOR'S DELAY**

If the Contractor is delayed at any time during the progress of the Work by the neglect or failure of MST or by a cause described below, then the time for completion and/or affected delivery date(s) shall be extended by MST subject to the following conditions:

1. The cause of the delay arises after the notice of award and neither was nor could have been anticipated by the Contractor by reasonable investigation before such award;
2. The Contractor demonstrates that the completion of the Work and/or affected delivery(s) will be actually and necessarily delayed;
3. The effect of such cause cannot be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures whether before or after the occurrence of the cause of delay; and

4. The Contractor makes written request and provides other information to MST as described in "Notification of Contractor Delay" (Section 2.3.3.2 below).

A delay meeting all the conditions of this section shall be deemed an excusable delay. Any concurrent delay which does not constitute an excusable delay shall not be the sole basis for denying a request hereunder.

None of the above shall relieve the Contractor of any liability for the payment of any liquidated damages owing from a failure to complete the Work by the time for completion that the Contractor is required to pay pursuant to "Liquidated Damages" (Section 2.3.4) for delays occurring prior to, or subsequent to the occurrence of an excusable delay.

MST reserves the right to rescind or shorten any extension previously granted, if subsequently MST determines that any information provided by Contractor in support of a request for an extension of time was erroneous; provided however, that such information or facts, if known, would have resulted in a denial of the request for an excusable delay. Notwithstanding the above, MST will not rescind or shorten any extension previously granted if the Contractor acted in reliance upon the granting of such extension and such extension was based on information which, although later found to have been erroneous, was submitted in good faith by the Contractor.

#### **2.2.3.2 NOTIFICATION OF CONTRACTOR DELAY**

Notwithstanding "Contractor's Delay" (Section 2.3.3.1), no extension or adjustment of time shall be granted unless (1) written notice of the delay is filed with MST within 2 (two) calendar days after the commencement of the delay and (2) a written application therefore, stating in reasonable detail the causes, the effect to date and the probable future effect on the performance of the Contractor under the Agreement, and the portion or portions of the Work affected, is filed by the Contractor with MST within 10 (ten) calendar days after the commencement of the delay. No such extension or adjustment shall be deemed a waiver of the rights of either party under this Agreement. MST shall make its determination within 30 (thirty) calendar days after receipt of the application.

#### **2.2.4 LIQUIDATED DAMAGES**

It is mutually understood and agreed by and between the parties to the Agreement that time is of the essence with respect to the completion of the Work and that in case of any failure on the part of the Contractor to complete the Work within the time specified in the agreement, except for any excusable delays as provided in ""Unavoidable Delays" (Section 2.3.3), or any extension thereof, MST will be damaged thereby. The amount of said damages, being difficult if not impossible of definite ascertainment and proof, it is hereby agreed that the amount of such damages due MST shall be fixed at \$300 per calendar day the Trolley is not delivered by the agreed upon date. MST reserves the right to charge the Contractor for Liquidated Damages at its sole discretion.

If MST, in its sole discretion, charges the Contractor for Liquidated Damages, the Contractor hereby agrees to pay the aforesaid amounts as fixed, agreed and liquidated damages, and not by way of penalty, to MST and further authorizes MST to deduct the amount of the damages from money due the Contractor under the Agreement, computed as aforesaid. If the monies due the Contractor are

insufficient or no monies are due the Contractor, the Contractor shall pay MST the difference or the entire amount, whichever may be the case, within 30 (thirty) calendar days after receipt of a written demand by the Project Manager.

The payment of aforesaid fixed, agreed and liquidated damages shall be in lieu of any damages for any loss of profit, loss of revenue, loss of use, or for any other direct, indirect, special or consequential losses or damages of any kind whatsoever that may be suffered by MST arising at any time from the failure of the Contractor to fulfill the obligations referenced in this clause in a timely manner.

MST specifically reserves the right, without limitation of any other rights, to terminate the Agreement in accordance with "Termination of Agreement" (Section 2.2.6).

### 2.2.5 PAYMENT

MST shall pay and the Contractor shall accept the amounts set forth in the price schedule as full compensation for all costs and expenses of completing the Work in accordance with the Agreement, including but not limited to all labor and material required, overhead, expenses, storage and shipping, risks and obligations, taxes (as applicable), fees and profit, and any unforeseen costs.

All payments shall be made as provided herein, less a withholding of five percent (5%) plus any additional monies withheld as provided below and less any amounts for liquidated damages in accordance with "Liquidated Damages" (Section 2.3.4).

### 2.2.6 PAYMENT SCHEDULE

MST shall make a payment ninety-five percent (95%) of the total price schedule for each trolley within 30 (thirty) calendar days of receipt of a final proper invoice after the delivery and acceptance of the Trolley by MST.

MST shall make a final payment for the balance of the price schedule and all withholding within 30 (thirty) calendar days of receipt of a final proper invoice and the following:

1. Delivery and acceptance of all Agreement deliverables, including manuals and other documentation required by the Agreement.
2. Rectification of any deficiencies found during the acceptance of Trolley(s).
3. Contractor provision of any certifications as required by law and/or regulations.
4. Completion of post-delivery audits required under the Agreement.
5. Delivery and acceptance for each completed trolley.

## 2.3 RISK

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### 2.3.1 INSURANCE

Contractor shall procure and maintain, for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from, or in conjunction with, the performance of the work hereunder by the Contractor, its agents, representatives or employees.

#### 2.3.1.1 MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

- Insurance Services Office Commercial General Liability Coverage (occurrence Form CG0001).
- Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
- Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- Errors and Omissions Liability insurance appropriate to the Contractor's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.

#### 2.3.1.2 MINIMUM LIMITS OF INSURANCE

Contractor shall maintain limits of no less than:

|                                |  |
|--------------------------------|--|
| General Liability              | \$1,000,000 per occurrence for bodily injury, personal injury and property damage with an annual aggregate of \$2,000,000. An umbrella or excess limit of \$3,000,000 is also required. Coverage will be endorsed to include MST and MST as an additional insured. |
| Automobile Liability           | Automobile insurance covering owned, non-owned and hired automobiles with limits not less than \$1,000,000 combined single limit of coverage. This coverage shall be endorsed to include MST and MST as an additional insured.                                     |
| Employer's Liability           | \$1,000,000 per accident for bodily injury or disease.   |
| Errors and Omissions Liability | \$1,000,000 per occurrence. This coverage should be endorsed to include MST as an additional insured.  |

#### 2.3.1.3 DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by MST, and either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as it pertains to MST, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to MST guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**2.3.1.4 OTHER INSURANCE PROVISIONS**

The commercial general liability, automobile liability, and errors and omissions liability policies are to contain, or be endorsed to contain, the following provisions:

1. MST, its officers, officials, employees and volunteers are to be covered as insureds with respect to: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance with respect to MST, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by MST, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, unless thirty (30) days' prior written notice has been given to MST by certified mail, return receipt requested.
4. Coverage shall not extend to any indemnity coverage for the negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under California law.

**2.3.1.5 ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise acceptable to MST.

**2.3.1.6 VERIFICATION OF COVERAGE**

Contractor shall furnish MST with the original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by MST, however, other forms may be acceptable so long as those endorsements conform to MST requirements. All certificates and endorsements are to be received and approved by MST before work commences. MST reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications, be submitted at any time.

**2.3.1.7 INDEMNIFICATION**

The Contractor shall, to the extent permitted by law (1) protect, indemnify and save MST and its officers, employees and agents, including consultants, harmless from and against any and all liabilities, damages, claims, demands, liens, encumbrances, judgments, awards, losses, costs, expenses, and suits or actions or proceedings, including reasonable expenses, costs and attorneys' fees incurred by MST and its officers, employees and agents, including consultants, in the defense, settlement or satisfaction thereof, for any injury, death, loss or damage to persons or property of any kind whatsoever, arising out of, or resulting from, the negligent acts, errors or omissions of the Contractor, including negligent acts, errors or omissions of its officers, employees, servants, agents, subcontractors and suppliers; and (2) upon receipt of notice and if given authority, shall settle at its own expense or undertake at its own expense the defense of any such suit, action or proceeding, including appeals, against MST and its officers, employees and agents, including consultants, relating to such injury, death, loss or damage. Each party shall promptly notify the other in writing

of the notice or assertion of any claim, demand, lien, encumbrance, judgment, award, suit, action or other proceeding hereunder. The Contractor shall have sole charge and direction of the defense of such suit, action or proceeding. MST shall not make any admission that might be materially prejudicial to the Contractor unless the Contractor has failed to take over the conduct of any negotiations or defense within a reasonable time after receipt of the notice and authority above provided. MST shall at the request of the Contractor furnish to the Contractor all reasonable assistance that may be necessary for the purpose of defending such suit, action or proceeding, and shall be repaid all reasonable costs incurred in doing so. MST shall have the right to be represented therein by advisory council of its own selection at its own expense.

#### **2.3.1.8 MATERIALS/ACCESSORIES RESPONSIBILITY**

The Contractor shall be responsible for all materials and workmanship in the rehabilitation and electrification of the Trolley and all accessories used, whether the same are manufactured by the Contractor or purchased from supplier. This provision excludes radios, and any equipment leased or supplied by MST or is on the Trolley(s), except insofar as such equipment is damaged by the failure of a part or component for which the Contractor is responsible, or except insofar as the damage to such equipment is caused by the Contractor during the manufacture of the Trolley(s). Risk of damage to or loss of the Trolley(s) is the subject of "Assumption of Risk of Loss" (Section 2.3.1.4).

#### **2.3.1.9 FEDERAL REQUIREMENTS**

Contractor warrants and covenants that it shall fully and completely comply with all applicable Federal, State and local laws and ordinances, and all lawful orders, rules and regulations issued by MST with jurisdiction in all aspects of its performance of this Agreement.

This Agreement is subject to a financial assistance contract between MST and the United States of America (hereinafter "Federal Government"), acting through the Department of Transportation (hereinafter "U.S. DOT"), and Federal Transit Administration (hereinafter "FTA"). Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives including without limitation those listed directly or by reference in the FTA Master Agreement between MST and FTA, as amended, and are incorporated herein by this reference. The Bidders shall comply with these FTA requirements and as they may be amended or promulgated from time to time during the term of this Agreement. The Bidders shall not perform any act, fail to perform any act, or refuse to comply with any MST or MST directives, which would cause MST to be in violation of the FTA terms and conditions. Bidders failure to comply with these FTA requirements and MST or MST directives shall constitute a material breach of this Agreement.

- **FLY AMERICA** - (Transportation of persons or property by air)

The Contractor agrees to comply with 49 USC 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their Contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any



event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

○ **CARGO PREFERENCE (USE OF U. S. FLAG VESSEL) -**

The Contractor agrees: (a) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (b) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to MST (through the Contractor in the case of a subContractor's bill-of-lading.) (c) To include these requirements in all subcontracts issued pursuant to this Agreement when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

○ **ENERGY CONSERVATION**

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

○ **CLEAN WATER.**

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. The CONTRACTOR agrees to report each violation to MST and understands and agrees that MST will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

○ **CLEAN AIR**

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§ 7401 et seq. The Contractor agrees to report each violation to MST and understands and agrees that MST will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.



### ○ **RECYCLED PRODUCTS**

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

### ○ **LOBBYING**

(1) Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to MST.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

### ○ **ACCESS TO RECORDS AND REPORTS**

(1) Where MST is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a1)

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until MST, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i) (11).

(4) FTA does not require the inclusion of these requirements in subcontracts

### ○ **FEDERAL CHANGES**

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

### ○ **NO OBLIGATION BY THE FEDERAL GOVERNMENT**

(1) MST and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to MST, Contractor, or any

other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

○ **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED**

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

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

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

○ **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION**

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the CONTRACTOR, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or bid, the bidder or Bidder certifies as follows: The certification in this clause is a material representation of fact relied upon by MST. If it is later determined that the bidder or Bidder knowingly rendered an erroneous certification, in addition to remedies available to MST, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or Bidder agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or Bidder further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## ○ **PRIVACY ACT**

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- (2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

## ○ **CIVIL RIGHTS**

The following requirements apply to the underlying Agreement

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

- (2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract. (a) **Race, Color, Creed, National Origin, Sex:** In accordance with Title VII of the Civil Rights Act, as amended, 42 USC § 2000e, and Federal transit laws at 49 USC § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue. (b) **Age:** In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC § 623 and Federal transit law at 49 USC § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for

reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue. (c) **Disabilities:** In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 USC § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

#### ○ **DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

1) Policy: It is MST's policy and objective to promote and maintain a level playing field for DBE's in MST and Federal-aid contracts. It is MST's policy to ensure nondiscrimination in the award and administration of U.S. DOT assisted contracts based on the requirements of 49 CFR Parts 21 and 26.

(2) DBE Obligation: The Contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all Contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Contractor shall not discriminate on the basis of race, creed, color, national origin, age, or sex in the award of and performance of DOT assisted contracts.

#### ○ **STATE AND LOCAL LAW DISCLAIMER**

Contractor shall keep itself informed of, comply with, and shall cause all of its agents, employees, suppliers and subContractors of any tier to observe and comply with all applicable State and local laws, regulations, and policies, including, but not limited to, all applicable terms and conditions prescribed for third party contracts by the U. S. Department of Transportation (DOT) and the Federal Transit Administration (FTA). It is the Contractor's responsibility to know and to comply with all state laws and regulations and local ordinances relating to public works projects which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work. If Contractor discovers any discrepancy or inconsistency between the plans, drawings, specifications, or contract for the work and any law, ordinance, regulation, order or decree; the Contractor shall immediately provide written notice to MST.

○ **INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, dated June 19, 2003, as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any MST requests, which would cause MST to be in violation of the FTA terms and conditions.

○ **EQUAL EMPLOYMENT OPPORTUNITY/BASIC REQUIREMENTS**

In connection with the execution of this Agreement, the Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, 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 further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

○ **LABOR PROVISIONS**

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

(2) **Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5, the Contractor and any subContractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subContractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5 in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of eight hours or in excess of the standard of work week of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5.

(3) **Withholding for Unpaid Wages and Liquidated Damages.** DOT or MST shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subContractor under any such contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety

Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subContractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b) (2) of 29 CFR Section 5.5.

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

(5) Subcontracts. The Contractor or subContractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (5) of this paragraph and also a clause requiring subContractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subContractor or lower tier subContractor with the clauses set forth in subparagraph (1) through (5) of this paragraph.

○ **CONFLICT OF INTEREST**

No employee, officer, or agent of MST shall participate in selection or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his immediate family, an organization which employs, or is about to employ, has a financial or other interest in the firm selected for award.

MST's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, potential Contractors, or parties of subagreements.

○ **BREACHES AND DISPUTE RESOLUTION**

All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where Contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Disputes arising in the performance of this Agreement which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of MST. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the MST Project Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of MST Project Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

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

○ **CLAIMS FOR DAMAGES**

Should either party to the Agreement suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

○ **REMEDIES**

Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between MST and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which MST is located.

○ **RIGHTS AND REMEDIES**

The duties and obligations imposed by MST Documents 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 MST, 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.





### **3 QUALITY ASSURANCE PROVISIONS**

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### **3.1.1 QUALITY ASSURANCE REQUIREMENTS**

The Bidder's facilities shall be organized and capable of performing the services required. For the Electrically charged Trolley, it is highly desired that the Contractor have experience working with a high voltage battery powered system.

### **3.1.2 INSPECTIONS**

Upon notice to the bidder, at its own discretion, MST may send an inspector, or MST staff, to the Contractor's facility to review progress during the rehabilitation/repair project. Prior to delivery MST may elect to perform an onsite inspection of the trolleys at the Bidders facilities to determine work acceptance prior to delivery.

## **3.1 ACCEPTANCE**

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### **3.1.1.1 ACCEPTANCE OF EQUIPMENT**

If rehabilitation/repair work is not acceptable, MST will furnish a letter to the contractor detailing the deficiencies within five (5) business days after the delivery of the Trolley(s).

## **4 WARRANTY PROVISIONS**

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#### 4.1.1 WARRANTY REQUIREMENTS

##### 4.1.1.1 CONTRACTOR WARRANTY

Warranties in this document are in addition to any statutory remedies or warranties imposed on the Contractor. Consistent with this requirement, the Contractor warrants and guarantees to MST each complete Trolley, as follows:

MST requires a minimum **two (2) year** unconditional or manufacturer standard warranty on parts & labor (whichever is greater) on all other aspects of this rehabilitation. All warranty claims will be directed back to the successful bidder/contractor. If the contractor fails to make repairs within five business days after notification by MST, MST shall have the right to make those required repairs and invoice the contractor for any material used. Cost plus a 25% parts mark up and Labor will be charged back to Contractor at a rate of \$65.00 per man-hour.

Contractor shall provide a two (2) year parts and labor warranty on all work performed, including, but not limited to the electric propulsion system, the batteries, and the battery management system. This warranty shall begin upon MST's acceptance of the fully integrated trolley from the Contractor.

Contractor warrants to MST that all work shall conform to the requirements hereof and shall be free from defects in parts, workmanship and design. If a defect in a part is found during the warranty period, the defective part shall be replaced at no cost to MST. If a defect in workmanship is found during the warranty period, the Contractor shall inspect the trolley and repair the defects as required at no cost to MST. If a defect in design is found during the warranty period, the Contractor shall perform like repair on the Trolley at no cost to MST. Contractor shall assume all costs associated with warranty work. To the extent practicable, all warranty work should be done on site (either at MST or at MST depending on the Trolley location at time of work).

##### 4.1.1.2 REBUILT COMPONENTS

Contractor warrants components rebuilt by the Contractor to be free from Defects for one years, from the date of MST's acceptance.

##### 4.1.1.3 NEW COMPONENTS

Any components replaced shall maintain the component manufacturers' warranty.

##### 4.1.1.4 PAINT

Contractor warrants that paint shall not have any runs or orange peel effect. Paint shall be free from Defects when delivered. MST will provide Contractor with a paint spec prior to the commencement of work on the Trolley(s). MST requires a minimum **four (4) year warranty** on the exterior and interior paint from peeling, fading and workmanship, from the date of MST's acceptance of the fully integrated trolley from the Contractor.

## 5 TECHNICAL SPECIFICATIONS

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## 5. TECHNICAL SPECIFICATIONS

### 5.1.1 SCOPE

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The purpose of this section is to outline the rehabilitation and repair requirements for up to six (6) of MST's Optima Trolleys.

All Trolleys are 29 foot, model year 2003 Optima, American Heritage series with room for 27 passengers and two wheel chair positions.

The trolleys are generally in similar mechanical and cosmetic condition with diesel engines, except trolley 1901 which was converted to all electric trolley in 2015.

A viewing of the electric and a diesel trolley will be scheduled by MST and attendance **is required** for any contractors who intend to bid on this project. The remaining diesel trolleys can be available for inspection upon request.

Contactor shall quote on the various work portions of the project and for each trolley as identified on the spread sheet entitled, Bid Sheet, Attachment A.

Bidders **are required** to inspect the trolleys by appointment after the Pre-Bid Conference to be held on **November 3<sup>rd</sup> and 9<sup>th</sup> at 8:30am**, located at MST's facility located at 443 Victor Way, Salinas, CA 93907.

#### 5.1.1.1 VENDOR RESPONSIBILITY

It is the intent of these specifications to provide equipment and assembly of first quality, and the workmanship must be the best obtainable in the various trades. The equipment, repairs all work, which the vendor proposes to furnish, must be of substantial and durable construction in all respects. No advantage will be taken by the bidder or manufacturer in the omission of any part or detail, which goes to make the product complete and ready for use.

All manner of workmanship and material used in the production of the product and not herein contained or specified shall be of the manufacturer's standard and shall conform in material, design, installation and workmanship to the best practices known in the industry.

The bidder will assume responsibility for all equipment and assembly used in the bid item. It is the sole responsibility of the bidder to read the specifications and understand them.

### 5.1.1.2 VEHICLE(S)

The life to date miles on these trolleys is as follows:

| Vehicle Number | Approx. Life to Date Miles                      | Vehicle Number | Approx. Life to Date Miles |
|----------------|---|----------------|----------------------------|
| 1901           | <u>Total</u> Life: 120,351<br>Electric: 20,000+ | 1904           | 171,769                    |
| 1902           | 154,557   | 1905           | 158,992                    |
| 1903           | 148,759   | 1906           | 184,316                    |

Attached below are pictures of an MST trolley (1901) which was previously repowered with an electric motor.















## 5.1.2 LEGAL REQUIREMENTS

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The Contractor's work shall comply with all applicable Federal, state and local regulations. Local regulations are defined as those below the state level. These shall include, but not be limited to, Federal Americans with Disabilities Act (ADA) as well as state and local accessibility, safety and security requirements. Any new/rebuilt engines or exhaust emission systems must meet current California Air Resources Board (CARB) emission requirements.

In the event of any conflict between the requirements of this Specification and any applicable legal requirement, the legal requirement shall prevail.

All materials used shall be provided by the Contractor unless specified otherwise, and shall be new, unused and Original Equipment Manufacturer (OEM) quality. Workmanship shall be equivalent to acceptable standards practiced within the industry for similar projects.

## 5.1.3 INTERIOR - REPAIR AND REHABILITATION REQUIREMENTS

### 5.1.1.1 Driver's Seat

The driver's seat shall be replaced with a new USSC Group, model 9100 ALX seat. The covering for the seat shall be black fabric; worn air hoses shall be replaced.

### 5.1.1.2 Windows, Doors and Panels

- a. All window seals, channels, rubber harnesses and fillers are to be replaced with new parts, including windshield sections. Windows in large "roof cap" are exempt from this requirement.
- b. Replace front and rear door Plexiglas panels, the driver's modesty panel and other Plexiglas panels and schedule racks. Use new fastening materials. Plexiglas panels and schedule racks shall match design, tint, quality and durability of original.

### 5.1.1.3 Interior Lighting

Replace interior overhead lighting with energy efficient LED bulbs (soft, warm white) and clean lens/brass housing.

### 5.1.1.4 Flooring

- a. As identified by MST for specific vehicles, RCA floor covering will be removed on identified trolleys and replaced with new matching RCA flooring. After removal of the floor covering the plywood will be inspected for damage, cracks, rotting and delaminating then repaired or replaced with marine grade plywood as necessary.

- b. The front and rear door step treads will be removed and replaced with new RCA flooring. Replace with new matching vinyl and install new marine grade plywood (as needed) along the entire vertical step riser from the passenger area up to the driver compartment.
- c. The pedestal edge shall be covered with smooth anodized aluminum or stainless steel trim molding. The vestibule shall be separated with a 3-inch wide contrasting, yellow standee line. Install new yellow hazard RCA edging at the step and wheelchair lift step(s).
- d. **As an alternative to the floor replacement (a-c)**, provide a per trolley price to strip, clean and wax and polish the entire floor areas, including the wheelchair lift steps. With exception to the metal support base(s) for passenger seats, all hardware (to the extent possible) will be removed and dirt/grime will be removed from the floor, including under seats, in corners and around vertical stanchions. The driver compartment, including around the engine shroud will also be cleaned. Contractor will take care to avoid scratching/damaging the paint and decals on the metal seat support bases. Install new yellow hazard RCA edging on the wheelchair lift step(s). Additionally, the entire inside of the trolley shall be thoroughly detailed and cleaned.

**Floor cleaning product use: American Supply: American Floor care systems; Mirror Brite, Hi-solid Acrylic Floor Finish, or recommend alternative.**

#### **5.1.1.5 Brass Handrails and Stanchions**

Clean and polish all horizontal brass rails and vertical stanchions, including horizontal brass bars in the front and rear doors. As needed, for discolored, worn or cracked plastic, remove and replace the plastic vertical stanchion covers with new heavy duty clear plastic covers on all vertical stanchions. The OEM brass trim shall be cleaned and polished to a like new condition, or replaced. All brass connector hardware shall be inspected and cleaned of any corrosion or grime and polished, or replaced.

#### **5.1.1.6 Passenger Seating**

- a. Each trolley has varying scratches or gouges on passenger seats, primarily located on the sitting portion of the seat. On seats with large gouges or scratches remove and replace wooden slats available from OEM or an aftermarket provider. Replace mounting fasteners with OEM product. **Note:** it is not the intent of MST to make the interior wood surfaces to look brand new, rather a clean appearance with minimal scratching/gouges. Any replaced wood shall be the same type wood as existing.
- b. Thoroughly clean all interior wood surfaces, including areas between seat slats and wooden window sills with a professional grade wood cleaning product, removing grime build up on and in-between seating areas and seat backs.

#### **5.1.1.7 Electronic Systems: Radio Communications, Cameras, Fare Collection and Destination Signs**

MST will remove some existing equipment including communications equipment (TransitMaster) security cameras and fare collection equipment. All wiring shall be retained and not damaged. Contractor shall not cut or remove any existing wiring associated with the removed equipment Radio, Communications, Security, Camera, Fare Collection and Destination Sign systems on the Trolley(s). Antennas and signal priority module on the roof shall not be removed.

If the Contractor cuts or removes the wiring, it is the Contractor's sole responsibility to fix the wiring and return it to like new conditions and to provide MST with information on repaired systems/wiring and specific location for MST inspection. Any wiring discovered damaged upon return of trolley(s) to MST will be promptly repaired (within two business days) by Contractor at MST's facility.

### **5.1.4 EXTERIOR/MECHANICAL - REPAIR AND REHABILITATION REQUIREMENTS**

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#### **5.1.3.1 Exterior Lights**

Replace all exterior clearance lights, including exterior step well light with matched new LED lights. All exterior lights shall be replaced with LED lights, except headlights. Dial light with a Weather Pak connector or approved equal shall be used. (Gillig Part: 51-65353-0) or approved equal.

#### **5.1.3.2 Suspension, Steering, Undercarriage**

- a. All suspension component fasteners removed shall be replaced with new OEM fasteners and torqued to OEM specifications. All front and rear suspension components shall be returned to new OEM specifications. All shock absorbers, shock absorber bushings, torque rod bushings, hardware and air springs will be replaced with new components and recondition trailing arm brackets as necessary. After all undercarriage and suspension work is complete the front and rear axles will be aligned.
- b. Replace steering gear box with remanufactured unit, replace mounting fasteners with OEM or MST approved equal.
- c. Steering column will be replaced with new OEM part. Replace U-joints, and floor seal. Power steering pump (part #25916401, with approx. 10 week lead time) will be replaced with new OEM part and have all new hoses.
- d. Kingpins and bushing kits will be replaced with new OEM parts. All drag links and tie rod ends will be inspected and replaced with new OEM parts and new kingpins installed. All other steering components will be inspected and replaced if necessary.

- e. Provide final alignment documentation and OEM Specifications. When completed the steering system shall perform like new.
- f. All corrosion shall be removed from the components of the undercarriage; areas will be treated, undercoated, painted or powder coated as originally equipped. Proper line management must be observed and contractor shall ensure any and all lines are secured and no lines are rubbing and subject to excess wear.

#### 5.1.3.4 Frame

For the engine replacement on 1902, a certified technician shall inspect the frame rail for cracks and deformation using a combination of visual inspection, dye penetrant inspection and magnafux inspection. Cracked or otherwise damaged frame rails, outriggers or other structural components will be repaired by certified welders using industry accepted practices including proper cleaning and prepping of the surface area and notching of cracks

#### 5.1.3.5 Air Compressor

Replace air compressor, OEM air dryer and air governor with new OEM models ; Air Compressor OEM Cummins Part number 5286964RX. Replace discharge tubing from compressor to dryer.

#### 5.1.3.6 Transmission

The transmission, torque converter, and retarder assembly will be replaced using a remanufactured certified Allison B300R transmission assembly. Transmission cooling system will be flushed and cleaned. Cooling system hoses will be replaced. Transmission will be filled with Transynd fluid. The transmission mountings brackets will be inspected for cracks, corrosion, and damage and replaced as necessary. All necessary repairs will be made. Mounts will be thoroughly cleaned and painted. Transmission rubber isolating mounts will be replaced with new mounts. The drive line will be inspected and balanced, the u-joints and carrier bearing replaced. The transmission will carry a 24 month/unlimited miles guarantee for parts and labor.

#### 5.1.3.7 Engine

- a. The engine on trolley 1902 is to be replaced using a remanufactured certified Cummins ISB 02 Engine. All hoses, clamps replaced per OE specs, including belts, filters, fluids, engine mounts, shall be replaced with new OEM products. **Provide warranty for 2 years with unlimited mileage.** Replace starter on 1902 with new OEM unit
- b. Radiator, charge air cooler and fan are required to be removed and inspected, reconditioned or replaced as necessary.

#### **5.1.3.8 Injectors**

Trolleys 1903 – 1906 shall have engine tune-up consisting of: Replacing all injectors, seals and o-rings on five trolleys (1903-1906). Replace with OEM injectors part number: 3949619. Replace all fuel system filters and air filter. Torque hardware to proper specifications.

#### **5.1.3.9 Emission System**

Replace EGR valves and coolers. Replace “Brick and Heater” in the Cleaire system with new units. Contractor shall inspect and test emission systems to certify CARB compliance. Provide labeling or certification to demonstrate compliance.

#### **5.1.3.10 Trolley Paint**

The Contractor shall remove exterior wood trim pieces and sand the exterior of each trolley in preparation for body paint and wood stain applications, according to industry standards. All removed wood trim pieces shall be clearly marked to allow Contractor to identified location for installation. The entire exterior body surface shall be completely cleaned, sanded, primed and sealed prior to application of paint. Replace any corrosion, or corrosion damaged body panels.

- a. All preparation, including primer, painting and clear coat work will be completed per industry standards for transit/commuter coaches and/or heavy-duty vehicles operating in a damp coastal environment.
- b. Contractor will warranty paint and workmanship for four years, including unconditional warranty on paint defects, workmanship including paint applicant, surface preparation, and corrosion removal. Paint surfaces will require removal of existing decals, with no imprint or raised surfaces, of the former decals, visible after painting.
- c. Paint defects are defined as blistering, bubbles, flaking or paint peeling. Problems with workmanship are defined as paint being applied non-uniformly and/or unevenly and other defects such as paint runs, drips, non-smooth surfaces, “orange peeling”, air bubbles and/or sags etc. All other trolley surfaces, including glass, tires, wood trim, grill and bumpers shall be free of paint spills, drips, or overspray.
- d. Prior to painting, contractor shall clean and de-grease any areas with dirt, grease/oil buildup, particularly around door and panel openings, hinges, and areas where wood trim was mounted etc. Removal of old wood trim will require a smooth and clean surface for the reapplication of replacement wood trim pieces and will require special brass covered rivets.
- e. Remove corrosion around outer edge of large roof edging area, and repair any defects, wood rot, particularly around the rear and rear side areas of the roof and repair damaged roof edging as necessary.

- f. Entire exterior body surface to be completely cleaned, sanded, primed, and sealed prior to application of final finish. Replace or repair any corrosion, or corrosion damaged body panels prior to paint.
- g. Prepare surfaces to be repainted. Repaint exterior complete to MST provided colors. Final interior and exterior surfaces shall be coated with a high quality, low volatile organic compound urethane high solids paint meeting all local, State, and Federal health and safety regulations.
- h. Decal replacement, including fleet vehicle numbers, operator name and unique trolley decals and pin stripping **is not required.** On trolleys having the entire vehicle painted, a vehicle ID number shall be installed on the roof. Each numbers shall be 24" with an underscore on the last numeral. Roof decals shall be of heavy duty/fade resistant material designed not to fade for four (4) years.
- i. **Exterior Trolley paint is as follows:**  
 Brand: Sikkens Paint  
 FLNA 6191 (Green – for exterior of trolleys)  
 FLNA 1519 (beige – for roof portion of trolleys)  
 Apply "clear coat"
- j. Use of approved equals, combining paint codes or using alternates **is not approved.** However, MST does reserve the right to allow an approved equal. MST requires a small sample of each color on approximately a 5x5inch metal surface prior to commencing any paint work. Contractor shall "overnight" samples to MST for approval.
- k. Front and rear bumpers, the front "cow catchers" shall be powder coated in a black satin finish to match current bumper. MST must approve the black color. Mirror housing/assemblies and latches shall be painted.
  - 1. Replace existing rims with new powder coated black rims.
  - 2. The wire mesh on front of trolley, above the metal bumper, will be replaced with same gauge new heavy duty wire mesh and treated with corrosion inhibitor and powder coated black.
  - 3. Refinish/polish the front exterior brass plating and lamp and apply "clear coat" finish. Refinish the brass "Optima" logo on front of trolley.
- l. The roof cap section and roof areas shall be checked for leaks, corrosion and repaired. Corrosion shall be removed and sealed as needed, damage or rot shall be repaired. Recondition the trolley bell striker plate, bell mount and brass bell.
- m. Once complete the entire trolley, trolley roof and roof cap shall be painted in designated colors. Exterior security camera housing units shall also be painted green to match the



trolley body. The green interior panel adjacent to the rear passenger door step well shall be painted green on the panel side facing the rear bench seats.

#### **5.1.3.11 Exterior Wood Trim**

- a. On trolleys that require painting the Contractor shall remove exterior wood trim pieces. Replace warped pieces as necessary.
- b. All preparation, including removal and installation of replacement trim will be completed per industry and OEM standards for trolley coaches with wood trim.
- c. Wood pieces that require replacement will be replaced with a teak, or OEM wood product, as is currently on the trolleys.
- d. Prior to reinstallation of existing wood trim, pieces shall be refinished using Sikken's Cetol SRD 250, #078 Natural, which is a protective translucent wood coating for wood surfaces.
- e. Wood pieces shall be riveted into place in the existing locations or attached per OEM industry standards/as practical given the age of the vehicles. Rivets shall be heavy duty brass capped, appropriately sized for attaching wood trim. Contractor shall apply a thin bead of caulking on any exterior surfaces where new wood trim pieces do not make a tight seal against the body of the trolley and any horizontal pieces as originally equipped/caulked. Caulking shall match wood trim pieces as closely as possible. Wood pieces shall not be glued onto the coach.

#### **5.1.3.12 Onsite Inspections**

1. An onsite vehicle inspection prior to providing a bid is required by interested firms. Expenses for the on-site vehicle inspections will be the responsibility of the bidding firm.
2. A pre-bid conference and trolley inspection will be held on November 3<sup>rd</sup> and 9<sup>th</sup> at MST's facility located at: 443 Victor Way, Salinas, CA. 93907. Participation must be confirmed in advance.
3. Attendance is required at one of the two inspection opportunities. If you are a prospective bidder and wish to attend contact: Michael Hernandez, Assistant General Manager/COO at [Mhernandez@mst.org](mailto:Mhernandez@mst.org) or 831-393-8132.
4. The purpose of this inspection is to allow firms interested in bidding an opportunity to visually inspect the trolleys. MST will answer questions about the scope of work during the inspection. MST is not obligated to provide a written response to any questions asked at the inspection. MST may choose to update the scope of work based on any inquiries, questions and clarifications at the inspection.

### 5.1.3.13 Bid Evaluation Process

1. MST shall evaluate all bids and make a selection based on the lowest total price by a qualified firm. Firms bidding are required to have a least five (5) years experience conducting similar work on transit buses, trolleys or similar vehicles.
  - a. **Firms bidding on the electric trolley (1901) must have significant knowledge and experience with high voltage, battery operated motors and electrical systems on heavy-duty transit vehicles due to the complexity of these systems. Firms shall provide qualifications/experience in their bid documents.**
  - b. **Firms with no, or limited, experience with electric vehicles may provide a bid for rehabilitation/repair work for the five diesel trolleys only.**
  - c. **MST requests bid pricing be submitted in Microsoft Excel format.**
2. As each of the six trolleys have varying amounts of work/repairs, not each trolley will receive the same amount of work and some trolleys may require more extensive repairs/work than others. **MST reserves the right to remove or add work items in the scope of work as necessary to meet budget constraints. MST may also modify the extent of work to be completed on each trolley, or remove individual trolleys from scope of work as necessary.**
3. **Timely completion of the trolleys per MST's schedule is a requirement to allow these trolleys to go into service in May 2017. Bidder timeline must reflect acceptance of this completion date in their bid documents.**
4. **MST reserves the right to reject a bid if the firm has insufficient experience, unavailable support staff, or bidder cannot meet the timeline.** If a vendor decides after reviewing the IFB that it will not provide a bid, please provide prompt notice to MST staff.

### 5.1.3.14 Reserved Right

MST reserves the right to withdraw this IFB at any time in the process prior to contracting upon notification to all vendors in receipt of the IFB documents by email or letter. If such action is taken by MST no vendor will have claim for recompense.

MST has the right to remove one or more components, or repair/work activities or vehicles from the project scope. As this project has a limited budget not each work element identified in this IFB may be completed on each trolley.

### 5.1.3.15 Pricing

1. The price shall include all items including labor, materials, tools, equipment, pickup and delivery and all other items/costs necessary to fully complete the scope of work specified in this IFB. Any additions, deletions or variations from the specifications must be noted when the quote is submitted. If a firm does not specifically identify a deviation from the specifications, it will be assumed that all requirements will be met or exceeded. MST reserves the right to reject a bid, if in its opinion a deletion or variation to the specifications is not favorable to this project.
2. **Firms with no, or limited, experience with electric vehicles may elect to provide a bid for rehabilitation/repair work for the diesel trolleys only.**
3. Bidder is required to identify pricing in the “Insert Price Per Trolley” column, for each portion of work per the example below:

**Instructions:** This is an example of a completed portion of the bid sheet.

| X = <u>Anticipated</u> repair/rehab work |          |  |                                   |                 | NA = Repair work not required   |      |      |      |      |      |
|--|----------|--|-----------------------------------|-----------------|---------------------------------|------|------|------|------|------|
| Ref #                                    | Item     | Description of Work  | Insert Price for Electric Trolley | 1901 (Electric) | Insert Price Per Diesel Trolley | 1902 | 1903 | 1904 | 1905 | 1906 |
| 5.4.4 a                                  | Flooring | a. RCA floor covering will be removed on identified trolleys and replaced with new matching RCA flooring.  | NA                                | NA              | \$2,000                         | X    | X    | X    | X    | X    |
| 5.4.4 b                                  |          | b. The front and rear door step treads will be removed and replaced with new RCA flooring.   |                                   | NA              | \$2,000                         | X    | X    | X    | X    | X    |
| 5.4.4 c                                  |          | c. The pedestal edge shall be covered with smooth anodized aluminum or stainless steel trim molding.   |                                   | NA              | \$2,000                         | X    | X    | X    | X    | X    |
| 5.4.4 d                                  |          | d. <b>As an alternative to the floor replacement (a-c),</b> provide a per trolley price to strip, clean and wax and polish the entire floor areas. | \$2,000                           | X               | \$2,000                         | X    | X    | X    | X    | X    |

### 5.1.3.16 Transportation & Insurance

Bidder will be responsible for the pick-up, delivery and transportation costs for the trolleys between the vendor and MST. Transportation costs related to returning the vehicle to the vendor, and return trip to MST, due to defective workmanship, or failure to complete work outlined in the scope of the IFB will also be the responsibility of the vendor.

MST will conduct a trolley inspection prior to delivery to MST. In the interest of time, MST may at its own discretion allow some minor defects in workmanship to be corrected at MST's bus yard by bidder or by MST staff.

Trolleys shall be transported by vendor via a "flatbed" truck, with trailer size appropriate to the trolley. Vendor shall be fully insured in the event of a full or partial loss or damage to the trolleys while the trolleys are in the vendors' possession or property, and/or during transportation.