



INVITATION FOR BIDS

AC TRANSIT DISTRICT
Purchasing Department
1600 Franklin Street
Oakland, CA 94612

SIGN AND RETURN THIS PAGE

INVITATION FOR BID (IFB) NO. 2020-1487

Date: November 4, 2019

TITLE: BRT BUS LIVERY

DO NOT INCLUDE SALES OR EXCISE TAXES in Bid prices.

ORIGINAL BIDS WILL BE ACCEPTED UNTIL 1:00 pm PDT
November 22, 2019 AT 1600 Franklin, 6th Floor, Oakland, CA
Pre-bid Conference: November 8, 2019
Questions Due: November 11, 2019

Sign and return this page. Retain Bidder's Duplicate copy for your files.

ALL BIDDERS COMPLETE THIS SECTION:

_____ **2019**

Upon execution of a Contract Acceptance form, the undersigned agrees to furnish, subject to provisions on the reverse of this form, all articles or services within the dates specified, in the manner and at the prices stated, in accordance with the advertisement, specifications, bid, special conditions and general conditions, all of which are made part of the contract bid, when authorized by Purchase Order, Contract Order, or Letter of Agreement issued by the District.

Name under which business is conducted: _____

Business street address: _____ Telephone: _____

_____ City

_____ State

_____ Zip Code

IF SOLE OWNER, sign here:

I sign as sole owner of the business named above:

Signed _____ Typed Name _____

IF PARTNERSHIP OR JOINT VENTURE, sign here:

The undersigned certify that we are partners in the business (joint venture) named above and that we sign this contract bid with full authority to do so (one or more partners sign):

Signed _____ Typed Name _____

Signed _____ Typed Name _____

IF CORPORATION, sign here:

The undersigned certify that they sign this invitation for bid with full authority to do so:

Corporate Name: _____

Signed _____ Typed Name _____ Title _____

Signed _____ Typed Name _____ Title _____

Incorporated under the laws of the State of _____

GENERAL CONDITIONS, INSTRUCTIONS AND INFORMATION FOR BIDDERS

1. EXPLANATIONS, CLARIFICATIONS AND CHANGES

Bidders shall request any explanation, clarification or changes to specifications in writing. Any reply and/or change to specifications will be made by written addendum which shall become a part of the bid documents.

2. BID SUBMISSION

To receive consideration, bids must be delivered prior to the date and time for bid opening. All bids shall be in a sealed envelope properly endorsed as to the bid number and opening date. Submission of a bid shall constitute a firm offer to the District for one hundred and twenty (120) days from the last day for receipt of bids.

Unauthorized conditions, limitations or provisos attached to a bid will render it non-responsive and may cause its rejection. No telegraphic or facsimile bids or modifications will be considered unless otherwise stated.

A bidder may withdraw their bid prior to bid opening, without prejudice, by submitting a written request for its withdrawal to the Contracts Specialist. The Bidder must be able to identify its Bid, show proper identification, and show proper authorization to withdraw the Bid.

At the hour specified in the notice, the District will open, examine and publicly declare all bids received. Bidders, their representatives, and others interested, are invited to be present at the opening of bids. Awards will be made, or bids rejected by the District within a reasonable time after bids have been opened.

3. APPROVED EQUALS

When the name of a manufacturer (i.e. 3M Brand), brand or make, with or without a model number, is used in describing any item in this document, bids for similar articles will be considered unless otherwise stated. The District shall be the sole judge whether such alternate articles are acceptable. Unless the Bidder states to the contrary, articles offered are assumed to be the specific articles named in this document and that articles offered are in accordance with the specifications. If not offering the specific articles named, Bidder should enclose with bid full information, specifications and descriptive data on items offered. The District reserves the right to permit deviations from the specifications if any article offered is substantially in accord with the specifications and is deemed by the District to be as good quality and as fully satisfactory for its intended use as an article fully meeting specifications.

4. CONDITION OF ARTICLES

Articles offered and furnished must be new and previously unused and of manufacturer latest model unless otherwise specified herein.

5. TAXES

The supplies, materials or equipment called for under the specifications will be used by the District in the performance of a governmental function and are exempt from taxation by the United States Government.

Unless otherwise stated, Bidder shall exclude applicable California State and local sales or use taxes in the total price in his bid. Said tax, wherever applicable, will be paid by the District to the Bidder, if licensed to collect same, or otherwise directly to the State.

6. AWARD AND REJECTION OF BIDS

The District may reject any and all bids, may waive any minor irregularities or informalities in any bid or in the bidding procedure, and must reject a bid of any party who has been delinquent or unfaithful in any former contract with the District. If an award is made, it shall be made to the lowest responsible Bidder.

7. DELIVERIES

FOB destination in Oakland, freight prepaid and allowed. Unless otherwise stated in the specification or bid forms, Bidder shall include freight or delivery charges in the total price in its bid.

8. SEPARATE ITEMS OR IN THE AGGREGATE

Any bidder may bid separately for any item unless otherwise provided. The District may make awards on separate items/services or in an aggregate of several or all items unless otherwise provided.

9. CASH DISCOUNTS

Cash discount (discount for prompt payment) will be taken into consideration in determining the low bid under the following conditions:

- Discount period must be at least 30 days.
- The discount period will start on the date of completion of delivery of all items on any Purchase Order or other authorization or upon date of properly prepared invoices covering such deliveries, whichever is later.
- Payment is deemed to be made, for the purpose of claiming the discount, on the date of mailing the District warrant or check.

10. ACCEPTANCE, BILLING AND PAYMENT

Acceptance by the District of any equipment, supplies, or materials furnished under the contract to be awarded shall occur only subsequent to the final inspection by authorized employees of the District. Defective or non-conforming equipment supplies, or materials shall be rejected by the District and the contract price adjusted accordingly unless acceptable replacement is made.

Invoices shall be rendered in triplicate to accountspayable@actransit.org AC Transit District, 1600 Franklin, Oakland, California 94604. Invoices shall include all applicable state, city and special district sales taxes at time of delivery. Invoices shall identify the Contract and Purchase Order Numbers. Unless otherwise stated, the District will make payment within thirty (30) days of the date of completion of delivery of all items on any Purchase Order or other authorization or upon date of properly prepared invoices covering such deliveries, whichever is later.

11. WARRANTY OF TITLE

The Bidder warrants and agrees that title to all materials and equipment furnished under this contract and accepted by the District will pass to the District free and clear of all liens, claims, security interests or encumbrances.

12. PERFORMANCE WARRANTY

Bidder shall supply his standard warranty(ies) on defects in workmanship and material applicable to the materials, supplies or equipment furnished hereunder. The standard warranties should be no less than the minimum requirements stated in the Specifications and Scope of Work. All warranties to commence after acceptance of delivery by the District unless otherwise stated. It is understood and agreed that the District does not waive any warranty either expressed or implied or any liability of the manufacturer or Bidder as may be determined by a decision of any court of the State of California or the United States.

13. INDEMNIFICATION

Bidder shall defend, indemnify, keep and save harmless the District, its Board of Directors, officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, expense, costs (including, without limitation, costs and fees of litigation) of every nature arising out of or in connection with Bidder performance of work hereunder or its failure to comply with any of its obligations contained in the Agreement, except such loss or damage caused by the sole negligence or willful misconduct of the District. To the extent the supplies, materials or equipment are not manufactured in accordance with the District's designs, the Bidder shall defend, indemnify and hold harmless the District, its employees, its contractors and other users of the supplies, materials and equipment from and against any claim of damages, infringement of patent rights and expenses.

14. TERMINATION AND TERMINATION FOR CONVENIENCE

In the event the Bidder fails to perform any of his obligations under this contract, this contract may be terminated effective after 10 days written notice and all of Bidder's rights hereunder ended. No new work will be undertaken, and no new deliveries will be made after the date of receipt of such notice.

The District may terminate this Agreement for the District's convenience and without cause at any time by giving Bidder written notice of termination. In the event of termination, Bidder will be paid for those services performed or deliveries made pursuant to this Agreement to the satisfaction of the District up to the date of termination. In no event will the District be liable for costs incurred by Bidder after receipt of notice of termination.

15. NON-DISCRIMINATION

In connection with the execution of any Contract hereunder, the Bidder shall not discriminate against any applicant or employee on the grounds of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sexual orientation, sex or age as defined in Section 12926 Government Code.

16. GOVERNING LAW

This contract shall be governed by the laws of the State of California.

17. PROHIBITED INTERESTS

By submitting a bid, the Bidder represents and warrants that neither the General Manager nor any Director, officer, employee of the District is in any manner interested directly or indirectly in the bid or in the contract which may be awarded under it, or in any expected profits to arise therefrom (State of California Government Code Section 1090 et Seq.). No member, officer or employee of the District, during his/her tenure or for one year thereafter, shall have an interest, direct or indirect, in this Contract or the proceeds thereof.

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SPECIAL CONDITIONS

1. GENERAL INFORMATION

- A. The General Conditions, Specifications and Special Conditions are intended to be complementary and to describe and provide for a complete work. If there are inconsistencies or discrepancies between provisions contained in Special Conditions and Specifications shall govern over the General Conditions.

The Alameda-Contra Costa Transit District is the third largest public bus system in California, covering a 364-square mile service area. The District operates 156 bus lines with an average annual ridership of 51,760,000 million trips.

Bus rapid transit (BRT) is a new and innovative service that is a sub-brand of AC Transit and will be launching in the East Bay in late 2019 or possibly in early 2020. This type of service is often called "light rail on wheels" because it brings the frequency and reliability of light rail to the bus rider without having to lay down the infrastructure required for rail transit. AC Transit's BRT service will run the 9.5-mile corridor from downtown Oakland to San Leandro BART, connecting people and places more efficiently.

The hybrid diesel, double-sided door, high-capacity vehicles used in this service will differ significantly from AC Transit's regular fleet and need to be branded uniquely to reflect the distinction in rider experience. Vehicles will travel in bus-only lanes bypassing traffic congestion and, like trains, will have doors on both the left and the right sides to allow passengers to board at either curb or median stations along the route.

The livery design for the twenty-seven (27) 60-foot articulated BRT vehicles will be executed by a combination of an existing paint scheme and a partial vinyl wrap that covers between 75 and 90 percent of the body, including contoured design elements over the windows.

- B. Pre-Bid Conference

The purpose of the Pre-bid conference is to address questions pertaining to the solicitation documents, to familiarize all Bidders with the vehicles and the work site, and to discuss the District's timeline and other requirements. Attendance at Pre-bid conference is optional but highly recommended.

A pre-bid conference will be held prior to the date of the questions being due. The conference will take place on **November 8, 2019, 1:00 Pacific Time**, at the Training and Education Center located at **20234 Mack Street, Hayward CA**.

- C. Bid Submission

The District intends to initiate a contract for the production, installation and reorder of bus wraps for the BRT busses.

To be considered: **One (1) original copy of the bid must be received by 1:00 PM. local time on November 22, 2019** at 1600 Franklin, 6th Floor, Oakland, CA 94612 Subject: IFB 2020-1487.
Bids received after the deadline or delivered to a different location will not be accepted.

All Bids should be clearly marked: BRT Bus Livery.

Bids not received by the designated time will not be considered for award.

2. CORRESPONDENCE

All correspondence must show INVITATION FOR BIDS 2020-1487. Questions prior to bid due date shall be directed to msilk@actransit.org. Questions, requests for approved equals shall be submitted by **November 11, 2019**.

3. REQUIRED DOCUMENTS

Bidders must submit all required forms, specifically:

- Bidder's Statement of Qualifications and Reference Questionnaire (Attachment A)
 - Organizational Chart
 - Abbreviated Resumes

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- Bid Form (Attachment B)
- Prime Contractor & Subcontractor/Supplier Report (Attachment C)
- Buy America Certificate (Attachment D)

Please review the remaining Exhibits to this solicitation:

- Exhibit A- Sample Contract
- Exhibit B- Insurance Requirements
- Exhibit C- Federal Terms and Conditions

4. TYPE OF CONTRACT

This solicitation will result in a Firm-Fixed Price (FFP) contract. All Bidders shall bid firm fixed unit cost amounts for the complete scope of work in the technical specification listed below.

5. STATEMENT OF EXPERIENCE AND QUALIFICATIONS

Bidder's Statement of Qualifications and Reference Questionnaire.

- All Bidders must submit the "Bidder's Statement of Qualifications and Reference Questionnaire" (Attachment A).
- Provide an organizational chart that identifies the proposed client management team. Provide the firm's size, number of employees, primary type of business, other affiliated businesses or services.

6. COST AND PRICING DATA

In the event there is only one (1) bid, cost and pricing data shall be submitted to the District by the Bidder.

7. CONTRACT AWARD

It is the intent of the District to make an award within fifteen (15) days after bid opening to the lowest responsive and responsible Bidder. Award may be made by individual item or in an aggregate, whichever is most advantageous to the District.

8. MODIFICATION OF AGREEMENT

This solicitation may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

9. EXCEPTIONS TO SAMPLE CONTRACT

If a Bidder desires any modifications to the Sample Contract (Exhibit A) these exceptions must be submitted for consideration with the Bid. Otherwise, the Bidder will be deemed to have accepted the form of Contract without modification. Attention is directed in particular, to the Indemnification and Insurance requirements.

10. CONTRACT PERIOD

The term of the resulting contract shall be for forty-eight (48) months from the date of the fully executed contract.

11. PRICE

Price(s) quoted by Bidder shall be firm for one hundred twenty (120) calendar days.

12. QUANTITIES

The quantities listed on the *Bid Form and in the Technical Specifications shall be used*. The Alameda Contra-Costa Transit District does not guarantee, either expressed or implied, to purchase these quantities, but the right is reserved to purchase any greater or lesser quantities. Bidder shall be bound to the prices on the submitted Bid Form for the duration of the contract term.

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13. DELIVERY

Award of this contract is contingent upon Bidder's ability to timely deliver the services as contracted, as outlined in the *Technical Specifications*. The services and goods shall be delivered to the District-designated location identified in Paragraph 14 "Location" of this solicitation, or such other location as may be mutually-agreed upon from time-to-time. Cost of delivery is deemed included in the Total Proposed Cost. Any incidental services to be performed at the place of delivery shall be completed by the delivery date listed in the *Technical Specifications*, unless otherwise agreed upon in writing. Any additional fees for such services shall be delineated in writing and agreed upon, in writing, by both parties.

In the event of breach of this clause, the District reserves the right to: (a) terminate this Agreement without liability by giving an immediate notice and to charge the Bidder with any loss incurred as a result of the Bidder's failure to make the delivery within the time specified; or (b) charge a penalty of one-tenth percent (0.1%) of the total contract price for every day of delay or breach of the delivery schedule by the Bidder.

14. LOCATION:

The BRT busses are located at the following address. Services and delivery will be at this location unless mutually agreed upon by both parties following contract award:

AC Transit District
Training and Education Center
20234 Mack Street
Hayward CA 94545
Monday – Friday, 7:00 a.m. to 2:00 p.m.

15. BRAND, MANUFACTURER OR PRODUCT NAMES

Whenever brand, manufacturer or product names are indicated in these specifications, they are included **ONLY** for the purpose of establishing identification and a general description of the item. Whenever such names appear, the term, "or Approved Equal" is considered to follow. Specifying a brand name, components and/or equipment in the specification shall not relieve the Bidder from his/her responsibility to produce the product in accordance with the warranty and contractual requirements.

The Bidder is responsible for notifying the District of any inappropriate brand name, components and/or equipment that may be called for in the specification, and to propose a substitute for consideration.

16. INSURANCE

See Exhibit B

17. EQUAL OPPORTUNITY/NON-DISCRIMINATION

It is the policy of the District to ensure non-discrimination in the award and administration of all contracts and to create a level playing field on which minority and small/local business can compete for all District contracts. In connection with the performance of this contract, the Bidder will cooperate with the District in furthering the District's policy.

18. CHANGES BY DISTRICT

In case work, materials, or equipment shall be required which are not mentioned, specified or indicated, or otherwise provided for herein, the Bidder shall, if ordered in writing by the Procurement and Materials Director, do and perform such work and furnish such materials or equipment at the Bidder's fair market prices, less discounts ordinarily allowed to users of such materials or equipment or at regular labor charges less customary discount, or both.

In case any work, materials or equipment which are mentioned, specified or indicated, or otherwise provided for in the contract or in the specifications forming a part of the contract shall be required to be omitted from, in or about the work, the Bidder shall, if ordered by the Procurement and Materials Director, omit the performance of such work and the furnishing of such materials or equipment. A deduction shall be made from the amount to be paid to the Bidder in an amount which the District and Bidder shall determine and mutually agree to be the reasonable value of such work, materials or equipment, and such determination and agreement shall be final and conclusive upon the Bidder.

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It is understood, however, that the amount of work, materials, or equipment required by the contract shall not, in accordance with the above provisions referring to additions and omissions, be increased or diminished so as to substantially alter the general character or extent of the contract.

19. DAMAGES

All loss or damage arising from any unforeseen obstruction or difficulties, either natural or artificial, which may be encountered in the prosecution of the work, or the furnishing of the supplies, materials, or equipment; or from any action of the elements prior to the final acceptance of the work or of the supplies, materials, or equipment; or from any act or omission not authorized by these specifications on the part of the Bidder or any agent or person employed by it, shall be sustained by the Bidder.

20. ASSIGNMENT

The Bidder shall not assign, transfer, convey, sublet, or otherwise dispose of the contract or its right, title, or interest in or to the contract or any part of it without obtaining in advance the written consent of the Procurement and Materials Director. The written consent must appear on the contract or be attached to it.

21. NON-COLLUSION AFFIDAVIT

By submitting a bid, the Bidder represents and warrants that such bid is genuine and not a sham, or collusive, or made in the interest or in behalf of any person not herein named, and that the Bidder has not, directly or indirectly, induced or solicited any other Bidder to put in a sham bid, or any person, firm or corporation to refrain from bidding, and that the Bidder had not in any manner sought by collusion to secure the Bidder an advantage over any other bidder.

22. PENALTY FOR COLLUSION

If, at any time, it shall be found that the person, firm or corporation to whom a contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties, then the contract so awarded shall be null and void and the Bidder and its bondsmen shall be liable to the District for all loss or damage which the District may suffer thereby and the Procurement and Materials Director advertise for a new Bidder for said labor, supplies, materials, or equipment.

23. CONFLICTS OF INTEREST

- A. No Board member, officer, or employee of the District during his/her tenure or for one (1) year thereafter, shall have any interest direct or indirect, in the Contract or the proceeds thereof.
- B. By signing this Contract, the Bidder covenants that it presently has no interest, direct or indirect, that would conflict in any manner or degree with the performance of the services called for under this contract. The Bidder further covenants that in the performance of this contract, the Bidder shall employ no person having such interest, and that the Bidder receives no such commissions or any other payments from parties other than the District as a result of work performed hereunder.
- C. Failure to comply with this provision serves as a basis for termination for default and the collection of any damages.

24. RIGHTS AND REMEDIES OF THE DISTRICT

The rights and remedies of the District provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.

25. PROTEST PROCEDURES

Copies of the District's Procurement Protest Procedures can be obtained online at <http://www.actransit.org/about-us/board-of-directors/board-policies/> OR REQUESTED FROM THE Contracts Specialist. Failure to comply with any of the requirements set forth in the district's written protest procedures may result in rejection of the protest.

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26. WAIVER

The Bidder shall represent and warrant that it has sufficiently informed itself in all matters affecting the performance of the work or the furnishing of the labor, supplies, material, or equipment called for in the specifications; that it has checked its bid for errors and omissions; that the prices stated in its bid are correct and as intended by it and are a complete and correct statement of its prices for performing the work or furnishing the labor, supplies, materials or equipment required by the contract documents. The Bidder waives any claim if errors or omissions claimed to have been made by them in their bid, or any other reason they refuse or fail to execute the contract.

27. BID DOCUMENTS

The bid documents are considered the complete submission. The General Conditions, Scope of Work, Specifications, Addenda and Bid Form shall control if there is any conflict between these and any printed brochures, manuals, and other documents that may be submitted by the Bidder.

28. VENDOR REGISTRATION

An online AC Transit Vendor Registration is required prior to contract award. To register, follow this url <http://www.actransit.org/purchasing/acpronet/?page=register>. To complete the process, include a W-9, Request for Taxpayer Identification Number and Certification - containing original signature - in bids. If online access is not available, contact the Purchasing Department for instructions.

[END OF SPECIAL CONDITIONS]

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Technical Specifications

1. Purpose

These specifications prescribe minimum acceptable requirements for the BRT Bus Livery. The absence of specifications regarding detail implies that the best general practice will prevail, and that first quality material and workmanship are to be used.

2. Conformity

All units or parts not specified shall be manufacturer's standard units. In all cases, material must be furnished as specified, but if the term "Approved Equal", is used, the District's Procurement and Materials Director, or his designee, must approve any material or equipment substituted for specified material or equipment.

Each vehicle wrap shall be delivered as a complete functional unit ready for operation, including all accessory items as may be required for the type of service herein specified. No advantage shall be taken by the Bidder if there are omissions in this specification of components, parts or installations, which are essential to the proper complete and safe operation of the equipment.

3. Submission with Bid

Bidders shall submit with their bid, Manufacturer's Specifications or literature covering the vehicle wraps and/or accessories or equipment offered to meet the requirements of this specification.

4. Scope of Work:

To be eligible, Bidder's bid must reflect itemized pricing to complete all three of the tasks detailed below. The tasks must be completed according to the timeline that is referenced for each.

1. Production: Decal production for twenty-seven (27) articulated buses.
2. Installation: Decal installation for twenty-seven (27) articulated buses.
3. Cataloging System: Development of a cataloging system for reordering segments of decal wraps to be used for repairs; This must be itemized in a matrix by part number. Plus one additional "repair kit" of decals to be delivered to AC Transit by 12/15/19 but not installed.

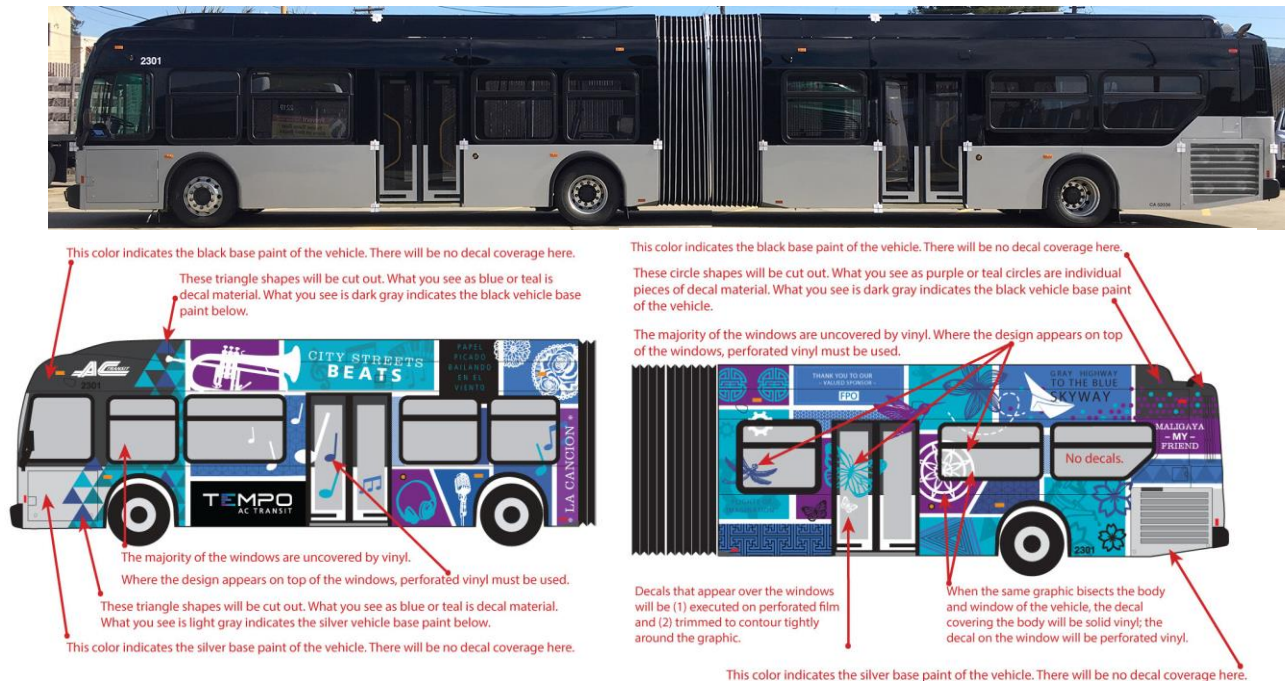
A. Task 1 - Decal Production:

Vendor will need to execute the production and installation of large-format decals to supplement the underlying paint scheme of the vehicle. Output must be able to accommodate the detailed imagery used in the design and must have a minimum resolution of 200 dots per inch. Decals will be installed over both the body and windows of the vehicle and must be executed to seamlessly match between solid and perforated material as the imagery transitions between substrates. Decals installed over the windows will be produced on 70/30 perforated material and must be contoured to the outline of the artwork as specified by AC Transit. Note that this is not a full wrap.

Materials used must be comparable to a 3M Anti-Graffiti or an approved equal, with a warranty ensuring that the material will not fade, buckle or peel for five (5) years following installation. Vendor shall be responsible for any material or installation defects, paint or vehicle damage due to negligence or improper use of materials. Vendor will be required to reinstall any wrap or portion thereof that does not meet the approval of AC Transit's project manager. Vendor will be required to provide color production proofs—printed on the materials being used—to AC Transit for review and approval prior to production. The original production run of materials to outfit the twenty-seven (27) articulated buses must be executed in accordance with the mandatory timeline under the "Deliverables" section below.

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Vehicle base paint:



B. Task 2 - Decal Installation:

Decal installation must be done by the vendor or a subcontractor onsite at one of AC Transit's facilities in the East Bay (1100 Seminary Avenue; Oakland, California or 1758 Sabre Street; Hayward, California). Installation must be scheduled in advance through a representative of AC Transit. Evening and/or weekend hours will be necessary to meet our deadlines. Working days may exceed 8 hours to meet our deliverable dates. Pricing must account for additional shifts of installers if necessary. Bidders must submit pricing based on meeting the deadlines detailed in the mandatory timeline under the "Deliverables" section below. Any costs incurred for shipping of materials, travel, lodging and incidentals of installation crew, or other related costs, must be incorporated into the Bidder's pricing.

C. Task 3- Cataloging System:

Once production of the initial twenty-seven (27) wraps is completed, the Bidder will segment the artwork file into six to eight (6-8) sections each per street side and curbside portions of the bus; two to four (2-4) segments each per front and back for future repair needs. Bidder must submit a description of how the portions of the wrap will be segmented for repair and create a web-based cataloging system featuring a matrix of individual line item pricing. Each component shall be assigned a "part number;" priced reflecting production, shipping and installation costs; and made available for efficient re-orders by AC Transit Maintenance staff. In addition to the production of the initial twenty-seven (27) bus wraps, one (1) additional full wrap kit will be produced and sent to AC Transit, segmented as referenced above.

Production and installation of any subsequent repair requests need to occur within a 2-week timeframe of when each order is placed by AC Transit. Repair decals shall not be printed until each order is placed by AC Transit. Decals shall not be pre-printed and housed in inventory.

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5. Deliverables:

- A. Based on the timeline detailed below, provide a price quote for the production and any freight or shipping costs of decals for twenty-seven (27) 60-foot articulated buses with 75 to 90 percent coverage of the vehicle, including windows. Materials delivery will be to the AC Transit facility in Hayward, California as referenced in the Special Conditions section 14 "Location".
- B. Based on the timeline detailed below, Bidders shall provide a price quote for the installation of decals for twenty-seven (27) 60-foot articulated buses with 75 to 90 percent coverage of the vehicle, including windows. Installation will occur at the AC Transit facility in Hayward, California as referenced in the Special Conditions section 14 "Location".
- C. Bidders shall provide a price quote for costs to (a) produce and ship one (1) additional segmented decal kit to AC Transit in December 2019, (b) the development of a web-based cataloging system for repair re-orders and (c) a pricing matrix itemizing per-unit costs for the production and installation of sixteen to twenty-four (16-24) segmented decals to be used in future repair requests. This matrix should be set up in the format reflected below.

Item number	Description	Cost for decal production, shipping, and installation
-------------	-------------	---

6. Timeline:

AC Transit has set-up an aggressive timeline (tentative) for the completion of this project, **the timeline of which includes the Thanksgiving-New Year's holidays**. Bidder should be sure to include any applicable costs for overtime or holiday pay as necessary to achieve the timepoints detailed below.

December 3, 2019	Kickoff meeting with the vendor and AC Transit project manager
November 4, 2019	AC Transit to release art files to the vendor
November 6, 2019	Receipt of tangible production proofs on correct materials from the vendor
November 28, 2019	THANKSGIVING
November 29, 2019	Approval of production proofs by AC Transit
By December 13, 2019	Production of 27 vehicle wraps + "repair kit"
Week of December 16, 2019	Installation of a minimum* of 10 vehicle wraps— <i>which may need to include evenings and weekends to meet deadline</i>
Week of December 23, 2019	Installation of a minimum* of 3 additional vehicle wraps— <i>which may need to include evenings and weekends to meet deadline</i>
December 25, 2019	CHRISTMAS
Week of December 30, 2019	Installation of a minimum* of 4 additional vehicle wraps— <i>which may need to include evenings and weekends to meet deadline</i>
January 1, 2020	NEW YEAR'S DAY
Week of January 6, 2020	Installation of the remainder of the 27 vehicle wraps
January 11, 2020	27 buses wrapped and ready to go into service

*If vendor has the capability, they may install additional wraps. However, this number is the minimum requirement, based on the terms of this scope.

(End of Technical Specifications)

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ATTACHMENT A

BIDDERS STATEMENT OF QUALIFICATIONS & REFERENCE QUESTIONNAIRE

- A. Bidder Name: _____
- B. How many years has your organization been in business as a Contractor under your present business name?
- C.
 - 1. As a general contractor? _____
 - 2. As a subcontractor? _____
- D. 3-Year Annual Gross Receipts

Year:	Year:	Year:
\$	\$	\$

- E. Give information below about all your current and ongoing projects. (Attach additional sheets if necessary.)

Client	Location (city/state)	Type of Work	Value of Work	Percent Completed of Overall Project	Scheduled Completion Date

- F. List all key projects your organization has completed similar in nature to the scope of services outlined in this solicitation during at least the last three (3) years in the following tabulation.

Client	Location (city/state)	Type of Work	Value of Work	Year Started	Year Completed

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(Attach additional sheets if necessary.)

- G.** Give information below about the relevant experience of the principal individuals of your present organization including those individuals to be in responsible charge of this project. Attach additional sheets if necessary.

Individual's Name	Title	Years of Professional Experience	Type of Work

- H.** References: List Professional references for who your organization has performed work similar in nature to the scope of services outlined in this solicitation. *Do not list AC Transit as a reference.*

Business Name	Contact Person	Phone	Email

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(Attach additional sheets if necessary)

I. Have you or your organization, or any officer or partner thereof, failed to complete a contract? No Yes
If yes, please explain below. Attach additional sheets if necessary.

J. Is any pending litigation or adverse findings against your organization? No Yes If yes, please explain below. Attach additional sheets if necessary.

(End of Attachment A)

BRT BUS LIVERY

Attachment B- Bid Form

To be eligible, the firm's bid must reflect itemized pricing that includes all three of the components detailed below:

Deliverables	Description	Proposed Price
A	Production and any freight or shipping costs of decals for twenty-seven (27) 60-foot articulated buses with 75 to 90 percent coverage, plus the production of one additional "repair kit" of decals to be delivered to AC Transit by 12/15/19 but not installed.	\$ _____
B	Cost of installation of decals for twenty-seven (27) 60-foot articulated buses with 75 to 90 percent coverage of the vehicle, including windows.	\$ _____
C	Cost to (a) produce and ship one (1) additional segmented decal kit to AC Transit in December 2019, (b) the development of a web-based cataloging system for repair re-orders and (c) a pricing matrix itemizing per-unit costs for the production and installation of sixteen to twenty-four (16-24) segmented decals to be used in future repair requests.	\$ _____
Total Bid		\$ _____

(End of Attachment B)

BRT BUS LIVERY

**ATTACHMENT C
PRIME BIDDER & SUBCONTRACTOR/SUPPLIER REPORT**

Complete All Sections of Form and Return With Bids

The Bidder is required to complete the following information in accordance with the provisions of Public Contract Code Sections 4100 to 4113, inclusive. This list and information shall include **prime contractor and all suppliers and subcontractors** that will perform work, provide labor, or render services in connection with the project in an amount in excess of **one-half of one percent (0.5%)** of the total amount of Bidder's Grand Total Bid Price.

Prime/Subcontractor/Supplier Name/Address/Contact Information	Type of Work or Materials	Value of Work & Materials (complete both below items)	DBE/SBE UTILIZATION	Annual Gross Receipts List annual gross receipts for last three years (i.e. 2018, 2017, 2016)
Prime Contractor: Address: Contact Person: Phone: Email: How Many Years In Business: DIR Registration #: License No (if applicable):		Percentage (%) Dollar Value (\$)	Is Prime Contractor: DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Applicable <input type="checkbox"/> If DBE or SBE, include the following: Certifying Agency: _____ _____ Certification No.: _____ Certification Date: _____ Expiration Date: _____	
Subcontractor/Supplier: Address: Contact Person: Phone: Email: How Many Years In Business: DIR Registration #: License No (if applicable):		Percentage (%) Dollar Value (\$)	Is Subcontractor or Supplier: DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Applicable <input type="checkbox"/> If DBE or SBE, include the following: Certifying Agency: _____ _____ Certification No.: _____ Certification Date: _____ Expiration Date: _____	
Subcontractor/Supplier: Address: Contact Person: Phone: Email: How Many Years In Business: DIR Registration #: License No (if applicable):		Percentage (%) Dollar Value (\$)	Is Subcontractor or Supplier: DBE <input type="checkbox"/> SBE <input type="checkbox"/> Not Applicable <input type="checkbox"/> If DBE or SBE, include the following: Certifying Agency: _____ _____ Certification No.: _____ Certification Date: _____ Expiration Date: _____	

BRT Bus Livery

Attachment D
Buy America Certificate

(Steel, Iron or Manufactured Products)

SELECT AND COMPLETE ONLY ONE OF THE FOLLOWING CERTIFICATIONS IF NOTIFIED BY THE DISTRICT:

A. Certificate of Compliance with U.S. Code Title 49, Section 5323(j)(1)

The Bidder hereby certifies that it will meet the requirements of U.S. Code, Title 49, Section 5323(j)(1) and the applicable regulations in Title 49 Code of Federal Regulations Part 661.

_____ Firm Name
_____ Signature of Authorized Official
_____ Name and Title of Authorized Official
_____ Date

B. Certificate of Non-Compliance with U.S. Code Title 49, Section 5323(j)(1)

The Bidder hereby certifies that it cannot comply with the requirements of U.S. Code, Title 49, Section 5323(j)(1), but it may qualify for an exception pursuant to U.S. Code, Title 49, Section 5323(j)(2)(B) or (j)(2)(D) and the regulations in Title 49 Code of Federal Regulations Part 661.7.

_____ Firm Name
_____ Signature of Authorized Official
_____ Name and Title of Authorized Official
_____ Date

(End of Attachment D)

BRT Bus Livery

Exhibit A
SAMPLE CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____ 2019 by, and between ALAMEDA CONTRA COSTA TRANSIT DISTRICT (hereinafter referred to as "District"), a special transit district established pursuant to California Public Utilities Code, Section 24501 et seq., and _____ (hereinafter referred to as "Bidder").

THE PARTIES AGREE AS FOLLOWS:

1. SCOPE OF WORK

Bidder shall furnish to the District all labor, equipment, supplies, material and services as specified in and in full accordance with the Contract Document issued by the District titled:

2020-1487 BRT Bus Livery

2. COMPONENT PARTS

This Contract shall consist of the following documents, each of which is on file with the District, and is incorporated into and made a part of the Contract by reference:

- A. This Contract
- B. Invitation for Bid No. 2020-1487 and any Addenda thereto
- C. Bidder's submitted Bid Form dated November 22, 2019.

3. PERIOD OF PERFORMANCE

Services under this Contract shall commence upon execution of the contract by both parties and continue for the eight months (8) from November 27, 2019 through May 31, 2020. Bidder shall not be held liable for delays resulting from problems of scheduling on the part of the District.

4. CONTRACT PRICE

The District agrees to pay the Bidder in accordance with the fixed rates on the submitted bid forms with a not to exceed (NTE) amount of \$_____ for the eight (8) month period of this agreement. This amount shall include costs for materials, shipping, taxes fees and any other costs necessary to provide the production, delivery and installation of the bus livery.

The District and the Bidder must mutually agree upon any adjustments in payment. Invoices should be submitted by the Bidder in accordance with the delivery schedule of the contract to AC Transit Accounts Payable, 1600 Franklin, Oakland, CA 94612. **Please reference the Contract Number and the Purchase Order Number on the invoice.**

5. NOTICES

Any notice which may be required under this Contract shall be in writing, shall be effective when received, and shall be given by personal service or by certified or registered mail, return receipt requested, to the addresses set forth below or to such other addresses which may be specified in writing by the parties to this Contract.

DISTRICT:

Alameda Contra-Costa Transit District
Director of Procurement
1600 Franklin Street
Oakland, California 94604

BIDDER:

[Business or Organization Name]
[Contact Person]
[Address]

BRT Bus Livery

Exhibit A continued
SAMPLE CONTRACT

6. **ATTORNEY'S FEES**

In the event that it becomes necessary for either party to bring a lawsuit to enforce any of the provisions of the Contract, the parties agree that the court having jurisdiction over such dispute shall have the authority to determine and fix reasonable attorney's fees to be paid to the prevailing party.

7. **SEVERABILITY**

If any provision of the Contract is declared void or unenforceable, such provision shall be deemed severed from this Agreement, which shall otherwise remain in full force and effect.

8. **BINDING EFFECT**

All of the terms, provisions and conditions of the Contract hereunder shall be binding upon and inure the parties hereto and their respective successors, assigns and legal representatives.

9. **CONFLICT OF INTEREST**

By signing this Contract, The Bidder covenants that it presently has no interest direct or indirect, which would conflict in any manner of degree with the performance of the services called for under this agreement. The Bidder further covenants that in the performance of this agreement, no person having any such interest shall be employed by the Bidder, and the Bidder receives no commissions or other payments from parties other than the district as a result of work performed hereunder.

10. **PREVAILING WAGES**

The successful Bidder and each of its subcontractors shall pay to all workers in connection to the Contract, prevailing wages as determined by the Director of the State Department of Industrial Relations or set out in the wage determination of the U.S. Secretary of Labor, *whichever is higher*. Pursuant to Section 1773 of the State Labor Code, the District has obtained from the Director of the State Department of Industrial Relations (<https://dir.ca.gov>) the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the Scope of Work is to be performed. The wage determination of the U.S. Secretary of Labor (<https://beta.sam.gov/search?index=wd>) is attached hereto. For a craft or classification not shown on the general prevailing wage determinations, Contractor may be required to pay the wage rate of the most closely related craft or classification shown in such determinations for Contract Work or request a wage determination from the State Department of Industrial Relations for the craft or classification.

A. Contractor/General Requirements

1. The successful Bidder shall comply with federal (*McNamara-O'Hara Service Contract Act, The Davis-Bacon and Related Acts (DBRA), the Contract Work Hours and Safety Standards Act (CWHSSA), The Copeland "Anti-Kickback" Act, the Walsh-Healey Public Contracts Act*) and state (*Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720 and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000*) prevailing wage laws, for any "public works" (as that term is defined in the statutes) performed on the Project funded by this Agreement. For purpose of compliance with prevailing wage law, the Bidder shall comply with provisions applicable to the District. Compliance with state prevailing wage law includes without limitation: payment of at least prevailing wage as applicable; overtime and working hour requirements; apprenticeship obligations; payroll recordkeeping requirements; and other obligations as required by law.
2. The successful Bidder shall certify to the District on each request for payment, that prevailing wages were paid to eligible workers who provided labor for public works covered by the payment request and that the Bidder and all subcontractors complied with prevailing wage laws. Prior to the release of any retained funds under this Agreement, the successful Bidder shall submit to the District a certificate signed by the Contractor and all subcontractors performing public works activities stating that prevailing wages were paid as required by law.

B. Flow-down Requirements

The successful Bidder shall ensure that all agreements with its subcontractors to perform work related to this Program contain the following provisions:

BRT Bus Livery

1. Contractor shall comply with federal (*McNamara-O'Hara Service Contract Act, The Davis-Bacon and Related Acts (DBRA), the Contract Work Hours and Safety Standards Act (CWHSSA), The Copeland "Anti-Kickback" Act, the Walsh-Healey Public Contracts Act*) and state (*Chapter 1 of Part 7 of Division 2 of the Labor Code, commencing with Section 1720 and Title 8, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000*) prevailing wage laws, for all construction, alteration, demolition, installation, repair or maintenance work over \$1,000.00 performed under the contract. Contractor's obligations under prevailing wage laws include without limitation: pay at least the applicable prevailing wage for public works activities performed on the project; comply with overtime and working hour requirements; comply with apprenticeship obligations; comply with payroll recordkeeping requirements; and comply with other obligations as required by law.
2. The successful Bidder shall ensure that the above requirements are included in all its contracts and any layer of subcontracts for activities for the project.

11. GOVERNING LAW

This Contract, its interpretation and all work performed hereunder, shall be governed by the laws of the State of California.

12. VENUE

In the event of a dispute or breach of contract, venue shall be in Alameda County.

13. ENTIRE AGREEMENT

This Contract represents the entire agreement of the parties with respect to the subject matter hereof, and all such agreements entered into prior hereto are revoked and superseded by this Contract, and no representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.

This Contract may not be changed, modified or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates set forth below.

SAMPLE CONTRACT

**ALAMEDA-CONTRA COSTA
TRANSIT DISTRICT:**

BIDDER:

Michael Hursh
General Manager

Date

Name
Title

Date

Approved as to Form and Content:

Denise Standridge
General Counsel

Date

BRT Bus Livery

EXHIBIT B
Insurance Requirements

- A. The Contractor is primarily responsible for the risk management of its work under this Contract, including but not limited to obtaining and maintaining the required insurance and establishing and maintaining a reasonable risk control and safety program. The District reserves the right to amend the requirements herein at any time during the term of this Contract, subject to at least sixty (60) days written notice and an appropriate adjustment of the compensation terms of the Contractor to offset any attributable increase in the Contractor's costs. Any and all of the Contractor's sub-contractors must meet the requirements of this Section and Contractor shall include the terms of this Section in each contract with sub-contractors.
- B. Prior to beginning the work under this Contract and without limiting any liabilities or other obligations of Contractor, Contractor shall obtain and maintain, and/or cause to be obtained and maintained, the required forms and minimum amounts of insurance coverages as outlined below. Contractor's responsibility and liability for the services provided by its subcontractors is not limited in any fashion by the types and limits of subcontractors' insurance. Coverages shall be in full force and effect during the terms of this Contract.
- C. All Insurance Coverages
Upon execution of the Contract, all required insurance coverages must be evidenced to the District through receipt of the acceptable certificate(s) of insurance and the appropriate policy endorsements, executed by a duly authorized representative of each insurer, showing full compliance with the insurance requirements set forth in this Section.
- i. Failure of the District to demand such certificate(s) or other evidence of full compliance with these insurance requirements or failure of the District to identify a deficiency from the evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
 - ii. Certificate(s) of insurance and the appropriate policy endorsement are to be emailed or mailed to the following address or such other addresses as designated by the District:

Michael Silk
AC Transit
1600 Franklin Street, 6th Floor
Oakland, CA 94612
Email: msilk@actransit.org
 - iii. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the District requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District. No representation is made that the minimum insurance requirements of this agreement are sufficient to cover the indemnification obligations of the Contractor under this agreement.
 - iv. Failure to maintain the required insurance may result in the termination of this Contract at the District's option.
 - v. If the Contractor fails to maintain the insurance as set forth in this Section, the District shall have the right, but not the obligation, to purchase said insurance at Contractor's expense.
 - vi. Contractor shall provide certified copies of all insurance policies required in this Section within ten (10) days of the execution of the resulting contract .
 - vii. The Contractor's insurance company(ies) and third-party administrators are subject to approval by the District as well as any use of partial or full self-insurance programs. This includes the use and amounts of deductibles and/or self-insured retentions.

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- viii. Each insurance policy shall not be subject to lapse, cancellation or material change in coverage unless at least sixty (60) days prior to written notice is provided to the District.
 - ix. Each insurance policy shall be written on a primary coverage basis, including any self-insured retentions, unless expressly approved by the District, in writing.
 - x. With the exception of the Workers' Compensation policy, each insurance policy shall include, by specific endorsement the following as additional insureds:
 - a. "The District, it's Directors, agents, officers, and employees."
- This endorsement shall be included on the Certificate of Insurance as well.
- xi. In addition, any person or entity shall be added as an additional insured upon the request of the District to the Contractor.
 - xii. Any failure by the Contractor to comply with the reporting requirements of the required insurance coverage shall not affect the coverage provided to the District, it's Directors, agents, officers, and employees.
 - xiii. If Contractor's liability policies do not contain a separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.
 - xiv. To the extent permitted by insurance, Contractor waives all rights of subrogation or similar rights against the District and its members and each of their respective agents, officers, employees and directors.
 - xv. By requiring the insurance in this Section, the District does not represent that coverage and limits will be adequate to protect Contractor, and such coverage and limits shall not be deemed as a limitation on Contractor liability under the indemnities granted by the District in this Contract.
 - xvi. **Claims-Made Insurance**

If any insurance specified below shall be provided on a claims-made basis, then in addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Contractor's start of work (including subsequent policies purchased as renewals or replacements).
- b. Contractor shall make every effort to maintain similar insurance for at least five (5) years following project completion, including the requirement of adding all named insureds.
- c. If insurance is terminated for any reason, Contractor agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this Contract or Permit.
- d. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

D. Commercial General Liability Insurance

- i. Contractor shall maintain general liability and, if necessary, excess/umbrella insurance with a limit of liability not less than \$1,000,000 per Occurrence; \$2,000,000 General Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, District requires and shall be entitled to coverage for the higher limits maintained by Consultant. If such insurance contains an aggregate limit, it shall apply separately to this Contract. The insurance shall, at a minimum, cover liability arising from premises, operations, independent contractors, products and completed operations, personal injury, advertising injury and liability assumed underinsured contract, including the tort liability of another assumed in a business contract.

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- ii. Coverage for claims or incidents occurring, but not known, during the policy period will extend for a period of at least three (3) years past acceptance, cancellation or termination of the Work.

E. Automobile Liability Insurance

- i. Contractor shall maintain automobile liability and, if necessary, excess/umbrella insurance with a limit of liability of not less than \$2,000,000 for each accident. Such insurance shall cover liability arising out of any vehicle, including owned, hired, leased, borrowed and non-owned vehicles. If necessary, the policy shall be endorsed to provide contractual liability coverage.
- ii. Minimum Limit: \$2,000,000 combined single limit per accident. The required limit may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.
- iii. Insurance shall cover all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
- iv. Insurance shall cover hired and non-owned autos. With respect the District's vehicles loaned or leased to Contractor for the completion of the Work, the District shall be named as loss payee. In the event of a loss, Contractor will be responsible for the cost of repairing or replacing the vehicle with vehicles of like kind and quality.

F. Workers Compensation Insurance

Contractor shall maintain workers compensation and employers liability insurance in accordance with the Federal and State statutes having jurisdiction over the employees where the work is performed. The limits of liability for employers' liability coverage shall not be less than \$1,000,000 each accident for bodily injury by accident and \$1,000,000 each employee for bodily injury by disease.

The coverage should not contain an exclusion for claims arising out of the ownership, entrustment, maintenance, operation or use of any motor vehicles that are owned, operated or rented by or loaned to the Named Insured.

(End of Exhibit B)

BRT Bus Livery

Exhibit C
Federal Terms

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions of this Contract include, in part, certain Standard Terms and Conditions required by the US Department of Transportation (DOT), whether or not expressly set forth in the RFQ (2018-1435). All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, revised 2012 and any future revisions, 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 contract. The Bidder shall not perform any act, fail to perform any act, or refuse to comply with any District requests which would cause the District to be in violation of the FTA terms and conditions.

1. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

The District and Bidder acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying resulting contract, absent the express written consent by the Federal Government, the Federal Government is not a party to any contract and shall not be subject to any obligations or liabilities to the District, Bidder, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Bidder 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 subconsultant who will be subject to its provisions.

2. FALSE STATEMENTS OR CLAIMS CIVIL AND CRIMINAL FRAUD

The Bidder acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S DOT Regulations "Program Fraud Civil Remedies", 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Bidder certifies or affirms the truthfulness and accuracy of any statement it has made, it makes or it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Bidder 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 Bidder to the extent the Federal Government deems appropriate.

The Bidder 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 the FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l)) on the Bidder, to the extent the Federal Government deems appropriate.

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

3. ACCESS TO THIRD-PARTY CONTRACT RECORDS

Bidder shall provide all authorized representatives of the District, the FTA Administrator, the State Auditor and the Comptroller General of the United States access to any books, documents, papers and records of the Bidder which are directly pertinent to this Contract for the purposes of making audits, copies, examinations, excerpts and transcriptions. Bidder also agrees to maintain, and require its subcontractors of all tiers, to maintain, all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Bidder agrees to maintain the same until the District, 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. The Bidder agrees to permit the FTA and its bidders to access the sites of performance under this contract as reasonably may be required.

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4. CHANGES TO FEDERAL REQUIREMENTS

Bidder 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 Agreement (Form FTA MA (24) dated October 1, 2017) between the District and FTA, as they may be amended or promulgated from time to time during the term of this contract. Bidder's failure to so comply shall constitute a material breach of this contract.

5. CIVIL RIGHTS REQUIREMENTS

Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Bidder 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 Bidder agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

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 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Bidder 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 C.F.R. 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 U.S.C. § 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 Bidder 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 Bidder 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 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Bidder agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Bidder agrees to comply with any implementing requirements FTA may issue.

Disabilities - In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Bidder 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 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Bidder agrees to comply with any implementing requirements FTA may issue.

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

6. TERMINATION / RESOLUTION OF DISPUTES

Termination for Convenience (General Provision): The District may terminate the contract, in whole or in part, at any time by written notice to the Bidder when it is in the District's best interest. The Bidder may be entitled to costs associated with the work performed, including contract close-out costs, and profit on work performed up to the time of termination. The Bidder shall promptly submit its termination claim to the District to be paid the Bidder. If the Bidder has any property in its possession belonging to the District, the Bidder will account for the same, and dispose of it in the manner the District directs.

Termination for Default (General Provision): If the Bidder does not deliver supplies in accordance with the contract delivery schedule, or, if the Bidder fails to perform in the manner called for in the contract, or if the Bidder fails to comply with any other provisions of the contract, the District may terminate the contract for default. Termination shall be affected by serving a notice of termination to the Bidder setting forth the manner in which

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the Bidder is in default. The Bidder will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the District that the Bidder had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Bidder, the District, after setting up a new delivery of performance schedule, may allow the Bidder to continue work, or treat the termination as a termination for convenience.

Opportunity to Cure (General Provision): The District in its sole discretion may, in the case of a termination for breach or default, allow the Bidder forty-five (45) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Bidder fails to remedy to the District's satisfaction the breach or default of any of the terms, covenants, or conditions of the contract within forty-five (45) days after receipt by Bidder of written notice from the District setting forth the nature of said breach or default, the District shall have the right to terminate the contract without any further obligation to Bidder. Any such termination for default shall not in any way operate to preclude the District from also pursuing all available remedies against Bidder and its sureties for said breach or default.

Waiver of Remedies for any Breach: In the event that the District elects to waive its remedies for any breach by Bidder of any covenant, term or condition of the contract, such waiver by the District shall not limit the District's remedies for any succeeding breach of that or of any other term, covenant, or condition of contract.

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

Performance During Dispute: Unless otherwise directed by District, Bidder shall continue performance under the contract while matters in dispute are being resolved.

Alternative Dispute Resolution/Mandatory Arbitration: In the event that any controversy, claim or dispute between the District and the Bidder arising out of or related to this contract, or the breach hereof, that has not been resolved by informal discussions and negotiations, either party may, by written notice to the other, invoke the formal dispute resolution procedures set forth herein. The written notice invoking these procedures shall set forth in reasonable detail the nature, background and circumstances of the controversy claim or dispute. During the thirty (30) days following said written notice, the parties shall meet, confer and negotiate in good faith to resolve the dispute. Either party may, during said thirty (30) day period, request the utilization of the services of a professional mediator, and the other party or parties to this dispute shall cooperate with such request and share the reasonable costs of such mediator.

Remedies: Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the District and the Bidder arising out of or relating to the resulting agreement or contract or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of California.

Rights and Remedies: The duties and obligations imposed by the contract 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 the District or Bidder shall constitute a waiver of any right or duty afforded any of them under the contract, 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.

7. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. There is no DBE or SBE goal for this contract opportunity.

The Bidder shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Bidder shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Bidder to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the District deems appropriate. Each subcontract the Bidder signs with a subcontractor must include the assurance in this

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paragraph (see 49 CFR 26.13(b)).

Bidders are required to document sufficient DBE participation to meet this goal or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following [concurrent with and accompanying an initial bid, and prior to award]:

- a) The names and addresses of DBE firms that will participate in this contract;
- b) A description of the work each DBE will perform;
- c) The dollar amount of the participation of each DBE firm participating;
- d) Written documentation of the Bidder's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
- e) Written confirmation from the DBE that it is participating in the contract as provided in the prime Bidder's commitment; and
- f) If the contract goal is not met, evidence of good faith efforts to do so.

Bidders must present the information required above as a matter of responsiveness [with initial bids, prior to contract award] (see 49 CFR 26.53(3)).

The Bidder is required to pay its subcontractors performing work related to the contract for satisfactory performance of that work no later than thirty (30) days after the Bidder's receipt of payment for that work from the District. In addition, the Bidder may not hold retainage from its subcontractors.

The Bidder must promptly notify the District, whenever a DBE subcontractor performing work related to the contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Bidder may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the District.

8. SUSPENSION AND DEBARMENT

This contract is a covered transaction for purposes of 2 CFR 180. As such, the Bidder is required to verify that none of the Contractor, its principals, as defined at 2 CFR 180.995, or affiliates, as defined at 2 CFR 180.905, are excluded or disqualified as defined at 2CFR 180.940 and 180.935.

The Bidder is required to comply with 2 CFR 180, Subpart C and must include the requirement to comply with 2 CFR 180, Subpart C in any lower tier covered transaction it enters.

By signing and submitting its bid or bid, the Bidder certifies as follows:

The certification in this clause is a material representation of fact relied upon by the District. If it is later determined that the Bidder knowingly rendered an erroneous certification, in addition to remedies available to the District, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Bidder agrees to comply with the requirements of 2 CFR 180, Subpart C while this offer is valid and throughout the period of the contract. The Bidder further agrees to include a provision requiring such compliance in its lower tier covered transactions.

9. ANTI-LOBBYING REQUIREMENTS & CERTIFICATION

Bidders who apply for an award of \$100,000.00 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 U.S.C. 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 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the District.

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11. CLEAN AIR

The Bidder agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Bidder agrees to report each violation to the District and understands and agrees that the District will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Bidder also agrees to include these requirements in each subcontract exceeding \$150,000.00 financed in whole or in part with Federal assistance provided by FTA.

12. CLEAN WATER REQUIREMENTS

The Bidder agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Bidder agrees to report each violation to the District and understands and agrees that the District will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Bidder also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

13. ENERGY CONSERVATION REQUIREMENTS

The Bidder 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 of 1975.

14. AMERICANS WITH DISABILITIES ACT (ADA)

The Bidder agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 *et seq.*; Section 504 of the Rehabilitation Act of 1973, amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this contract.

15. PROMPT PAYMENT OF SUBCONTRACTORS

The Bidder shall pay any subcontractors approved by the District for work that has been satisfactorily performed no later than seven (7) days from the date of the Bidder's receipt of progress payments by the District. Within sixty (60) days of satisfactory completion of all work required of the subcontractor, Bidder shall release any retained payments withheld to the subcontractor. The Bidder shall complete and sign a Prompt Payment Act Affidavit related to invoices submitted for services performed under this contract.

16. PATENT RIGHTS

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the District and Bidder agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Bidder's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the District and the Bidder agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Bidder also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

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17. BUY AMERICA REQUIREMENTS

The Bidder agrees to comply with 49 U.S.C. 5323(j) and 49 CFR 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. Under 49 C.F.R. § 661.7(b) and (c), a general public interest waiver from the Buy America requirements applies to microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data, and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Under limited circumstances, FTA may waive Buy America requirements if the agency finds that:

- application of Buy America is inconsistent with the public interest;
- the steel, iron, and goods produced in the U.S. are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; or
- including domestic material will increase the cost of the overall project by more than 25 percent for rolling stock.

All Bidders must submit the appropriate Buy America certification to the District (Attachment D), except those subject to a general waiver. Bids that are not accompanied by a completed Buy America certification must be rejected as non-responsive. This requirement does not apply to lower tier Subcontractors.

18. CARGO PREFERENCE REQUIREMENTS

The Bidder agrees: (a) to use privately owned United States Flag commercial vessels to ship at least fifty percent (50%) 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 by ocean vessels to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (b) to furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within thirty (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 AC Transit (through the Bidder in the case of a subcontractor's bill-of-lading); and (c) to include these requirements in all subcontracts issued pursuant to this Bidder when the subcontract may involve the transport of equipment, Material, or commodities by ocean vessel.

19. Fly America Requirements

Bidder agrees to comply with 49 U.S.C. 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 successful bidder 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, if used. Bidder agrees to include the requirements of this Section in all subcontracts that may involve international air transportation as a result of this solicitation.

(End of Federal Terms)