



INVITATION FOR BIDS

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

SIGN AND RETURN THIS PAGE

INVITATION FOR BID (IFB) NO. 2020-1491

Date: September 11, 2019

TITLE: BRT RUB RAILS

DO NOT INCLUDE SALES OR EXCISE TAXES in Bid prices.

ELECTRONIC BIDS WILL BE ACCEPTED UNTIL 4:00 pm PDT
SEPTEMBER 13, 2019 AT MSILK@ACTRANSIT.ORG

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, proposal, special conditions and general conditions, all of which are made part of the contract proposal, 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 proposal 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 ninety (90) 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. Polyslick), 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 proposal.

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 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.

c. 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. 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,

BRT Rub Rails
September 27, 2019 THROUGH MAY 31, 2020

SPECIAL CONDITIONS

officer or employee of the District, during his/her tenure or for one year proceeds thereof.
thereafter, shall have an interest, direct or indirect, in this Contract or the

18. GENERAL INFORMATION

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. 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 double-sided door vehicles used in this service will differ significantly from AC Transit's regular fleet and require several station modifications. Part of the modifications will be a sacrificial plastic strip or "rub rail" installed on each station. This guarantees a seamless gap between the station platform and the bus entrance.

The District intends to initiate a contract for purchase of several plastic rub rails for the BRT station platforms.

To be considered: **One (1) original electronic copy of the bid must be received by 4:00 PM, local time on September 13, 2019 at msilk@actransit.org, cc: contracts@actransit.org Subject: IFB 2020-1491.**

Bids received after the deadline or delivered to a different location will not be accepted. Acceptable electronic formats include; .pdf (Portable Document Format), .doc (Microsoft Word Document), .docx (Microsoft Word Open XML document), .xlsx (Microsoft Excel document), .xlsx (Microsoft Excel Open XML document), .ppt (Microsoft Power Point file), .pptx (Microsoft Power Point Open XML file).

All Bids should be clearly marked: BRT Rub Rails.

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

The Contract shall not be deemed fully-executed until signed by the General Manager.

19. CORRESPONDENCE

All correspondence must show **INVITATION FOR BIDS 2020-1491.**

20. TYPE OF CONTRACT

This is a Firm-Fixed Price (FFP), solicitation. All Bidders shall bid firm fixed unit cost amounts for the complete bid package.

22. STATEMENT OF EXPERIENCE AND QUALIFICATIONS

The Bidder shall be required upon request of the District to prove to its satisfaction that the Bidder has the skill and experience and that it has the necessary facilities and ample financial resources to perform the contract in a satisfactory manner and within the required time. A copy of the Bidder's most recent Annual Financial Statement shall be required.

23. 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.

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24. 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.

25. 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.

26. CONTRACT PERIOD

The term of this contract will be for eight (8) months beginning on **September 27, 2019 and ending on May 31, 2020.**

27. PRICE

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

28. QUANTITIES

The quantities listed on the Bid Form. 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.

29. DELIVERY

Award of this contract is contingent upon Bidder's ability to timely deliver the Goods as contracted, as outlined in Attachment 1 hereto. The Goods shall be delivered to the District-designated location identified in 30 of this Agreement, 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 same delivery date, 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.

29.1 All Goods will be packed by Bidder in secure packaging considered appropriate by Bidder to ensure safe arrival or otherwise as may be agreed to by the parties. Bidder shall consider new methods of packaging, including reusable packaging, when possible. Bidder shall be responsible for damage or losses caused by improper packaging. Risk of loss and damage will pass from Bidder to the District upon delivery by Bidder to District pursuant to this Agreement.

29.2 Bidder will ship Goods to the location specified on the applicable Purchase Order using the method of shipping specified therein. In the absence of written shipping directions and upon agreement with the District, Bidder shall select the carrier and insurance consistent with industry best practices using Bidder's reasonable commercial efforts.

29.3 All shipments shall include shipping documentation such as packing list, delivery note, and commercial invoice which will include, without limitation, the following information: (a) Purchase Order Number, (b) relevant part number(s) and description, and (b) any other special instructions as required by the District.

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C. Deductible and/or Self-Insured Retention

Any deductibles and/or self-insured retention must be declared to and approved by the District. The District reserves the option to require the insurer to reduce or eliminate such deductibles and self-insured retention as to the District, and/or require the Bidder to procure a bond guaranteeing the payment of any deductible or self-insured retention of losses, related investigations, claims, administration, and defense expenses.

D. Other Insurance Provisions

Policies are to contain the following provisions:

1. General Liability and Automotive Liability policies:

- a. The District, Board Members, its officers, officials, and employees are to be covered as insured as respects: liability arising out of activities performed on behalf of the Bidder; products and completed operations of the Bidder; premises owned, occupied or used by the Bidder; and automobiles, owned, leased, hired, or borrowed by the Bidder. Coverage shall contain no special limitation on the scope of protection afforded to the District, its officers, officials, or employees.
- b. For any claims related to this contract, the Bidder's insurance coverage shall be primary insurance as respects the District, Board Members, its officers, officials, and employees. Any insurance or self-insurance maintained by the District, Board Members, its officers, officials, or employees shall be in excess of the Bidder's insurance and shall not contribute with it.
- c. Any failure with reporting provisions of the policies including breaches of warranties, shall not affect coverage provided to the District, Board Members, its officers, officials, or employees.
- d. The Bidder's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability

The insurer shall agree to waive all subrogation rights against the District, Board Members, its officers, officials, and employees, for losses arising from work performed by the Bidder for the District, except with respect to the limits of insurer's liability.

3. All Coverage

- a. Each policy required shall be endorsed to state that the coverage shall not be suspended, voided, canceled by either party, reduced in coverage or limits except after 30 days prior written notice by certified mail, return receipt requested, has been given to the District.
- b. Each policy is to be on an "Occurrence" form. "Claims Made" form requires prior approval by the District as well as Bidder being required to provide acceptable evidence of the policy's retroactive date, and will be also required to maintain the coverage with the same retroactive date for a period of not less than five (5) years following termination of services.

4. Acceptability of Insurance

Insurance is to be placed with insurers with a current A.M. Best rating of no less than "A- : VII."

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5. Verification of Coverage

Bidder shall furnish the District with appropriate Certificates of Insurance and with original endorsements effecting coverage required and signed by a person authorized by the insurer to bind coverage, Certifications and endorsements are to be received and approved by the District prior to commencement of any work under the Contract. The District reserves the rights to require certified copies of all required insurance policies.

6. Other Requirements

a. Should any work under this Contract be sublet, the Bidder shall require each subcontractor of any tier to comply with all of the Contract's insurance provisions and provide proof of such compliance to the District.

b. These insurance requirements are not intended to and shall not in any manner limit or otherwise qualify the liabilities and obligations otherwise assumed by the Bidder under this Contract, including indemnification provisions. Should the Bidder have higher policy limits, the District is not limited to the insurance limits requested.

c. Compliance with these insurance requirements is considered a material part of the Contract. Breach of any such provision may be considered a material breach of the Contract and result in action by the District to withhold payment and/or terminate the Contract.

33. 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.

34. 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.

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.

35. 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.

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36. **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.

37. **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.

38. **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.

39. **CONFLICTS OF INTEREST**

- A. No Board member, officer, or employee of the District during his/her tenure or for one 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.

40. **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.

41. **PROTEST PROCEDURES**

- A. Protests based upon the content of the solicitation: Any protest concerning the contents of the solicitation must be filed prior to the bid opening or proposal submission date.
- B. Protests based upon the grounds other than the content of the solicitation: Protest must be filed no later than ten (15) calendar days after the district's notice of intent to award or notice of non-award, whichever occurs first.

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

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42. **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.

43. **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.

44. **VENDOR REGISTRATION**

An online AC Transit Vendor Registration is required prior to contract award. Bidders should access www.actransit.org, select purchasing, online purchasing, and register as an Online Purchasing User. To complete the process, include a W-9, Request for Taxpayer Identification Number and Certification - containing original signature - in proposals. If online access is not available, contact the Purchasing Department for instructions.

FURTHER INFORMATION

Prospective bidders may contact Michael Silk at (510) 891-7241 or via e-mail at msilk@actransit.org, between the hours of 8:30 am and 5:00 pm, Monday through Friday, holidays excepted, for further information.

[END OF SPECIAL CONDITIONS]

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**BRT RUB RAILS
September 27, 2019 THROUGH MAY 31, 2020**

ATTACHMENT E

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 RUB RAILS
September 27, 2019 THROUGH MAY 31, 2020

ATTACHMENT A: TECHNICAL SPECIFICATIONS

1. Introduction

It is the intent of the District to purchase various new rub rails for the District's Bus Rapid Transit station platforms. The District will be mimicking "rail-like" service, through the BRT project by having raised platforms to facilitate level boarding. As the body of the BRT bus extends below the platform, there is potential for the bus to make contact with the platform, causing damage to the BRT buses. To minimize the likelihood of such incidents, the District is purchasing "rub rails" which guide the bus along the platform curb; ensuring that the bus body does not contact the platform. Additionally, these rub rails provide for a consistent horizontal gap between the bus and the platform. This sacrificial plastic rub rail will provide ADA accessibility, driver safety, station protection and seamless boarding for BRT passengers.

2. Purpose

This specification prescribes minimum acceptable requirements for rub rails. 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.

3. Requirement

All rub rails shall be delivered F.O.B. to the following addresses listed below, in accordance with this specification:

AC Transit District
BRT Construction Management Office
985 66th Ave
Oakland, CA 94621
Monday – Friday, 7:00 am to 3:00 pm

4. 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 General Manager of the District, or his designee, must approve any material or equipment substituted for specified material or equipment.

Each rub rail 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.

5. Submission with Bid

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

6. Responsibility

The plastic manufacturer and rub rail fabricator shall assume responsibility for all material used in the construction and fabrication of the rub rail, whether same is made by the rub rail manufacturer or purchased ready-made from an outside source.

**BRT RUB RAILS
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ATTACHMENT A: TECHNICAL SPECIFICATIONS**

7. Materials

Rub Rails shall be of Polyslick Bus Curb as supplied by Polymer Industries or approved equivalent. Each Rub Rail section shall be constructed of a single, solid piece of ultra-high molecular weight polyethylene (UHMW). Each Rub Rail shall be supplied in approximately 10' long sections. The Rub Rails are to be deployed on median and curbside BRT stations of either 60' or 110' length. Material color should be either yellow or black.

The Rub Rail profiles of the median and curbside applications differ, and are illustrated as, Profile A (Median) and Profile B (Curbside) in the Attachment F- Drawings.

8. Quantity

Each Rub Rail kit shall consist of the following:

Rub rail Type	Total Length	Sections in kit (approximately 10' long)		
		Leading Edge	Intermediate	Trailing
Median (left side approach)	60'	1	4	1
Curb (right side approach)	60'	1	4	1
Median (left side approach)	110'	1	9	1
Curb (right side approach)	110'	1	9	1

Note: Lap joints on the median and curbside kits must face away from the direction of bus travel.

Number of Kits Required

The following table described the required quantity of each profile and the length of kit.

Rub rail Type	Approximate Kit Length	Total Number of Kits
Median (Profile A)	60'	39
Curb (Profile B)	60'	23
Media (Profile A)	110'	1
Curb (Profile B)	110'	1

9. Delivery

The Rub Rails shall be delivered in batches to Oakland, CA. The first batch to be delivered no later than October 18, 2019 and the last batch no later than November 29, 2019. Please include the number of kits per batch in order to meet this delivery timeframe.

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**BRT RUB RAILS
September 27, 2019 THROUGH MAY 31, 2020**

**BID FORM SHEET
BRT Rub Rails**

Price Quotation

AC TRANSIT will purchase rub rails. Quantities are based on the District's estimated need. Approximate quantities are listed below. The District does not guarantee any specific quantities.

Rub Rail Type	Approximate Kit Length	Total Number of Kits	Price
Median (Profile A)	60'	39	
Curb (Profile B)	60'	23	
Media (Profile A)	110'	1	
Curb (Profile B)	110'	1	

PAYMENT TERMS: _____

DISCOUNTS: _____

EXPEDITED DELIVERY CHARGE (Based on Section 9, Delivery) : _____

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September 27, 2019 THROUGH MAY 31, 2020

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:

RUB RAILS IFB 2020-1491

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. 2020-1491 and any Addenda thereto
- C. Bidder's submitted Bid Form dated September 13, 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 September 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 delivery of rub rails.

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:

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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. GOVERNING LAW

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

11. VENUE

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

12. 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

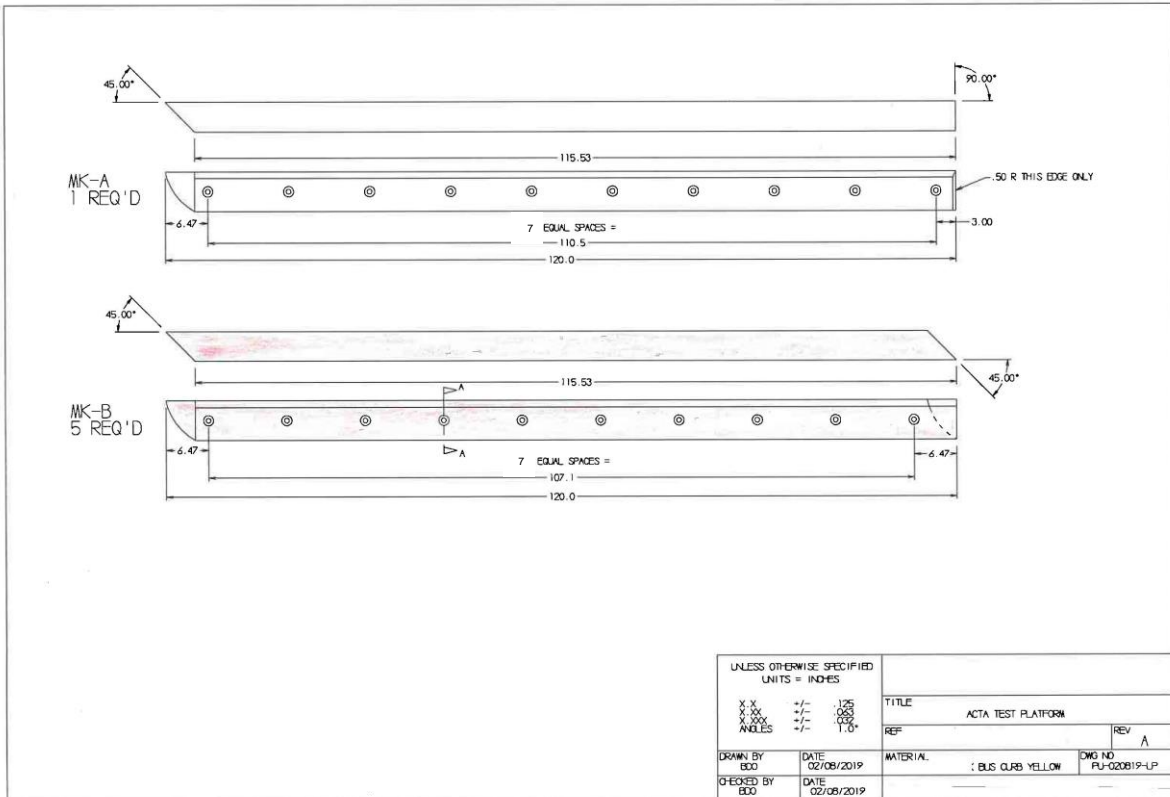
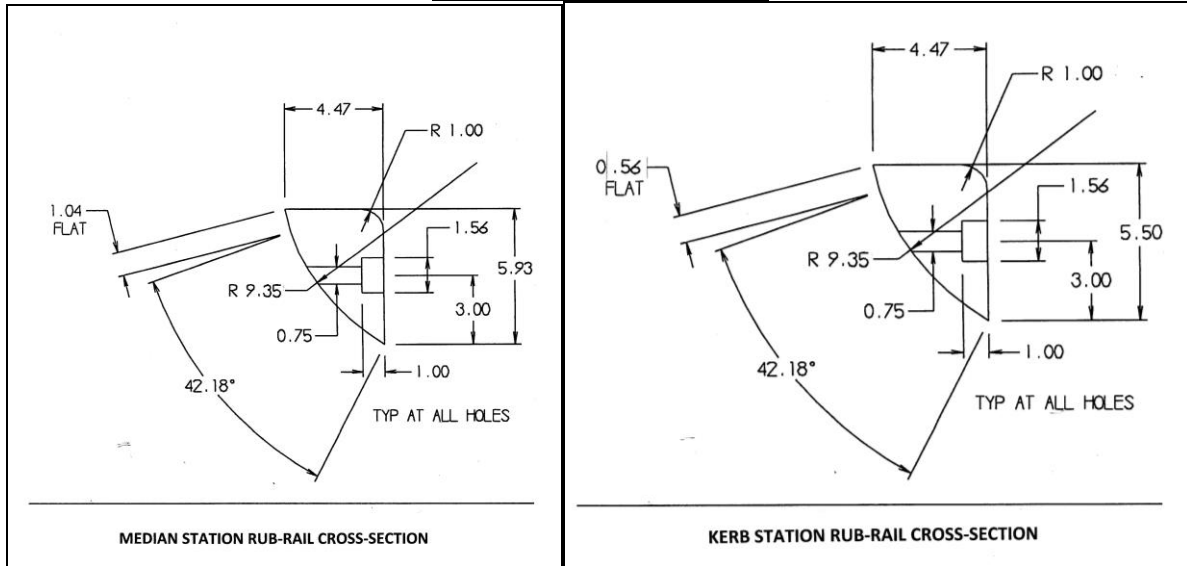
Approved as to Form and Content:

Denise Standridge
General Counsel

Date

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ATTACHMENT F -DRAWINGS



BRT RUB RAILS
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Attachment G- 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.

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Termination shall be affected by serving a notice of termination to the Bidder setting forth the manner in which 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

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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 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 proposal, 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 proposals, 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 proposal, 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.

17. BUY AMERICA REQUIREMENTS

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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, 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.

(End of Federal Terms)

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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 BUY AMERICA CERTIFICATION)