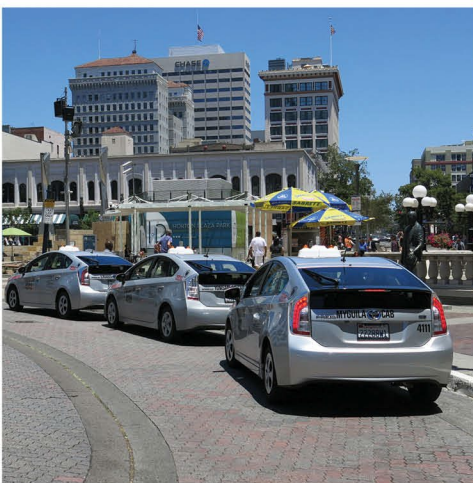




**Metropolitan  
Transit  
System**

# INVITATION FOR BIDS

**TENABLE CYBERSECURITY  
SOFTWARE RENEWAL  
MTS DOC. NO. G3243.0-26**



**San Diego Metropolitan Transit System**

1255 Imperial Avenue, Suite 1000, San Diego, CA 92101



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# 1. INTRODUCTION

The San Diego Metropolitan Transit System (MTS) is seeking offers for TENABLE CYBERSECURITY SOFTWARE RENEWAL (to be referred to as “the project”) for a contract term of three (3) years with two (2) 1-year options.

The Scope of Work is to be supplied hereunder for the primary use of MTS. MTS is a California public agency established by California Public Utilities Code, Section 120000. et. seq. MTS and its subsidiaries are subject to the California Tort Claims Act (Cal. Pub. Util. Code § 120202).

MTS strongly encourages bidders to register to become a vendor on [PlanetBids](#). Vendors can receive information about bid notices, addenda, bid awards, submit bids online (when applicable), and view and update in their portal. Bidders are advised that the MTS website link above is the only true source of information for MTS procurements. MTS shall not be held responsible for other third-party websites that may post some or all of MTS’s solicitation documents.

MTS reserves the right to accept any Bid, or any part or parts thereof, or to reject any and all Bids.

As a condition of award the successful Bidder will be required to execute MTS Standard Agreement found in this Invitation for Bids (IFB). Please read this agreement carefully. The successful Bidder may be required to provide a copy of its latest financial statement prior to award.

## 1.1. CALENDAR OF EVENTS

Event	Date
MTS Issues IFB	June 17, 2026
Deadline for Submitting Written Questions/Clarifications and/or Request for Approved Equals (RFAs):	4:00 P.M., Prevailing Local Time, on June 24, 2026
MTS Issues Response to Written Questions/Clarifications and/or RFAs Deadline:	<b>June 25, 2026</b>
<b><i>Bid Opening:</i></b>	<b><i>2:00 P.M., Prevailing Local Time, on July 1, 2026</i></b>
MTS Issues Notice of Intent to Award:	Week of: July 13, 2026
Anticipated Contract Award (MTS Board of Directors Approval):	July 30, 2026

*\*These dates are tentative and subject to change by MTS.*

## 1.2. DETAILED INFORMATION FOR THE CALENDAR OF EVENTS

Deadline for Submitting Questions/RFA	By this date and time, all interested Bidders/sub-contractors/suppliers/all interested parties must have submitted in writing all questions, clarifications, and RFAs to MTS' online bid portal <a href="https://www.sdmts.com/business-center/procurement">PlanetBids</a> , through the procurement website <a href="https://www.sdmts.com/business-center/procurement">www.sdmts.com/business-center/procurement</a> . Additional details on the RFA process can be found in the General Provisions.
MTS Issues Response to Questions/RFA's:	By this date, MTS will respond in writing to all questions, clarifications, and requests for equals that were submitted. These responses will be provided to all on <a href="https://www.sdmts.com/business-center/procurement">PlanetBids</a> .
Bid Opening:	Bids will be publicly opened and read via Teams. An invitation link will be provided via PlanetBids. Bids arriving after this time or at a location other than that which is specified in this IFB will be returned unopened.
Notice of Intent to Award (NIA):	At approximately this date the NIA letter will be posted on <a href="https://www.sdmts.com/business-center/procurement">PlanetBids</a> advising Bidders of the apparent lowest responsive responsible Bidder and the bid amount.
Anticipated Contract Award:	On the board meeting date listed above, the contract is scheduled to be approved by the MTS Board of Directors. After this date, a contract will be executed and the Notice to Proceed will be issued.

## 1.3. LINK INFORMATION FOR BID OPENING

<https://events.teams.microsoft.com/event/13649adb-2ff8-442e-a805-9f5214945f02@0d561a92-4877-405b-817b-f00831ad4d8b>

The most up-to-date information can be found on [PlanetBids](https://www.sdmts.com/business-center/procurement).



#### **1.4. MTS POINT OF CONTACT**

Justin Plaetzler, Procurement Specialist is the sole point of contact for this solicitation. He can be reached via telephone at (619)557-4596 or via email at [Justin.Plaetzler@sdmts.com](mailto:Justin.Plaetzler@sdmts.com).

Bidders are directed not to contact other MTS staff or Board Members in connection with this Solicitation.

**Failure to follow this instruction may render the Bid non-responsive.**

#### **1.5. ENCOURAGEMENT OF DISADVANTAGED BUSINESS ENTERPRISES (DBEs) AND OTHER SMALL BUSINESSES**

MTS encourages the participation of DBEs, minority owned businesses (MBEs), women owned businesses (WBEs), disabled veteran business enterprises (DVBEs), lesbian gay bisexual transgender owned businesses (LGBTBEs) persons with disabilities business enterprises (PDBEs) and small businesses (SBs) in the performance of all of its contracts. MTS encourages the Contractor to outreach to DBEs and other small business enterprises for any potential subcontracting opportunities on this project. If interested in learning about bonding or financial assistance that may be available for small businesses, visit [www.sba.gov](http://www.sba.gov). If interested in learning about the eligibility requirements to become certified as a DBE, MBE, WBE, DVBE, LGBTBE, PDBE or SB or how to view a list of certified firms, please contact MTS's DBE Liaison Officer, at [DBEProgram@sdmts.com](mailto:DBEProgram@sdmts.com) for more information.

## 2. BID INFORMATION

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### 2.1. SUBMISSION OF BIDS

Bids must be submitted on or before the deadline shown on the calendar of events. All bids will be opened publicly.

Bids received after the specified date and time will be rejected.

### 2.2. SUBMITTAL FORMAT

Bidders are to upload an electronic copy of their bid to MTS' online bid portal on [PlanetBids](#). Bids will be accepted until **the date and time listed on the Calendar of Events**, at which time all such bids will be opened, and all results announced publicly.

### **3. GENERAL PROVISIONS**

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MTS hereby invites bids for the project consistent with the scope of work, general provisions, and requirements herein.

The contract award is subject to the approval of the MTS Board of Directors.

#### **3.1. EXAMINATION OF SPECIFICATION**

In submitting its bid, the Bidder certifies that:

- A. It has carefully examined the requirements, scope of work, and all provisions relating to the scope of work to be furnished or the work to be done, and understands the meaning, intent, and requirements of and agrees to the same; and
- B. It will enter into a written contract and furnish the scope of work or complete the work in the specified time and in strict conformity with the scope of work shown herein for the price bid.

#### **3.2. FALSE OR FRAUDULENT STATEMENTS AND CLAIMS**

The successful Bidder shall recognize that by submitting the Bid Form, the Bidder certifies the truthfulness and accuracy of any statement it has made pertaining to this procurement. In addition to other penalties that may be applicable, the Bidder also acknowledges that if it makes false, fictitious, or fraudulent claims, statements, submissions, or certifications, MTS reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Bidder to the extent MTS deems appropriate.

#### **3.3. CONTRACT PROVISIONS**

The contract between MTS and the successful Bidder shall contain the following provisions:

- A. The Scope of Work, including any Addenda, and Approved Equals;
- B. Bid (Cost) Form;
- C. The attached sample Standard Agreement including the Standard Conditions. The execution of the Standard Agreement will be required after an award is made;
- D. Forms; and
- E. Attachments (as applicable).

#### **3.4. ADDENDA**

MTS reserves the right to amend the IFB at any time. Any amendments to or interpretations of any content of this IFB shall be via written addenda. MTS shall provide copies of Addenda to all prospective Bidders officially known to have received the IFB through MTS' online bid portal on [PlanetBids](#). Failure of any prospective Bidders to receive the notification or addendum shall not relieve the Bidder from any obligation under its bid as submitted under the IFB. All addenda issued shall become part of the IFB. Prospective Bidders shall acknowledge the receipt of each individual addendum and all prior addenda in their bids, using the Addenda tab through MTS' online bid

portal on [PlanetBids](#). Bidders who fail to follow this instruction may be disqualified from further participation in this competitive procurement.

If MTS determines that the addenda may require significant additional time for the preparation of bids, the deadline for submittal may be postponed by a number of days that MTS determines will allow Bidders adequate time to revise their bids. Any new due date shall be included in the addenda.

### **3.5. CLARIFICATIONS**

#### **A. EXAMINATION OF DOCUMENTS**

Should a Bidder require clarifications of this IFB, the Bidder shall notify MTS in writing via the Q&A tab through MTS' online bid portal on [PlanetBids](#). Should it be found that the point in question is not clearly expressed in the Solicitation, MTS will publish an addendum of clarification.

#### **B. SUBMITTING REQUESTS**

- i. Questions, including those that could not be specifically answered at the pre-bid meeting, clarifications, or comments must be submitted in writing through MTS' online bid portal on [PlanetBids](#) and, must be received by MTS no later than the date and time listed on the Calendar of Events.
- ii. All requests must provide a sufficient amount of information, such that MTS is able to craft an appropriate response, based upon the initial submittals. Any information considered by Bidders to be Proprietary, Trade Secret, or otherwise Confidential shall also be clearly identified. MTS will develop its response from its interpretation of the content of the request. Thus, inadequate or irrelevant information may cause MTS to decline the request.

#### **C. MTS RESPONSES**

MTS' responses will be provided in writing to all prospective Bidders via MTS' online bid portal on [PlanetBids](#). To the extent possible, MTS will not disclose such proprietary information to other Bidders or "interested parties."

### **3.6. DEBARMENT AND SUSPENSION**

The resultant contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 1200. As such, the successful Bidder is required to verify that the Bidder, its principals, as defined at 2 C.F.R. 180.995, or affiliates, as defined at 2 C.F.R. 180.905, are not excluded or disqualified as defined at 2 C.F.R. 180.940 and 180.935.

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

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

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

### **3.7. CHANGES**

Prior to award of a contract, the General Provisions, Scope of Work/Minimum Technical Specifications, Addenda, and all certification documents of this IFB, constitute the potential contract. Any requests for change in these documents must be submitted according to the instructions of the IFB. All changes to this IFB will be made by MTS through a written addendum. **There will be no oral changes, oral communications are not binding.**

MTS reserves the right to change or cancel the bid opening date at its discretion.

### **3.8. COMPLIANCE WITH INDUSTRIAL SAFETY CODES**

All equipment shall be in complete compliance with all requirements of the laws of the State of California and City and County of San Diego, as well as all applicable federal laws and regulations at date of delivery and/or installation at MTS.

### **3.9. [NOT APPLICABLE] WORKMANSHIP**

### **3.10. [NOT APPLICABLE] CONSISTENCY OF PRODUCT**

### **3.11. OMISSIONS**

The Bidder shall not take advantage of any errors or omissions in these specifications. The Bidder is responsible for providing all services necessary for a complete and operational product, whether explicitly specified or not.

### **3.12. BRAND NAMES**

Whenever reference to a specific "Brand Name" is made in the specifications, it is to be considered solely illustrative, and is used merely to describe a component which has been selected by MTS as best meeting the specific minimal operational, design, performance, capacity, maintenance, quality, and reliability criteria of the desired end product. Wherever a "Brand Name" appears, the term "or approved equal" shall be automatically inferred.

### **3.13. [NOT APPLICABLE] COMPONENT MATERIAL**

### **3.14. TAXES**

MTS is exempt from the payment of Federal Excise Tax, so such tax must not be included in bid prices. Necessary exemption certificates will be furnished to the successful Bidder. Bidder shall show applicable California Sales Tax separately as part of the contract price.

In the case of out-of-state bidders, MTS will pay use tax directly to the State of California.

### **3.15. PRE-CONTRACTUAL EXPENSES**

Pre-contractual expenses are defined as expenses incurred by Bidder in:

- A. Preparing the bid in response to this Solicitation;
- B. Submission of said bid to MTS; and
- C. Any other expenses incurred by Bidder prior to date of award.

MTS shall not, in any event, be liable for any pre-contractual expenses incurred by the Bidder. Bidder shall not include any such expenses in its bid. In submitting its bid, the Bidder certifies that no such expenses are included in its offer, as submitted.

### **3.16. PERIOD OF AWARD**

MTS reserves the right to award within one hundred twenty (120) calendar days after the Bid opening date. Should the award be delayed beyond this period, such award shall be conditioned upon Bidder's acceptance.

### **3.17. W-9 FORMS**

Upon award, all Contractors must have a W9 on file with MTS. Completed forms must be submitted to MTS Procurement Department, point of contact electronically.

### **3.18. CALIFORNIA WITHHOLDING FORMS**

Upon award, all Contractors must complete the Form 590 Withholding Exemption Certificate if they have a permanent place of business in California, or Form 587 Nonresident Withholding Allocation Worksheet if the Contractor does not have a place of business in California. Completed forms must be submitted to the point of contact electronically.

### **3.19. BID REVIEW**

**The Basis of Award will be the lowest responsive, responsible Bidder:**

- A. Bids will be reviewed as to:
  - i. Compliance with the General Provisions.
  - ii. Compliance with the Scope of Work/Technical Specifications.
- B. The lowest responsive, responsible Bidder will be determined by (A) above, and a comparison of the total bid amount, inclusive of any options.

MTS reserves the right to reject any bid, or parts thereof, or to reject any item or items therein, and to waive errors in technicalities, postpone or cancel at any time; and to award one or more contracts, or a part of a contract, on the bids submitted, either by award of all or some items to one bidder, or by award of separate items or group of items to various bidders, as the best interests of MTS may dictate.

### **3.20. CONDITIONAL OR NON-RESPONSIVE BIDS**

Conditional bids or those that take material exception to the specifications or any other requirements of this Solicitation or its resultant Agreement will be considered non-responsive and will be rejected.

### **3.21. SUBMISSION OF BIDS**

#### **A. FORMS**

All bids shall be submitted on the blank forms provided by MTS.

#### **B. PRICES**

All prices and notations must be in ink or typewritten. Mistakes may be crossed out and corrections typed or written with ink adjacent thereto and must be initialed in ink by person signing the bid.

### **3.22. VERIFY QUOTATIONS BID REVIEW**

Bidders are cautioned to completely check their Bids for accuracy prior to submission. Bids cannot be withdrawn or corrected after they are opened publicly announced.

### **3.23. FIRM PRICES**

Prices on bids shall be firm-fixed price and not subject to escalation. However, should a Solicitation allow for escalation, the escalation rates, and the maximum limit shall be shown. If no limit is set by Bidder to this escalation in the bid, the bid shall not be considered. In the event of a decline in market price(s), MTS shall receive the benefit of such decline.

### **3.24. SIGNATURE**

All submission documents must be signed as indicated. A bid by a corporation must be signed by a duly authorized officer, employee or agent. Unendorsed documents may be grounds for disqualification from this solicitation.

### **3.25. NOTICE OF INTENT TO AWARD (NIA) AND DEBRIEFING**

Bidders who submit a bid in response to this IFB will be notified of MTS' intent to award a Contract. Any protest with this notice must comply with the protest requirements shown in the IFB. Bidders who were not awarded the contract may obtain a prompt explanation concerning their bid. Unsuccessful Bidders who wish to be debriefed must request the debriefing in writing, and MTS must receive it no later than three (3) days after the NIA is issued.

### **3.26. PROTEST PROCEDURES**

#### **A. PROTESTS PRIOR TO BID OPENING**

Following the advertisement of this formal IFB, or a denial of approved equal, or if there is any other matter, which a Bidder may wish to protest, a protest may be filed with MTS. Protests must be in writing, emailed to the MTS Contracting Officer shown in this IFB, and received by MTS within ten (10) calendar days after the first advertisement of the IFB. MTS' Chief Executive Officer or designee will notify all bidders that a protest has been filed, and will issue a written decision on the protest prior to the bid opening. A protest may be renewed by re-filing the protest with MTS within fifteen (15) calendar days from the emailed date of the notice of intent to award. The protest must be received by MTS no later than 4:00 p.m. Pacific Standard Time (PST) on the due date.

## B. PROTESTS RECEIVED SUBSEQUENT TO BID OPENING

MTS will review all bids and determine the winning bid. A Notice of Intent to Award will be emailed to all bidders. Any protest to the Notice of Intent to Award must be in writing and received by MTS within fifteen (15) calendar days from the emailed date of the Notice of Intent to Award. The protest must be received by MTS no later than 4:00 p.m. PST on the due date, by email to the MTS Contracting Officer shown in this IFB.

## C. PROTEST CONTENTS

The protestor must demonstrate or establish a clear violation of a specific law or regulation, e.g., a violation of the prohibition against unduly exclusionary and restrictive specifications, or a violation of the Buy America requirements.

Protests must contain a full and complete written statement of the grounds for protest and all supporting documentation. MTS may, but is not obligated to request additional information concerning the grounds for protest.

## D. REPLY TO PROTESTS

Under Board Policy No. 52, Section 52.7, the Procurement Manager has been designated as the MTS staff responsible for replying to protests related to solicitations.

MTS will review all protests as soon as possible. All materials submitted by the protestor will be considered. Such material will not be withheld from any interested party outside of MTS or any agency, which may be involved with the procurement except to the extent that the withholding of information is permitted or required by law or regulation. If the protestor determines that the protest contains proprietary material, which should be protected, a statement advising of this fact may be affixed to the front page of the protest document and the alleged proprietary information must be identified wherever it appears.

The Procurement Manager will reply to all protests in writing with its determination.

## E. OPPORTUNITY TO BE HEARD

Protestors shall have an opportunity to appear and be heard before the Board prior to the opening of the procurement solicitation; in the case of protests based on the content of the procurement solicitation, or prior to final award in the case of protests based on other grounds, or the renewal of protests based on the content of the procurement solicitation. A request for a Protest Hearing at the Board regarding the protest shall be in writing by email, and directed to the attention of the General Counsel, emailed to the MTS Contracting Officer shown in this IFB. A request for a Protest Hearing shall be received within five (5) business days of the Procurement Manager's written decision. The protest must be received by MTS no later than 4:00 p.m. Pacific Standard Time (PST) on the due date.

All requests for a Protest Hearing at the Board shall contain a full and complete written statement specifying in detail the grounds of the protest, the facts supporting the protest, and



any disagreement or additional information that the Protestor has in response to the Procurement Manager's decision.

The decision of the Board shall be in writing and constitutes a final administrative decision for purposes of judicial review pursuant to Section 1094.6 of the Code of Civil Procedure.

### **3.27. DUTY TO CLARIFY OBVIOUS AMBIGUITY**

The Bidder is required to seek clarification of any obvious ambiguity contained in the bid documents. Failure to do so will result in an interpretation of the ambiguous provision favorable to MTS should a dispute later arise concerning that provision.

### **3.28. CONFIDENTIALITY, THE CALIFORNIA PUBLIC RECORDS ACT (PRA), AND THE FREEDOM OF INFORMATION ACT**

#### **A. EXCLUSIVE PROPERTY**

Responses to this IFB shall become the exclusive property of MTS and are subject to disclosure under the PRA.

Those elements of each bid that are trade secrets, as the term is defined in Civil Code Section 3426.1(d) or otherwise exempt by law from disclosure and which are prominently marked as Trade Secret, Confidential or Proprietary may not be subject to disclosure. This may include private financial information about a bidder but does not include the proposed price submitted as part of the bid.

The California Public Contract Code section 20216 provides that other than proprietary information, the content of any invitation for bid, any bid received, and any other communications between a transportation agency and a potential bidder on a contract that is subject to subdivision (a) shall be made available to the public no later than the same time that a recommendation for awarding a contract is made to the governing board or persons responsible for approving the award of a contract to a bidder, except that the price proposed in any bidder's initial bid shall be available upon the opening of the bid by the agency requesting the bid.

#### **B. DISCLOSURE OF RECORDS**

- i. Unless a State or Federal law or regulation requires that information or a document be exempt from disclosure to third parties, MTS does not consent to withhold information, merely because it is accompanied by a routine confidentiality statement.
- ii. As provided by State and Federal laws, regulations, and guidance, MTS will review information and documents that are the subject of each confidentiality request to determine the extent to which it must withhold the information or those documents.
- iii. Any genuinely confidential or privileged information should be:
  - a) Marked clearly and specifically as Trade Secret, Confidential or Proprietary; and
  - b) Accompanied by a statement detailing why the information is exempt from public disclosure under State and Federal law. Simply restating the Civil Code definition of a Trade Secret is not sufficient. The statement must include a

factual and legal analysis supporting the Bidder's conclusion that the specific document marked is exempt from disclosure.

Bidder shall identify and provide a list of all the sections/page numbers marked as "confidential" and/or "proprietary" in its bid submittal.

**C. EXEMPTION FROM DISCLOSURE MAY BE DEEMED UNRESPONSIVE**

MTS will take into consideration documents that Bidder deem exempt from disclosure, which must be marked Trade Secret, Confidential or Proprietary.

Bidders who indiscriminately identify all or most of their Bids as exempt from disclosure without justification may be deemed unresponsive.

**D. INDEMNIFICATION OF MTS BY CONTRACTOR**

The Bidder agrees to defend and indemnify MTS in any action on a PRA request for any of the contents of a Bid marked Trade Secret, Confidential or Proprietary.

Bidder agrees to absorb all costs and expenses, including attorneys' fees, in any action or liability arising from Bidder's claim that its documents are exempt from disclosure under the PRA.

**E. PUBLIC INTEREST**

The public interest exemption of the California PRA provides that an agency may withhold the disclosure of a record by showing that the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.

Bidders must sign the attached California PRA acknowledgement form and submit with the bid.

**3.29. [NOT APPLICABLE] CALIFORNIA AIR RESOURCES BOARD (CARB)**

**3.30. REQUEST FOR APPROVED EQUALS (RFA)**

Wherever in the solicitation, a particular brand, or make of material, or equipment is shown or specified, such material or equipment is to be regarded merely as a standard for the purpose of concisely indicating the requirements as to type, quality, performance, design and finish. Any material or equipment other than that specified will be acceptable if, in the opinion of the Project Manager, it is as satisfactory for the particular work for which it was intended as the material or equipment specified. Complete documentation in support of an "or equal" offer will be required. The documentation to be provided is as follows:

**Approved Equal Evaluation Criteria**

- A. Direct technical and performance comparisons between the proposed equal and the OEM product currently used by MTS.
- B. Submission of proof which illustrates that the product complies and adheres to appropriate industry standards including.

- C. "Accredited Independent Laboratory" analysis report comparing the proposed product with the OEM currently used by MTS.
- D. Characteristics, properties of specifications of the vendor's product.
- E. Copy of Manufacturer's Quality Assurance Program and Quality Assurance Manual, if available.
- F. Contact names and telephone numbers of other municipalities with transit fleets and other users that utilize the proposed product from the Bidder.

Bidder should make its best efforts to provide all six (6) product "Evaluation Criteria" points by numbering **all six (6) points** on the submitted documentation. This will enable all non-technical personnel to identify if the criteria are satisfied.

MTS reserves the right to reject any such other material or equipment offered if such material or equipment is not in all respects equal in function or performance to the requirements of the technical specifications or to the originally named illustrative example. **Unless there is a specific statement to the contrary, the bidder understands that requests for such approval of any alternative material or equipment as required in the Approved Equal Evaluation Criteria described above shall be submitted on or before the deadline for submitting written questions/clarifications and RFA.** MTS shall be the sole judge of the acceptability of items offered as equal to that specified and may reject any item not considered as equal. The Bidder shall be prepared to provide a non-returnable sample if requested by MTS.

## **4. SCOPE OF WORK/TECHNICAL SPECIFICATIONS**

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### **4.1. INTRODUCTION**

Since 2020, MTS has leveraged Tenable solutions to support and mature its enterprise vulnerability management program across both Information Technology (IT) and Operational Technology (OT) environments. These solutions have been integral to securing MTS information systems as well as critical transit infrastructure, including Trolley Tracking, Rail Monitoring and Control Systems (CTC), and field-based Programmable Logic Controller (PLC) devices.

The MTS Information Security and Intelligence team has successfully enhanced its ability to detect vulnerabilities and assess risk exposure across IT and OT systems and endpoints through the effective use of Tenable Security Center and Tenable OT. These mature and proven solutions have enabled consistent visibility, risk prioritization, and informed decision-making necessary to protect mission critical systems.

In addition, the MTS Cybersecurity team has developed a high level of familiarity and expertise with the Tenable platforms, resulting in sustained operational value and reduced onboarding risk. Maintaining these enterprise capabilities supports continued skill development, operational continuity, and mature cybersecurity protections for MTS's critical IT and OT systems that directly support the safety, reliability, and security of transit services for riders.

### **4.2. BACKGROUND**

MTS, consistent with other government and public transportation agencies, operates within an increasingly complex and high-risk cybersecurity environment. The continuous expansion of interconnected IT and OT systems has increased the potential for cyber incidents that may result in data theft, service disruption, vandalism, and real-world operational impacts. As a provider of critical public transportation services, MTS infrastructure represents a high-value target where cybersecurity directly supports public safety, operational continuity, and rider confidence.

In addition to ongoing criminal cyber activity, the global cybersecurity environment has become more volatile due to heightened geopolitical tensions and the increasing prevalence of cyber warfare and state-sponsored cyber operations. Conflicts abroad have demonstrated the ability for cyber activity to rapidly extend beyond geographic boundaries and disproportionately impact critical infrastructure sectors, including transportation, energy, and communications. As a result, the likelihood and potential impact of sophisticated cyber threats against public sector systems have increased, heightening the need for mature, defensive cybersecurity capabilities.

Since the initial deployment of Tenable solutions, MTS has continued to expand and modernize its technology footprint, adding new enterprise systems, endpoints, OT assets, and connected devices. This expansion necessitates greater and more comprehensive visibility into vulnerabilities and exposures across both IT and OT environments. Certain advanced malware and exploitation techniques have demonstrated the ability to traverse enterprise and industrial networks, reinforcing the need for continuous vulnerability identification, prioritization, and monitoring.

To address these evolving risks, MTS Information Security and Intelligence team has determined that continuing use of Tenable SecurityCenter and Tenable OT is essential to maintaining effective cybersecurity oversight. Tenable is recognized as an industry leader in vulnerability management and exposure assessment, providing proven capabilities that support proactive risk identification, informed decision-making, and timely remediation across converged IT/OT

#### **4.3. SCOPE OF WORK**

MTS is soliciting a contract to begin on October 1, 2026, billed annually for up to five years, contract to include three base years and two one-year options, to be exercised at the sole discretion of MTS. The annual Tenable package includes:

- SKU: TSCCV (Qty 1)
  - Tenable.sc+ includes scanners, 1GB NNM. Must match T.sc license count if upgrading - Annual Subscription - 8000 IP Count
- SKU: TSC-STNDC (Qty 1)
  - Standard Tenable.sc Console(s) included with Tenable.sc+ purchase
- SKU: AGT-OPS (Qty 2)
  - Tenable.sc Agents - On Premise (For Subscription SC/SCCV)
- SKU: TOT (Qty 1)
  - Tenable.OT includes asset inventory, active querying, passive monitoring, vulnerability management, NNM sensors, and configuration control. Annual Subscription is licensed per Asset. - Assets: 1000

#### **4.4. TARIFFS**

All quoted pricing should be “EXCLUSIVE” of tariffs. In the event there are tariffs imposed across any items under this contract, the Contractor may request separate payment through the submission of CBP Form 7501 outlining the HTSUS rate (Box 33) and Duty charged (Box 34) for the description (Box 28) and quantity (Box 30 & 31) of the item which should match the MTS Purchase Order particulars.

Tariff charges may be invoiced under a separate charge to each purchase order once approved by MTS.

#### **4.5. INVOICES**

Annual invoices must be sent to the MTS Accounting Department, via email, at [ap@sdmts.com](mailto:ap@sdmts.com). All invoices must have the Purchase Order and contract number clearly displayed to ensure timely payment. MTS will not pay on packing slips, receiving documents, delivery documents, or other similar documents. Invoices must be submitted for payment.

Payment terms shall be net 30 days from invoice date. If MTS rejects an incorrectly submitted invoice and sends it back for correction, the net 30 days restart from the corrected invoice date.

Contractors must also indicate if any of the invoiced amount(s) is for service or work provided by a subcontractor and indicate the amount that will be paid to the subcontractor. Contractors must also comply with the prompt payment requirements in the *Prompt Progress Payments* section of the Standard Conditions.

- 4.6. [NOT APPLICABLE] PAYMENT PROCESSING SECURITY AND PAYMENT CARD INDUSTRY (PCI) DATA SECURITY STANDARD (DSS) COMPLIANCE
- 4.7. [NOT APPLICABLE] HEWLETT PACKARD ENTERPRISE (HPE) MINIMUM REQUIREMENTS
- 4.8. [NOT APPLICABLE] CISCO MINIMUM REQUIREMENTS
- 4.9. [NOT APPLICABLE] CONTRACTOR'S INFORMATION SECURITY RESPONSIBILITIES
- 4.10. [NOT APPLICABLE] SAFETY DATA SHEETS (SDS)
- 4.11. [NOT APPLICABLE] NO RIGHT TO POST SIGNS
- 4.12. [NOT APPLICABLE] WARRANTY
- 4.13. [NOT APPLICABLE] REPLACEMENT PARTS
- 4.14. **DELIVERY AND ACCEPTANCE**

The current subscription expires 09/30/2026. The renewal must be recorded accurately under the MTS customer ID 863645.

After the support contract is renewed, MTS will confirm its completion by ensuring the updated Software license updates are reflected in the Tenable Customer account portal.

1. The support contract renewal must be accurately recorded under MTS account.
2. Proof of the updated support agreement must be visible and verifiable in the Tenable Customer Support Portal.

- 4.15. [NOT APPLICABLE] LIQUIDATED DAMAGES

## 5. ATTACHMENTS

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ATT 1 - Bid Form

(See [PlanetBids](#))

## 6. SAMPLE OF STANDARD AGREEMENT, STANDARD CONDITIONS



### STANDARD AGREEMENT FOR

MTS DOC. NO. G3243.0-26

### TENABLE CYBERSECURITY SOFTWARE RENEWAL

THIS AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2026 in the State of California by and between San Diego Metropolitan Transit System ("MTS"), a California public agency, and the following, hereinafter referred to as "Contractor":

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Form of Business: \_\_\_\_\_  
(Corporation, Partnership, Sole Proprietor, etc.) Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

Authorized person to sign contracts \_\_\_\_\_  
Name Title

The Contractor agrees to provide services as specified in the conformed Scope of Work/Minimum Technical Specification (Exhibit A), Contractor's Bid/Pricing Form (Exhibit B), and in accordance with the Standard Agreement, including Standard Conditions (Exhibit C), and Forms (Exhibit D).

The contract term is for up to 3 base years and 2 option years, exercisable at MTS's sole discretion, for a total of 5 years. Base period shall be effective October 1, 2026 through September 30, 2029 and option years shall be effective October 1, 2029 through September 30, 2031, if exercised by MTS.

Payment terms shall be net 30 days from invoice date. The total cost of this contract shall not exceed \$\_\_\_\_\_ for the base years and \$\_\_\_\_\_ for the option years, for a contract total not to exceed \$\_\_\_\_\_ without the express written consent of MTS.

1255 Imperial Avenue, Suite 1000, San Diego, CA 92101-7490 • (619) 231-1466 • [sdmts.com](http://sdmts.com)

San Diego Metropolitan Transit System (MTS) is a California public agency comprised of San Diego Transit Corp., San Diego Trolley, Inc. and San Diego and Arizona Eastern Railway Company (nonprofit public benefit corporations). MTS member agencies include the cities of Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, and the County of San Diego. MTS is also the For-Hire Vehicle administrator for multiple cities in San Diego County.





SAN DIEGO METROPOLITAN TRANSIT SYSTEM	CONTRACTOR NAME
<p>By: _____                      Sharon Cooney, Chief Executive Officer</p> <p>Approved as to form:</p> <p>By: _____                      Karen Landers, General Counsel</p>	<p>By _____</p> <p>Title: _____</p>

## **STANDARD CONDITIONS**

### **6.1. COMPLETE AGREEMENT**

This Agreement, including all applicable terms, conditions, and specifications, is the entire agreement of the parties and no attempted modification shall be binding unless in writing and signed by MTS and the Contractor.

MTS reserves the right to use alternative vendors/contractors at any time for any reason.

### **6.2. COUNTERPARTS**

This Agreement may be executed in any number of counterparts. All such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original thereof.

### **6.3. SURVIVAL**

Notwithstanding MTS's acceptance of the services and payment therefore, Contractor shall remain obligated under all clauses of this Agreement which expressly, or by their nature, extend beyond and survive such acceptance and payment.

### **6.4. DUTY TO CLARIFY OBVIOUS AMBIGUITY**

The Contractor is required to seek clarification of any obvious ambiguity contained in the contract documents. Failure to do so will result in an interpretation of the ambiguous provision favorable to MTS should a dispute later arise concerning that provision.

### **6.5. NOTICES**

All notices or other communications to either party by the other shall be deemed given when made in writing and deposited in the United States Post Office, addressed as follows:

To MTS:

San Diego Metropolitan Transit System  
Attention: Chief Executive Officer  
1255 Imperial Avenue, Suite 1000  
San Diego, CA 92101-7490

To Contractor:

As shown on front page.

### **6.6. CHANGES IN WORK**

No payment for changed or additional work shall be made unless the changed or additional work has first been approved in writing by the MTS Project Manager and the parties have agreed upon the appropriate adjustment, if any, to the payment schedule and maximum payment amount for the changed or additional work. The written notice of potential change in work be given to MTS prior to the time Contractor shall have performed the work within fifteen (15) days after the happening of the event, thing, occurrence, or other cause, giving rise to the potential change in work.

The MTS Project Manager may order changes or additions to the scope of work. Whether a change or addition to the scope of work is proposed by the Contractor or ordered by the MTS Project Manager, the parties shall in good faith negotiate an appropriate adjustment, if any, to the payment schedule and maximum payment for the changed or additional work. An approved change or addition, along with the payment adjustment, if any, will be effective upon an amendment to this contract executed by both parties. The amendment shall not render ineffective or invalidate unaffected portions of this contract.

## **6.7. SEVERABILITY**

If any term, provision, or condition of this Agreement is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term, provision, or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

## **6.8. TERMINATION OF AGREEMENT**

### **A. TERMINATION FOR CONVENIENCE**

Performance under this agreement may be terminated by MTS in accordance with this clause in whole or, from time-to-time, in part, whenever MTS shall elect. Any such termination shall be affected by delivery to Contractor of a Notice of Termination specifying the extent to which performance under this agreement is terminated, and the date upon which such termination becomes effective. Upon receipt of any such notice, Contractor shall, unless the notice requires otherwise:

- i. immediately discontinue performance on the date and to the extent specified in the notice;
- ii. place no further orders for materials other than as may be necessarily required for completion of such portion of the agreement that is not terminated;
- iii. promptly make every reasonable effort to either obtain cancellation on terms satisfactory to MTS of all orders to Contractor's suppliers to the extent they relate to the performance of that portion terminated, or upon MTS concurrence assign to MTS those orders; and
- iv. assist MTS, upon request, in the maintenance, protection and disposition of property acquired by MTS under this agreement.

If claimed in writing within 30 calendar days after Notice of Termination, MTS will pay to Contractor an equitable adjustment to include (without duplication of any item):

- i. all amounts due and not previously paid to Contractor for goods completed in accordance with this agreement prior to such notice;
- ii. a reasonable amount for any goods and materials then in production; provided that no such adjustment be made in favor of Contractor with respect to any goods which are Contractor's standard stock;
- iii. costs of settling and paying supplier's claim arising out of the canceled orders; and

- iv. a reasonable profit for costs incurred in the performance of that portion terminated; provided, however, that if it appears that Contractor would have sustained a loss on the entire agreement had it been completed, no profit shall be included.

The total sum to be paid to Contractor under this clause, shall not exceed the total order price as reduced by the amount of payments otherwise made, and as further reduced by the order price of that portion not terminated, and will not include any consideration for loss of anticipated profits on the terminated portion all claims for which seller agrees to waive.

## B. TERMINATION FOR DEFAULT

In case of Contractor breach or failure to perform, MTS reserves the right to terminate the contract for default. MTS may award the contract to the next lowest responsive, responsible Bidder, solicit new bids, or pursue any other remedy authorized by law.

In addition to any remedy authorized by law, money due to the Contractor under and by virtue of contract, as shall be considered necessary by MTS, may be retained by MTS until disposition has been made of such suits or claims for damages. The retention of money due to the Contractor shall be subject to the following:

- i. MTS will give the Contractor ten (10) days' notice of its intention to retain funds from any partial payment, which may become due to the Contractor prior to acceptance by MTS of the contract. Retention of funds from any payment made after acceptance may be made without such prior notice to the Contractor.
- ii. No retention of additional amounts out of partial payments will be made if the amount to be retained does not exceed the amount being withheld from partial payments.
- iii. If MTS has retained funds, and it is subsequently determined that MTS is not entitled to be indemnified and saved harmless by the Contractor in connection with the matter for which such retention was made, MTS shall be liable for interest earned on the amount retained for the period of such retention.

MTS may terminate the contract by serving a notice of termination on the Contractor. Notice shall set forth the manner in which the Contractor is in default, and provide the Contractor with ten (10) days' time to cure the default to the satisfaction of MTS. This cure period may be adjusted if the parties so agree in writing. If MTS determines after the cure period that the default is not cured, MTS will issue a "show cause" letter to the Contractor requesting from the Contractor reasons why this contract should not be terminated. If MTS does not find that the Contractor has demonstrated sufficient reason for its failure to cure, the contract shall be deemed terminated. The Contractor shall only be paid the contract price for supplies received and accepted, or services performed in accordance with the manner set forth in the contract. If MTS determines that the Contractor had an excusable reason for not performing such as a strike, fire, flood, or other events, which are not the fault of, or beyond the control of the Contractor, MTS may allow the Contractor to continue work or terminate the contract for convenience.

## **6.9. ASSIGNABILITY**

- A. By MTS: This contract is assignable, in whole or in part, to any other government agency, including the North County Transit District and/or the San Diego Association of Governments and/or MTS. The party wishing to exercise the assignment (also known as a “piggyback”) shall perform an independent cost estimate to determine fair and reasonable pricing and shall enter into its own contract with the vendor based upon the terms and conditions of this Invitation for Bid. Any assignment or piggyback shall comply with Federal Transit Administration (FTA) requirements if applicable. MTS shall have no responsibility or liability for any such assignment or piggyback.
- B. By Contractor: Any attempt by Contractor to assign, subcontract, or transfer all or part of this Agreement shall be void and unenforceable without MTS' prior written consent, which consent shall not be unreasonably withheld. Any such consent shall not relieve Contractor from full and direct responsibility for all services performed prior to the date of assigning, subcontracting, or transferring this Agreement. In the event of an authorized assignment by MTS or applicable law, all terms, conditions, and provisions of this contract shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties.

Any assignment of this Agreement or of any rights hereunder of hypothecation thereof in any manner, in whole or in part, without the prior written consent of MTS shall be null and void. Notwithstanding the foregoing, Contractor may assign monies due or to become due under this Agreement and such assignments will be recognized by MTS, provided that written notice thereof is given to MTS at least ten (10) calendar days before payment is due. Any assignment of monies shall be subject to proper setoffs in favor of MTS to all deductions provided for in this Agreement. All money withheld, whether assigned or not, shall be subject to being used by MTS for the completion of the Agreement, in the event Contractor should be in default therein.

In the event of an authorized assignment by MTS or applicable law, all terms, conditions, and provisions hereof shall inure to and bind hereto their and each of their respective heirs, executors, administrators, successors, and assigns.

## **6.10. STANDARD OF PERFORMANCE**

Contractor's services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of Contractor's profession currently practicing under similar conditions. By delivery of completed work, Contractor certifies that the work conforms to the requirements of this contract and all applicable federal, state and local laws. If Contractor is retained to perform services requiring a license, certification, registration or other similar requirement under California law, Contractor shall maintain that license, certification, registration or other similar requirement throughout the term of this Contract.

## **6.11. TIME**

The Contractor acknowledges that timely performance is an important element of this Agreement. Accordingly, the Contractor shall put forth its best professional effort to complete its services in accordance with the agreed-upon schedule.

## **6.12. EXCUSABLE DELAYS / FORCE MAJEURE**

Timely performance and deliveries are essential to this Agreement. However, Contractor will not be liable for delays in performing its obligations to the extent the delay is caused by an unforeseeable condition, which is beyond Contractor's reasonable control, without Contractor's fault or negligence. Acts of God, such as storms or floods, as well as government priorities, acts of civil or military authorities, fires, strikes, epidemics, war or riot, are examples of events which will be excusable for being beyond Contractor's reasonable control only upon fulfillment of the following conditions: (a) within seven (7) calendar days of the commencement of any excusable delay, Contractor shall provide MTS with written notice of the cause and extent thereof, as well as request for a schedule extension for the estimated duration thereof; and (b) within seven (7) calendar days of the cessation of the event causing delay, Contractor shall provide MTS with written notice of the actual delay incurred, upon receipt of which the date of promised delivery shall be extended for the time actually lost by reason of an excusable delay.

## **6.13. SUSPENSION OF WORK**

MTS may at any time and for any reason within its sole discretion issue a written order to the Contractor suspending, delaying or interrupting all or any part of the Work for a specified period of time. The Contractor shall comply immediately with any such written order and take all reasonable steps to minimize costs allocable to the Work covered by the suspension during the period of work stoppage. Contractor shall continue the Work that is not included in the suspension and shall continue such ancillary activities as are not suspended. The Contractor shall resume performance of the suspended Work upon expiration of the notice of suspension, or upon direction from MTS. The Contractor shall be allowed an equitable adjustment in the Contract price and/or an extension of the Contract time, to the extent that cost or delays are shown by the Contractor to be directly attributable to any suspension. However, no adjustment shall be made under this section for any suspension, delay or interruption due to the fault or negligence of the Contractor, or for which an equitable adjustment is provided for, or excluded under any other term or condition of the Contract. As soon as reasonably possible but no later than forty-five (45) calendar days, or any other period of time agreed to by the parties, after receipt of the written suspension of work notice, the Contractor shall submit to the Contracting Officer a detailed price and schedule proposal for the suspension, delay or interruption.

## **6.14. INSPECTION AND TESTING**

Except as otherwise expressly provided herein, Contractor shall be responsible for all inspection and testing, and agrees to strictly follow the standards of quality specified by MTS in addition to those customary in the industry. MTS shall be afforded free access to plants of Contractor and its suppliers in order to make surveillance inspections to monitor compliance with contractual quality requirements, and MTS's right to inspect, examine, and test the goods shall extend through the manufacturing process, the time and shipment, and a reasonable time after arrival at the ultimate destination. Contractor's failure to adhere to the standards of quality required under this Agreement shall be deemed to be reasonable grounds for insecurity justifying a written demand from MTS that Contractor provide adequate assurance of Contractor's ability to meet said standards.

Goods shall not be deemed accepted until finally inspected and examined at final destination.

The making or failure to make any surveillance inspection or examination of, payment for, or acceptance of the goods shall in no way impair MTS's right to reject nonconforming goods, or to avail itself of any other remedies to which MTS may be entitled, notwithstanding MTS's knowledge of the nonconformity, its substantiality, or the ease of its discovery.

#### **6.15. EXPEDITING**

The goods furnished under this Agreement shall be subject to expediting by MTS. MTS shall be afforded free access to Contractor's shops, factories, or places of business, and those of Contractor's suppliers, for expediting purposes. As required by MTS, Contractor shall supply schedules, unpriced copies of purchase orders and progress reports for MTS's use in expediting.

#### **6.16. INDEPENDENT CONTRACTOR**

Contractor hereby declares that it is engaged in an independent business and agrees that in the performance of this Agreement it shall act as an independent contractor and not as an employee of MTS. Contractor has and hereby retains full control of all the employment, compensation, and discharge of all employees of Contractor assisting in its performance hereunder. Contractor shall be fully responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding tax, and all other laws and regulations governing such matters. Contractor shall be responsible for its own acts and those of its agents and employees during the term of this Agreement. MTS shall be responsible for its own acts and those of its agents and employees during the term of this Agreement. Except as otherwise specifically provided, as an independent contractor, Contractor is solely responsible for determining the means and methods of performing the services described in the scope of work. Contractor shall perform the work contemplated with resources available within its own organization.

#### **6.17. THIRD PARTY BENEFICIARIES**

No provisions of the Contract shall in any way inure to the benefit of any third party, including the public at large, so as to constitute such person a third-party beneficiary of the Contract or of any one or more of the terms and conditions of the Contract or otherwise give rise to any cause of action in any person not a party to the Contract, except as expressly provided elsewhere in the Contract.

#### **6.18. SUBCONTRACTORS**

Contractor agrees to bind every subcontractor to the terms of the Agreement as far as such terms are applicable to subcontractor's portion of the Work. Contractor shall be as fully responsible to MTS for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by its subcontractors, as Contractor is for acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and MTS. MTS reserves the right to approve all subcontractors. MTS's approval of any subcontractor under this Agreement shall not in any way relieve Contractor of its obligations under this Agreement.

#### **6.19. INDEMNITY**

As between MTS and Contractor, Contractor is deemed to assume responsibility and liability for, and Contractor shall defend, indemnify and hold harmless, MTS, SDTI, SDTC, SD&AE, SD&IV and any and all of its directors, officers, agents or employees from and against any and all claims,

loss, damage, charge, or expense, whether direct or indirect, which MTS, SDTI, SDTC, SD&AE, SD&IV or such directors, officers, agents or employees may be put or subjected, by reason of any damage, loss, or injury of any kind or nature whatever to persons or property caused by or resulting from or in connection with any negligent act or action, or any neglect, omission, or failure to act when under a duty to act on the part of Contractor or any of its officers, agents, servants, employees or subcontractors in its or their performance under this Agreement. In addition to any other remedy authorized by law, so much of the money due Contractor under this Agreement as shall be considered necessary by MTS may be retained until disposition has been made of any claim for damages.

## **6.20. DISPUTES, CLAIMS, AND RESOLUTION**

MTS and the Contractor agree that every effort shall be made to resolve any dispute arising under this Agreement informally through their designated representatives. If the informal efforts are unsuccessful, then either party may request mediation by submitting a written request signed by an officer with the authority to bind the Contractor or MTS. Within five (5) business days of the request of any party, the parties shall mutually agree on the person or alternative dispute resolution agency to conduct the mediation. If the parties are unable to agree on the person or alternative dispute resolution agency to conduct the mediation, the initiating party may arrange for the office of the American Arbitration Association in downtown San Diego, California, to perform the mediation. The initiating party shall then schedule the mediation so that it is conducted within fifteen (15) business days of the mediator's appointment. The costs of the mediation and fees of the mediator, if any, shall be borne by the requesting party. Any dispute not resolved through the mediation may proceed to litigation in a court of competent jurisdiction in the County of San Diego, State of California, unless the parties agree in writing to submit the dispute to binding arbitration.

Should the Contractor suffer any injury or damage to person or property because of any alleged act or omission of MTS, or if any of Contractor's employees, agents, or others for whose acts the Contractor is legally liable suffers any injury or damages to person or property because of any alleged act or omission of MTS, a written claim for damages shall be filed with the MTS Office of General Counsel in accordance with the provisions of California Government Code section 900 et seq.

The duties and obligations imposed by this Agreement and the rights and remedies available hereunder 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 MTS or Contractor shall constitute a waiver of any right or duty afforded any of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder except as may be specifically agreed to in writing.

## **6.21. NONWAIVER**

Failure of MTS to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights or remedies provided herein, or by law, or to properly notify Contractor in the event of breach, or the acceptance of payment for any goods hereunder, or review of design, shall not release Contractor from any of the warranties or obligations of this agreement, and shall not be deemed a waiver of any right of MTS to insist regardless when shipped, received, or accepted or as to any prior or subsequent default hereunder, nor shall any



revision of this agreement by MTS operate as a waiver of any of the terms hereof. A requirement that a Contractor's document be submitted for or subject to "authorization to proceed," "approval," "acceptance," "review," "comment," or combinations of such words or words of like import shall mean, unless the context clearly indicates otherwise, that Contractor shall, before implementing the information in the document, submit the document, obtain resolution of any comments, and obtain written authorization from MTS to proceed, and shall mean that a complete check will be performed. Authorization to proceed shall not constitute acceptance or approval of design details, calculations, analyses, test methods, or materials developed or selected by Contractor and shall not relieve Contractor from full compliance with contractual obligations.

## **6.22. GOVERNING LAW AND CHOICE OF FORUM**

The definition of terms used, interpretation of this Agreement, and rights of all parties hereunder shall be determined in accordance with the laws of the State of California.

Any action or proceeding to enforce or relating to this Agreement shall be brought exclusively in the federal or state courts located in San Diego County, California, and the Contractor and MTS hereto consent to the exercise of personal jurisdiction over them by any such courts for purposes of any such action or proceeding.

## **6.23. LITIGATION EXPENSES**

Should litigation be necessary to enforce any term or provision of this Agreement, or to collect any portion of the amount payable under this Agreement, then all litigation and collection expenses, witness fees, court costs, and attorney's fees shall be paid to the prevailing party.

## **6.24. PRICE AND PAYMENT**

The total price herein specified, unless otherwise expressly stated, shall include all taxes of any kind which either party is required to pay with respect to the sale of the goods covered by this Agreement, including sales and use taxes, and shall include all charges and expenses for customs duties, freight charges, inspection, testing, packaging and loading unless specifically excluded.

Payment will be made as set forth in this Agreement; however, payments may be withheld, or portions thereof may be deducted, or setoffs may be made against Contractor if Contractor is not performing work in accordance with the applicable provisions of this Agreement. The time for payment of invoices or for accepting any discounts offered shall run only from the date of receipt of correct invoices with required certification documents by MTS.

**ADVANCE PAYMENT IS NOT ALLOWABLE.**

## **6.25. COST PRINCIPLES**

Contractor and any subcontractors agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual project cost items.

Contractor and its subcontractors shall comply with Federal administrative procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Contractor and its subcontractors shall establish and maintain an accounting system and records that properly accumulate and segregate incurred project costs and matching funds by line item for the project. The accounting system of Contractor and its subcontractors shall conform to Generally Accepted Accounting Principles (GAAP) and enable the determination of incurred costs at interim points of completion.

Any costs for which payment has been made that are determined by a subsequent audit to be unallowable under the provisions above are subject to repayment by the Contractor to MTS.

## **6.26. PROMPT PROGRESS PAYMENT AND RETENTION FOR NON-PUBLIC WORKS**

- A. Prompt Progress Payment.** Contractor shall pay each subcontractor participating on the contract for satisfactory completion of accepted work no later than 30 calendar days from the receipt of each progress payment the Contractor receives from MTS. Any subcontractor will also be required to pay any lower-tier subcontractors for satisfactory completion of accepted work no later than 30 calendar days from the receipt of each progress payment from the prime contractor. Any delay or postponement of payment over 30 calendar days may occur only for good cause following written approval of MTS. This clause applies to both DBE and non-DBE subcontractors.
- B. Retention.** No retainage will be held by MTS from progress payments due to the Contractor. If retainage is kept by Contractor, Contractor must make prompt and full payment of any retainage owed to subcontractors work within 30 calendar days after subcontractor's work has been satisfactorily completed. Subcontractors will also be required to make prompt and full payment of any retainage owed to any lower-tier subcontractors work within 30 calendar days after the lower-tier subcontractor's work has been satisfactorily completed. Any delay or postponement of payment over 30 calendar days may occur only for good cause following written approval of MTS. This clause applies to both DBE and non-DBE subcontractors.
- C. Monitoring.** If subcontractors, Contractor must submit a completed MTS Prompt Payment Certification Form to MTS with each invoice, within one (1) month following final acceptance of contract work, and as requested by MTS. The MTS Prompt Payment Certification Form may be downloaded at <https://www.sdmts.com/business-center/procurement/prompt-payment>.
- D. Record Retention:** Contractor and Subcontractors must maintain records of payments to DBE and non-DBE subcontractors for a minimum of three (3) years.
- E. Penalties for Noncompliance.** Failure of Contractor or subcontractor to comply with this provision will constitute noncompliance, which may result in the application of legal and contract remedies, including, but not limited to, Contractor will not be reimbursed for work performed by subcontractors unless and until the Contractor ensures that the subcontractors are promptly paid for the work they have performed, contract termination and/or other remedies as deemed appropriate by MTS. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the

Contractor or Subcontractor in the event of a dispute involving late or nonpayment by the Contractor, deficient Subcontractor performance, or noncompliance by a Subcontractor.

- F. Subcontracts.** Contractor must include this clause in its subcontracts and lower-tier subcontracts related to the performance of this Agreement.

**6.27. RECORDS RETENTION AND ACCESS TO SITES OF PERFORMANCE (APPLICABLE TO ALL CONTRACTS AND SUBCONTRACTS)**

- A. Types of Records. Contractor and any Subcontractor shall retain, complete and make readily accessible records related in whole or in part to the performance of the Contract, including, but not limited to, data, documents, reports, statistics, sub agreements, leases, third party contracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- B. Retention Period. The Contractor and any Subcontractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) 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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- C. Access to Records and Sites of Performance. Contractor and any Subcontractor shall:
- i. Provide sufficient access to inspect, copy and audit records and information, related to the performance of the Contract, upon receipt of a request made by the U.S. Secretary of Transportation or the Secretary's duly authorized representatives, to the Comptroller General of the United States, the Comptroller General's duly authorized representatives, State of California or its duly authorized representatives, the California State Auditor, and/or MTS;
  - ii. Permit those individuals listed above access to all records of employment, employment advertisements, employment application forms, and other pertinent data related to the performance of the Contract;
  - iii. Permit those individuals listed above to have access to the sites of performance of the Contract and to make site visits as needed in compliance with the U.S. DOT Common Rules, as applicable;
  - iv. Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the U.S. DOT Common Rules, as applicable.

**6.28. CALIFORNIA PUBLIC RECORDS ACT (CPRA)**

MTS and Contractor acknowledge that MTS is a public agency subject to the CPRA (California Government Code §§ 6250 through 6276.48) and other applicable laws. The agreement entered into between MTS and Contractor will be considered a public record and subject to disclosure in compliance with the CPRA. MTS acknowledges and agrees that during the course of the work

conducted by Contractor, MTS may be provided with Contractor's confidential and proprietary or trade secret information that is not subject to disclosure under the CPRA or other applicable law. Such information will be clearly marked as "Confidential and Proprietary". MTS shall maintain such Confidential and Proprietary documents as confidential and shall not disclose them to third parties unless required to do so by applicable law, rule or regulation. In the event a request for Contractor's Confidential and Proprietary documents is received by MTS, whether under the CPRA, subpoena, or other method, MTS will provide Contractor with an opportunity to review the request, and at Contractor's sole cost, to defend or pursue an action to protect such Confidential and Proprietary documents from disclosure. MTS shall not be required to incur legal fees and costs to protect Contractor's Confidential and Proprietary documents from disclosure under state or federal law.

**6.29. [NOT APPLICABLE] EXCLUSIVE USE**

**6.30. [NOT APPLICABLE] OWNERSHIP OF DOCUMENTS**

**6.31. LANGUAGE AND MEASURE UNITS**

Unless specified otherwise, manuals, specifications, drawings, plans, purchase orders, subcontract documents, and invoices submitted in accordance with this Agreement shall be in metric ("Systems International d' Units," or "SI units") with the United States equivalents clearly shown.

**6.32. STANDARDS AND CODES**

Whenever references are made in the Agreement to standards or codes in accordance with which the goods are to be manufactured or tested, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly set forth. Unless otherwise specified, reference to such standards or codes is solely for implementation of the technical portions of such standards and codes.

In case of conflict among any referenced standards and codes, or between any referenced standards and codes and the Technical Specifications, MTS will determine which will govern.

**6.33. DBE AND OTHER SMALL BUSINESS PARTICIPATION**

MTS encourages the participation of DBEs, minority owned businesses (MBEs), women owned businesses (WBEs), disabled veteran business enterprises (DVBES), lesbian gay bisexual transgender owned businesses (LGBTBEs) persons with disabilities business enterprises (PDBE) and small businesses (SB) in the performance of all of its contracts. MTS encourages the Contractor to outreach to DBEs and other small business enterprises for any potential subcontracting opportunities on this project. If interested in learning about bonding or financial assistance that may be available for small businesses, visit [www.sba.gov](http://www.sba.gov). If interested in learning about the eligibility requirements to become certified as a DBE, MBE, WBE, DVBE, LGBTBE, PDBE or SB or how to view a list of certified firms, please contact MTS's DBE Liaison Officer at [DBEProgram@sdmts.com](mailto:DBEProgram@sdmts.com) for more information.

**6.34. AMERICANS WITH DISABILITIES ACT**

The Contractor shall comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as

amended, 29 U.S.C. § 794; as well as all applicable regulations and guidelines issued pursuant to the ADA.

**6.35. [NOT APPLICABLE] SUBSTANCE ABUSE**

**6.36. EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM**

**A. MTS'S EEO PROGRAM:**

MTS is an EEO Employer. MTS' EEO Program for Employees and Contractors, MTS Board Policy No. 25, is hereby incorporated by reference to this Contract (a copy can be obtained from MTS' Clerk of the Board).

**B. COMPLIANCE WITH REGULATIONS:**

Contractor shall not discriminate against any employee or applicant for employment or business opportunity as defined at 49 U.S.C. 5332 based on race, color, religion, national origin, sex, gender identity, sexual orientation, pregnancy, disability, or age. Contractor shall comply with: Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.; Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; federal transit law, specifically 49 U.S.C. § 5332; FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients,"; and follow any other federal guidance pertaining to EEO laws, regulations, and requirements, and prohibitions against discrimination. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."

**6.37. COVENANT AGAINST CONTINGENT FEES**

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Contractor, to solicit or secure this Agreement, and that she or he has not agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, MTS shall have the right to annul this Agreement without liability or, at its discretion, to deduct from the Agreement a price or consideration, or otherwise recover the full amount of such fee, percentage, brokerage fee, gift, or contingent fee.

**6.38. CALIFORNIA POLITICAL REFORM ACT**

Contractor acknowledges that the California Political Reform Act ("Act"), Government Code section 81000 et seq., provides that Contractors hired by a public agency, such as MTS, may be deemed to be a "public official" subject to the Act if the Contractor advises MTS on decisions or actions to be taken by MTS. The Act requires such public officials to disqualify themselves from participating in any way in such decisions if they have any one of several specified "conflicts of interest" relating to the decision. To the extent the Act applies to Contractor, Contractor shall abide by the Act and the conflict of interest restrictions imposed on public officials by Government Code section 1090 et seq.

**6.39. [NOT APPLICABLE] ENVIRONMENTAL PROTECTIONS**

#### **6.40. CONSIDERATION PAID**

MTS shall reimburse the Contractor for actual costs (including labor costs, employee benefits, overhead, and other direct costs) incurred by the Contractor in performance of the work, in an amount not to exceed \$TBD. Actual costs shall not exceed the estimated wage rates and other costs set forth in the Contractor's bid.

In addition, MTS shall pay the Contractor a fixed fee of \$TBD. Said fixed fee shall not be altered unless there is a significant alteration in scope, complexity, or character of the work to be performed.

Fees and all other charges will be billed monthly as the work progresses, and the net amount shall be due at the time of billing.

Total expenditures made under this contract, including the fixed fee, shall not exceed the sum of \$TBD.

Payment will be made as set forth in this Agreement; however, payments may be withheld, or portions thereof may be deducted, or setoffs may be made against Contractor if Contractor is not performing work in accordance with the applicable provisions of this Agreement. The time for payment of invoices or for accepting any discounts offered shall run only from the date of receipt of correct invoices with required certification documents by MTS.

MTS does not reimburse travel expenses unless expressly permitted within the scope. If travel expense reimbursement is permitted within the scope, reimbursement for transportation and subsistence costs shall be in accordance with MTS Board Policy No. 44-C.

#### **6.41. [NOT APPLICABLE] WARRANTIES AND GUARANTEES**

#### **6.42. INTELLECTUAL PROPERTY WARRANTY**

MTS shall advise the Contractor of any impending patent suit related to this Contract against MTS and provide all information available. The Contractor shall defend any suit or proceeding brought against MTS based on a claim that any services or goods furnished under this Contract constitutes an infringement of any patent, and the Contractor shall pay all damages and costs awarded therein, excluding incidental and consequential damages against MTS. In case said services or good, or any part thereof, is in such suit held to constitute infringement and use of said services or goods is enjoined, the Contractor shall, at its own expense and at its option, either procure for MTS the right to continue using said services or goods, or replace same with non-infringing services or goods, or modify it so it becomes non-infringing.

#### **6.43. [NOT APPLICABLE] DATA RIGHTS**

#### **6.44. [NOT APPLICABLE] PAYMENT CARD INDUSTRY DATA SECURITY STANDARD: PAYMENT CARD INDUSTRY (PCI) DATA SECURITY STANDARD (DSS) COMPLIANCE REQUIREMENTS**

#### **6.45. [NOT APPLICABLE] IDENTIFICATION OF PERSONNEL/SECURITY**

#### **6.46. [NOT APPLICABLE] ROADWAY WORKERS PROTECTION (RWP) TRAINING**

#### **6.47. [NOT APPLICABLE] FLAGGING**

#### **6.48. [NOT APPLICABLE] SIGNALING MARKOUT**

- 6.49. [NOT APPLICABLE] CALIFORNIA AIR RESOURCES BOARD (“CARB”)
- 6.50. [NOT APPLICABLE] WATER QUALITY MANAGEMENT AND COMPLIANCE
- 6.51. [NOT APPLICABLE] HAZARDOUS SUBSTANCES
- 6.52. [NOT APPLICABLE] PUBLIC WORKS
- 6.53. **INSURANCE**

Contractor will include the contract number on all insurance-related correspondence, i.e., the insurance certificate itself.

All policies required shall be issued by companies who are licensed or approved to do business in the State of California and hold a current policyholder's alphabetic and financial-size category rating of not less than A VII, in accordance with A.M. Best.

MTS utilizes the services of a third-party insurance monitoring company. As a condition of contract award, Contractor shall submit any required insurance policies to the third-party monitoring company of MTS' choosing.

**A. COVERAGE REQUIRED - ALL CONTRACTS (LIABILITY)**

i. Commercial General Liability At all times during this contract and, with respect to Products and Completed Operations Liability, **for five (5) years following the acceptance of the work by MTS**, Contractor agrees to maintain Commercial General Liability Insurance utilizing Insurance Services Office (ISO) coverage form CG0001, edition date 10/01 or later, or an equivalent form and with insurance companies acceptable to MTS. The coverage shall contain no restricting or exclusionary endorsements with respect to the performance of services described in the scope of work.

All such policies shall name in the endorsement San Diego Metropolitan Transit System (MTS), San Diego Trolley, Inc. (SDTI), San Diego and Arizona Eastern Railway (SD&AE), San Diego and Imperial Valley Railroad (SD&IV), and San Diego Transit Corporation (SDTC), their directors, officers, agents, and employees as additional insureds as their interests may appear. Furthermore, an endorsement will be required demonstrating that the standard railroad exclusionary language has been removed as applicable.

ii. Automobile Liability At all times during this contract, Contractor agrees to maintain Automobile Liability Insurance for bodily injury and property damage, covering Code 1 (any auto).

iii. Workers' Compensation/Employer Liability At all times during this contract, Contractor agrees to maintain Workers' Compensation and Employers' Liability Insurance in compliance with the applicable statutory requirements. Contractor waives any rights of subrogation against MTS, SDTI, SD&AE, SD&IV, and SDTC, and the policy form must permit and accept such waiver.

**B. ADDITIONAL COVERAGES REQUIRED (AS INDICATED. WHERE THERE IS A CHECKMARK ☒, THE COVERAGE IS REQUIRED)**

i. ☒ Primary and Non-Contributory Insurance

Contractor agrees that all general liability coverages required under this insurance section are PRIMARY and that any insurance of MTS, SDTI, SD&AE, SD&IV, and SDTC shall be excess and noncontributory (endorsement required).

ii. ☒ Umbrella or Excess Liability (if required to meet liability limits above)

Contractor agrees that any Umbrella or Excess Liability Policy utilized to provide the required limits of liability shall contain coverage at least as broad as that provided by the General Liability Policy, and be written for a term concurrent with the General Liability Policy.

iii. ☐ Owner-Provided Builder's Risk

MTS will provide Builder's Risk Insurance on a special form basis, excluding the perils of earthquake and flood, at a limit of not less than the full replacement value of the work and covering the work and all materials and equipment to be incorporated therein, including property in transit elsewhere, and insuring the interests of the Contractor, subcontractors, materialmen, and MTS, SDTI, SD&AE, SD&IV, SDTC, MTS's contractor for design, and MTS's contractor for construction management. However, Contractor is responsible for the portion of any loss that is within the deductible amount of this Builder's Risk Insurance, which is currently at \$50,000 but is subject to change.

iv. ☐ Railroad Protective Liability and CG 24 17 Endorsement for CGL Policy – Required

The CGL policy must contain the following endorsement: Contractual Liability Railroads ISO Form CG 24 17 10 01 (or a substitute form providing equivalent coverage). Furthermore, Contractor shall maintain a Railroad Protective Liability coverage with limits shown below, and name MTS as the named insured on the policy.

v. ☐ Professional Liability

At all times during this contract, **and for five (5) years following acceptance of work by owner**, Contractor agrees to maintain Professional Liability Insurance with respect to services or operations under this Agreement.

vi. ☐ Pollution Legal Liability

At all times during this contract, and for twenty-four (24) months following, Contractor agrees to maintain Pollution Legal Liability Insurance with respect to services or operations under this Agreement. The extended discovery period must be no less than twenty-four (24) months.

vii. ☐ Contractor Equipment

At all times during this contract, Contractor agrees to maintain Contractor's Equipment Insurance on a special form basis covering equipment owned, leased, or used by Contractor. Contractor waives any rights of subrogation against MTS, SDTI, SD&AE, SD&IV, and SDTC, and the policy form must permit and accept such waiver. Contractor hereby releases and holds harmless MTS for any loss or damage to its equipment.



viii. ☐ Installation Floater

At all times during this contract, Contractor agrees to maintain Installation Floater Insurance on a special form basis covering property owned or provided by Contractor. Contractor waives any rights of subrogation against MTS, SDTI, SD&AE, SD&IV, and SDTC, and the policy form must permit and accept such waiver. Contractor hereby releases and holds harmless these entities for any loss or damage to its property.

ix. ☐ Garage Keeper's Legal Liability & Automobile Portion

At all times during this contract, Contractor agrees to maintain Garage Keeper's Legal Liability as well as Automobile portion which covers the risk of loss or damage to MTS vehicles while in the care, custody or control of Contractor. Automobile portion shall cover the Contractor in the event of a vehicle accident while they are driving an MTS vehicle, which results in a third party claim of physical damage or bodily injury.

x. ☐ Crime Fidelity Insurance

At all times during this contract, Contractor agrees to maintain Crime Fidelity Insurance with respect to services or operations under this agreement. The coverage should include the following:

- Employee dishonesty/theft
- Theft, disappearance and destruction on the premises
- Theft, disappearance and destruction while in transit
- Forgery/alteration

xi. ☐ Property Insurance

Contractor is responsible to insure physical damage coverage at replacement cost value on the rolling stock (i.e., revenue and non-revenue vehicles) it operates. [Note: MTS insures the buildings in which the fixed route contract operates.]

xii. ☐ Cyber and Privacy Liability, including Technology Errors and Omissions

Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses. Coverage shall also include Technology Professional Liability Errors & Omissions appropriate to the Consultant's profession and work hereunder.

xiii. ☐ Financial Institution Bond / Electronic and Computer Crime

At all times through the period of performance of this Agreement, Contractor agrees to maintain Financial Institution Bond / Electronic & Computer Crime Insurance with respect

to services and/or operations under this Agreement. The coverage shall include, at minimum, the following:

- Employee dishonesty / theft
- Theft, disappearance and destruction on the premises
- Theft, disappearance and destruction on / while in transit
- Forgery / Alteration

#### C. MINIMUM POLICY LIMITS REQUIRED

##### i. All Contracts (Liability)

##### Limits

Commercial General Liability (Per Occurrence)	\$2,000,000
(General Aggregate)	\$4,000,000
(Completed Operations & Products Aggregate)	\$2,000,000
Automobile Liability (Combined Single Limit)	\$2,000,000
Worker's Compensation	Statutory Limits, with Employer's Liability Limits of no less than \$1,000,000 per accident for bodily injury or disease

##### ii. Additional Coverages (as indicated under Additional Coverages Required Section):

<input checked="" type="checkbox"/>	i.	Primary and Non-Contributory Insurance	Primary
<input checked="" type="checkbox"/>	ii.	Umbrella or Excess Liability (if required to meet liability limits above)	\$
<input checked="" type="checkbox"/>	iii.	Owner Provided Builder's Risk	Replacement Cost
<input type="checkbox"/>	iv.	Railroad Protective (Per Occurrence)	\$
		Railroad Protective (General Aggregate)	\$
<input type="checkbox"/>	v.	Professional Liability	\$
<input type="checkbox"/>	vi.	Pollution and Legal Liability	\$
<input type="checkbox"/>	vii.	Contractor Equipment	Replacement Cost
<input type="checkbox"/>	viii.	Installation Floater	Replacement Cost
<input type="checkbox"/>	ix.	Garage Keeper's Legal Liability & Automobile Portion (Combined Single Limit)	Per Occurrence
<input type="checkbox"/>	x.	Crime Fidelity Insurance	\$
<input type="checkbox"/>	xi.	Property Insurance	\$
<input type="checkbox"/>	xii.	Cyber Security Liability Insurance (per occurrence or claim)	\$
		(Aggregate)	\$
<input type="checkbox"/>	xiii.	Financial Institution Bond/Electronic and Computer Crime	\$

#### D. NOTICE OF POLICY CHANGES

Contractor shall not amend or cancel the insurance policy and coverage required by this Agreement without providing MTS with at least thirty (30) days prior written notice. Contractor shall notify MTS within ten (10) days of insurer-initiated material amendments or cancellations to the insurance coverage required by this Agreement. Under no circumstances shall these notice provisions be deemed a waiver of the insurance requirements set for herein. Any material changes in or cancellation of the insurance policy on file with MTS pursuant to the insurance requirements will result in an immediate stop work order until proof of substitute coverage meeting the requirements of this Agreement is provided to MTS. In the alternative, in MTS' sole discretion, MTS retains the right to declare Contractor in default and immediately terminate this Agreement if the insurance coverage required is cancelled, otherwise lapses or fails to meet the coverage limits at any time, and for any duration, during the term of this Agreement.

#### E. EVIDENCE REQUIRED

Within ten (10) working days following receipt of notice that a contract has been awarded, Contractor shall have provided the MTS Contracts Specialist with satisfactory certification by a qualified representative of the Insurer(s) that Contractor's insurance complies with all provisions in this insurance section.

#### F. SPECIAL PROVISIONS

The foregoing requirements as to the types and limits of insurance coverage to be maintained by Contractor, and any approval of said insurance by MTS, SDTI, SD&AE, SD&IV, and SDTC, or their insurance Contractor(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.

MTS reserves the right to withhold payments to Contractor in the event of material noncompliance with the insurance requirements outlined above.

#### **6.54. [NOT APPLICABLE] CONFLICT OF INTEREST LAWS FOR MTS CONSULTANT**

## 7. FORMS

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The following forms/information are required to be submitted with your bid as a matter of responsiveness. All bids (and accompanying information) must be received by MTS' Procurement Department prior to the scheduled time and date as specified in the Calendar of Events.

Submit the bid following instructions as specified in Submission Requirements section.

# CONTACT INFORMATION

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Company Information:

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The Official, Legal Name of Bidding Firm:

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Doing Business As:

---

Legal Structure (Corp./Partner/Proprietor):

---

Company Mailing Address:

---

Street

---

City

State

Zip

Person Authorized to sign:

---

Point of Contact:

---

Title:

---

E-Mail Address:

---

Phone Number:

---

Accounts Receivable:

---

Point of Contact:

---

Title:

---

E-Mail Address:

---

Phone Number:

---

Account Representative:

---

Point of Contact:

---

Title:

---

E-Mail Address:

---

Phone Number:

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## BID FORM

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Refer to Attachment: ATT 1 - Bid Form

Read attached General Provisions carefully. They are a part of your bid.

Submit the bid following instructions as specified in Submission Requirements section.

Bidder shall submit pricing for all the work described in the Scope of Work section. In preparing a cost bid, Bidders are requested to provide a total all-inclusive cost. Unit prices shall be rounded to the nearest cent.

Estimated quantities are for bid purposes only. The quantities do not reflect guaranteed usage by MTS and may be more or less than indicated.

Unit prices rounded to the nearest cent will prevail regardless of extensions submitted by the Bidder.

Bidder accepts responsibility for accuracy and presentation of the numbers included in the cost/price form.

All bidders must complete bid forms as provided, failure to do so will deem the bid non-responsive.

DESIGNATION OF SUBCONTRACTORS

List Subcontractor participants below. If 100% of item is not to be performed or furnished by subcontractor, describe exact portion of item to be performed or furnished by subcontractor. The successful bidder must execute and return this form.

If no subcontractor bidder shall indicate “Not Applicable” and return with the bid packet.

	Subcontractor 1		
Company Name:			
Contractor License or Certificate Number			
DBE, DVBE, LGBTBE, MBE, SB, PDBE, WBE:			
% of Work:			
Department of Industrial Relations (DIR) Number:			
Point of Contact			
Email:			
Phone Number:			
Address:			
	Street		
	City	State	Zip
Description of Work:			

**COPY THIS FORM IF NEEDED FOR ADDITIONAL SUBCONTRACTORS**

	Subcontractor		
Company Name:			
Contractor License or Certificate Number			
DBE, DVBE, LGBTBE, MBE, SB, PDBE, WBE:			
% of Work:			
Department of Industrial Relations (DIR) Number:			
Point of Contact			
Email:			
Phone Number:			
Address:			
	Street		
	City	State	Zip
Description of Work:			



## MTS DBE PROGRAM - INFORMATION FOR BIDDER LIST AND COMMERCIAL USEFUL FUNCTION

MTS is required by Disadvantaged Business Enterprise (DBE) Regulations at 49 CFR Part 26 to collect and report data about DBE and non-DBE contractors and subcontractors who seek to work on MTS's projects. MTS may also use this data to set MTS's overall DBE goals and to assist in monitoring commercial useful function in order to count DBE participation toward meeting MTS's overall DBE goals.

INSTRUCTIONS: Each prime contractor and each subcontractor bidding/submitting a bid/proposal is **required** to complete this form as part of their bid/proposal. If multiple subcontractors, copy this form.

1. Firm Name:	
2. Firm's Full Address (street, city, state, and zip code):	
3. NAICS code for work seeking to perform:	
4. If applicable, please check any certification that your firm currently maintains:	<input type="checkbox"/> DBE <input type="checkbox"/> SB – Small Business <input type="checkbox"/> DVBE – Disabled Veteran Owned Business <input type="checkbox"/> LGBTBE – LGBT Owned Business <input type="checkbox"/> MBE – Minority Owned Business <input type="checkbox"/> PDBE – Persons with Disability Owned Business <input type="checkbox"/> WBE – Woman Owned Business
5. Only if DBE certified firm, please check one (1) type of work your firm is seeking to perform on this bid/proposal (as defined at enclosed MTS DBE Program: Commercial Useful Function – Guidance for DBE Contractors):	<input type="checkbox"/> Construction/Maintenance Services <input type="checkbox"/> Professional Services <input type="checkbox"/> Other Services – e.g. broker <input type="checkbox"/> Manufacturer of Materials/Supplies <input type="checkbox"/> Regular Dealer of Materials/Supplies <input type="checkbox"/> Distributer of Materials/Supplies <input type="checkbox"/> Other (not listed above) Material Supplier <input type="checkbox"/> Trucking
6. Year firm was established:	
7. Please check your firm's applicable annual gross receipt range:	<input type="checkbox"/> Less than \$1,000,000 <input type="checkbox"/> \$1,000,0001 - \$15,000,000 <input type="checkbox"/> \$15,000,001 - \$30,720,000 <input type="checkbox"/> \$30,720,001 - \$50,000,000 <input type="checkbox"/> Greater than \$50,000,000

### SIGNATURE ACKNOWLEDGES AND AFFIRMS ACCURACY OF COMPLETED FORM

#### SUBCONTRACTOR

Signature: \_\_\_\_\_

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

#### PRIME CONTRACTOR

Signature: \_\_\_\_\_

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

## MTS DBE PROGRAM

### Commercial Useful Function (CUF) – Guidance for DBE Contractors

Per FTA DBE Regulations at 49 CFR Part 26, to meet Commercial Useful Function requirements in order for MTS to count the participation of a DBE prime or DBE subcontractor towards its DBE Overall Goal, the **DBE prime or DBE subcontractor must:**

- 1) Be responsible for execution of the work of the contract and is carrying out its responsibilities by performing, managing, and supervising the work involved;
- 2) Not be an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation;
- 3) Perform or exercise responsibility for at least 30% of the total cost of its contract with its own work force; and
- 4) Depending on the type of work being performed, meet the definitions of the Table below.

Type of Work Performed	Definitions	Counting Rules of DBE Prime or DBE Subcontract Dollar Value
1a. <u>Construction /Maintenance Services</u> – Supplies purchased or leased equipment from a third-party	Responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (if applicable) and paying for the material itself	Count 100%
1b. <u>Construction /Maintenance Services</u> – Supplies purchased or leased equipment from a prime contractor		Count only labor costs (exclude cost of material, supplies, equipment purchased/leased from prime or its affiliates)
2a. <u>Professional Services</u> – Bona Fide Services	E.g. professional, technical, architectural and engineering, managerial, providing bonds, or insurance	Count 100%
2b. <u>Services</u> – Other	E.g. brokers, packagers, manufacturer's reps., (arrange or expedite the procurement of goods and services)	Count fees or commissions related to assistance only (exclude cost of service itself)
3a. <u>Materials and Supplies</u>	Owns (or leases) and operates a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the	Count 100%

Type of Work Performed	Definitions	Counting Rules of DBE Prime or DBE Subcontract Dollar Value
– Manufacturer	specifications. Manufacturing includes blending or modifying raw materials or assembling components to create the product to meet contract specifications. Not a manufacturer if only does minor modifications to materials.	
3b. <u>Materials and Supplies</u> – Regular Dealer	<p>Owens (or leases) and operates, a store, warehouse or other establishment in which materials, supplies, articles or equipment of the “general character” required under the contract are bought, kept in sufficient quantities, and regularly sold or leased to the public in the usual course of business. Items kept and regularly sold by the DBE are of the “general character” when they share the same material characteristics and application as the items specified by the contract.</p> <p>Engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. At least 51% of the items on the contract are provided from its inventory, and when necessary, any minor quantities delivered from and by other sources are of the “general character” as those provided from the DBE’s inventory.</p> <p>Both owns and operates distribution equipment used to deliver the products for bulk items (e.g. as petroleum products, steel, concrete or concrete products, gravel, stone, or asphalt) without owning, operating, or maintaining a place of business. Any supplementing of own distribution equipment must be by a long-term operating lease.</p> <p>Includes a supplier of items that are not typically stocked due to their unique characteristics (e.g. limited shelf life or items ordered to specification)</p>	Count 60% of cost of materials or supplies (including transportation costs)
3c. <u>Materials and Supplies</u> – Distributor	Neither maintains sufficient inventory nor uses its own distribution equipment for the products in question. Engages in the regular sale or lease of items specified by the contract. Assumes responsibility for the items it purchases once they leave the point of origin (e.g. a manufacturer’s facility) making it liable for any loss or damage not covered by the carrier’s insurance	Count 40% of the cost of materials or supplies (including transportation costs)
3d. <u>Materials and Supplies</u> – Other	Packagers, brokers, manufacturers’ representatives, or other persons who arrange or expedite transactions	Count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site

Type of Work Performed	Definitions	Counting Rules of DBE Prime or DBE Subcontract Dollar Value
		(exclude cost of the materials and supplies themselves)
4a. <u>Trucking</u> = Owned and Operated	Responsible for management and supervision of entire trucking operation on the contract. Owns and operate at least 1 fully licensed, insured, and operational truck used on the contract, using drivers it employs.	Count credit for the total value of the transportation services provided on the contract.
4b. <u>Trucking</u> = Leased Trucks from another DBE firm	Owned and operates leased trucks from another DBE firm, including an owner-operator who is a DBE. Lease must indicate that the DBE has exclusive use of and control over the truck. Does not preclude the leased truck from working for others during the lease with the consent of the DBE, so long as lease gives the DBE absolute priority	Count credit for the total value of the transportation services the lessee provided on the contract.

# CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER INELIGIBLE AND VOLUNTARY EXCLUSIONS LOWER THAN TIER COVERED TRANSACTIONS

## CONTRACTOR AND SUBCONTRACTOR'S STATEMENT OF ELIGIBILITY

(Provide one completed Form for the Prime Contractor and any Subcontractors)

MTS may not permit a contractor or subcontractor to bid on, be awarded, or perform work on a public works project if the contractor or subcontractor is ineligible to bid on, be awarded or perform work on a public works project pursuant to California Labor Code sections 1777.1 or 1777.7.

The prime/subcontractor certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification.

### QUESTIONNAIRE

Has the Contractor, or any officer, principal, affiliates or employee of the Contractor ever been debarred, suspended, proposed for debarment, declared ineligible or otherwise prevented from bidding on, or completing a federal, state, or local government project? ☐ **Yes** ☐ **No**

If the answer is yes, or where the prime/subcontractor is unable to certify any of the statements in the above certifications, such prime/subcontractor shall attach an explanation (i.e. date, background, resolution) with this form.

**Note:** Failure to provide this form at the time of Bid/Bid will not result in a finding of a non-responsive bid/bid. Submittal of this form for The Prime Contractor and all Subcontractors is required for a Bidder to be deemed "Responsible." MTS encourages Bidders to complete and submit all forms at the time of bid/bids.

### **SUBCONTRACTOR**

(Copy this form if needed for additional subcontractors)

Business Name: \_\_\_\_\_  
License No. \_\_\_\_\_  
(if applicable): \_\_\_\_\_  
DUNS No.: \_\_\_\_\_

### **PRIME CONTRACTOR**

Business Name: \_\_\_\_\_  
License No. \_\_\_\_\_  
(if applicable): \_\_\_\_\_  
DUNS No.: \_\_\_\_\_

### **ACKNOWLEDGED AND AGREED**

Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

# STATUS OF CURRENT AND PAST CONTRACTS

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Bidders shall list the status of **at least three (3)** current and past contracts where the scope of work has been performed within the past five years.

Bidder shall provide an accurate contact name, telephone number, and e-mail of each contract and indicate the terms and scope of the contract and the original contract value. The Bidder must indicate if the contract has been completed or still in progress. The Bidder must also indicate if the contract was terminated by either the procuring agency or by the contractor for cause or convenience. If the contract was terminated, list the reason for termination. The Bidder must identify and state the status of any litigation, claims, or settlement agreements related to any of the contracts.

Submitting the three reference forms the bidder is confirming that the information provided is true and accurate.

## REFERENCE NO.1

---

Company Name:	_____
Point of Contact:	_____
Phone:	_____
Email:	_____
Project Award Date:	_____
Original Contract Value:	_____
Status of Contract:	_____

A. Terms and Scope of Contract

_____
_____
_____

B. Identify Claims / Litigation or Settlements Associated with each Contract:

_____
_____
_____
_____

## REFERENCE NO.2

---

Company Name:

Point of Contact:

Phone:

Email:

Project Award Date:

Original Contract Value:

Status of Contract:

### A. Terms and Scope of Contract

### B. Identify Claims / Litigation or Settlements Associated with each Contract:

### REFERENCE NO.3

---

Company Name:

Point of Contact:

Phone:

Email:

Project Award Date:

Original Contract Value:

Status of Contract:

#### A. Terms and Scope of Contract

#### B. Identify Claims / Litigation or Settlements Associated with each Contract:



# FINANCIAL QUESTIONNAIRE FORM

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1. This organization is organized under the laws of the State of: \_\_\_\_\_

2. Principal Financial institution. The information below will be used to assess financial responsibility.

Name of Bank: \_\_\_\_\_

Address: \_\_\_\_\_

Street

City, State, Zip

Telephone: \_\_\_\_\_

Officer Familiar with Bidder's Account: \_\_\_\_\_

3. Business License

**NOTE:** The representations regarding the Bidder's license are made under penalty of perjury

Bidder's Business License No.: \_\_\_\_\_

Original Date Issued: \_\_\_\_\_

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

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Bidder's DUNS No.: \_\_\_\_\_

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

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Bidder's System for Award  
Management (SAM) No.: \_\_\_\_\_

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

4. The date of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this bid are as follows:

--

5. All current and prior DBAs, alias, and/or fictitious business names for any principal having an interest in this bid are as follows:

--

6. Has Bidder ever failed to complete any work awarded to it? If so, when, where, and why?

--

7. Identify any conditions bankruptcy, pending litigation, planned office closures, impending merger:

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# CALIFORNIA PUBLIC RECORD ACT (PRA) ACKNOWLEDGEMENT

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I/We hereby represent, acknowledge, and agree as follows:

1. MTS is a California public agency established by California Public Utilities Code, Section 120000. et seq., and is subject to the California PRA (Government Code sec. 6250 et seq.) which provides generally that all records relating to a public agency's business are open to public inspection unless exempted from disclosure by law.
2. The bid I/we have submitted to MTS is open to public inspection under PRA unless it is exempted from disclosure by law.
3. To the extent the bid includes materials that I/we believe are exempt from disclosure under PRA, I/we understand that **I/we must provide a letter identifying the materials that I/we believe are exempt from disclosure and explaining the basis for exemption.**
4. Any materials not identified as exempt from disclosure are open to public inspection, and I/we waive any right to subsequently claim exemption from disclosure for such materials.
5. MTS at all times retains the right to make the final determination regarding what, if any, portion of a bid is subject to disclosure under PRA.
6. Use of headers/footers bearing designations such as "confidential", "proprietary", or "trade secret" on all or nearly all of a bid which would prohibit or limit public inspection is not acceptable and may deem the bid non-responsive and may be rejected; labeling a page as such does not prohibit MTS from disclosing the page in response to a PRA response or in the ordinary course of business if MTS concludes it is obligated to so by applicable law.
7. To defend and indemnify MTS in any action on a PRA request for any of the contents of a Bid marked Trade Secret, Confidential or Proprietary.
8. Marking a document as "trade secret", "confidential" or "proprietary" without the express written permission of MTS does not exempt a document from disclosure to third parties under state or federal law, or in the normal course of MTS's business operations. MTS has no obligation to get a respondent's permission before producing such documents.
9. The bid I/we have submitted (*check one of the following*)  
materials that we believe are exempt from disclosure under PRA.

**INCLUDES** ☐  
**DOES NOT INCLUDE** ☐

## ACKNOWLEDGED AND AGREED

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

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

Signature: \_\_\_\_\_

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

## NONCOLLUSION DECLARATION

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TO BE EXECUTED BY BIDDER AND SUBMITTED WITH OFFER

(23 U.S.C. § 112(c) and California Public Contract Code § 7106)

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party making the foregoing offer.

The offer is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The offer is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham offer. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham offer, or to refrain from submitting an offer. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the offer price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the offer price, or of that of any other bidder. All statements contained in the offer are true. The bidder has not, directly or indirectly, submitted his or her offer price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, offer depository, or to any member or agent thereof, to effectuate a collusive or sham offer, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of the bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_(date), at \_\_\_\_\_(city), \_\_\_\_\_(state).

### ACKNOWLEDGED AND AGREED

Name of Contractor:

Signature:

Date:

## IRAN CONTRACTING ACT CERTIFICATION

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### (Public Contract Code Section 2200 *et seq.*)

As required by California Public Contract Code Section 2204, the Contractor certifies subject to penalty for perjury that the option checked below relating to the Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) is true and correct:

1. The Contractor is not:
  - a. identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or
  - b. a financial institution that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran. ☐
2. MTS has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, MTS will be unable to obtain the goods and/or services to be provided pursuant to the Contract. ☐
3. The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000. ☐

**Note:** In accordance with Public Contract Code Section 2205, false certification of this form shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Contract amount, termination of the Contract and/or ineligibility to bid on contracts for three years.

### ACKNOWLEDGED AND AGREED

Company Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

## REQUEST FOR PRE-OFFER CHANGES OR APPROVED EQUAL

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This form may be used for requested clarifications, changes, substitutes or approval of items equal to items specified with a brand name and must be submitted as far in advance of the Due Date as specified in "Calendar of Events – Deadline for Submitting Questions". Complete documentation in support of an "or equal" contention will be required. The documentation to be provided is as follows:

1. Direct technical and performance comparisons between the vendor's product and the OEM currently used by the San Diego Metropolitan Transit System (MTS).
2. Submission of proof which illustrates that the product complies and adheres to appropriate industry standards.
3. "Accredited Independent Laboratory" analysis report comparing the proposed product with the OEM currently used by MTS.
4. Characteristics, properties, and specifications of the vendor's product.
5. Copy of Manufacturer's Quality Assurance Program and Quality Assurance Manual, if available.
6. Contact names and telephone numbers of other municipalities with transit fleets and other users that utilize the proposed product from the vendor.

Vendor should make its best efforts to provide all (6) *product "Evaluation Criteria"* points by numbering all six (6) points on the submitted documentation. This will enable all non-technical personnel to identify if the criteria are satisfied.

**Copy this form if needed for additional submittals.**

Request No: \_\_\_\_\_ Section Title: \_\_\_\_\_ Bidder: \_\_\_\_\_  
Page: \_\_\_\_\_ Section No.: \_\_\_\_\_

Questions/Clarifications or Approved Equal:

# SAMPLE PROMPT PAYMENT CERTIFICATION FORM

## SAN DIEGO METROPOLITAN TRANSIT SYSTEM PROMPT PAYMENT CERTIFICATION FORM

**PURPOSE:** This certification is used to monitor compliance by prime contractors to promptly pay its subcontractors. In accordance with DOT's DBE Regulations and MTS's DBE Program, prime contractors must pay its subcontractors for satisfactory completion of subcontractors' work no later than thirty (30) days, or no later than seven (7) days if a public work, from prime contractor's receipt of payment from MTS. Any delay or postponement of payment over thirty (30) days must be for good cause and after receipt of prior written approval from MTS.

**INSTRUCTIONS:** Please complete the below Prompt Payment Certification Form and return with each invoice request to MTS and upon receipt of last payment of MTS email the form to [contract.admin@sdmts.com](mailto:contract.admin@sdmts.com). Processing of invoice payments may be delayed or withheld for failure to submit this form or failing to provide prompt payment in accordance with the contract.

### **1. CONTRACTOR INFORMATION**

Contractor Name: \_\_\_\_\_ MTS Contract / Work Order No. \_\_\_\_\_ Email Address: \_\_\_\_\_

### **2. SUBCONTRACTOR PAYMENT INFORMATION**

(Complete the following table. Attach additional sheets if necessary)

Date Prime Last Received Invoice Payment from MTS <i>If this is the first invoice for contract, please state "first invoice", then continue to Certification.</i>	Was any of that invoice payment for services provided by subcontractor? <i>If Yes continue with Subcontractor information. If No, please state "no", and then continue to Certification</i>	Name of Subcontractor	Date Paid Subcontractor <i>If not yet paid, please state "pending", and provide the date paid in a subsequent form or if last payment of contract email contract.admin@sdmts.com</i>	Amount Paid to Subcontractor <i>If not yet paid, please state "pending", and provide the amount paid in a subsequent form or provide directly to MTS</i>	If payment was delayed over 30 days, did MTS approve such delay and was the delay for good cause (explain)?

### **3. CERTIFICATION**

The contractor hereby certifies that the foregoing Prompt Payment Certification Form is true and correct and it has complied with the prompt payment and return of retainage requirements of the contract.

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

For a blank form, please visit <https://www.sdmts.com/business-center/procurement/prompt-payment>.