

SANTA BARBARA METROPOLITAN TRANSIT DISTRICT

Invitation for Bids for Architectural & Engineering Services

Addendum Number 1 – Issued August 5, 2013

The Santa Barbara Metropolitan Transit District (MTD) herewith issues this Addendum No. 1 to its *Request for Qualifications (RFQ) for Architectural & Engineering Services* issued July 25, 2013. Except as modified by this addendum, all other terms and conditions of the RFQ remain unchanged.

A1-1. Exhibit A to the Master Agreement included in the RFQ and entitled “Insurance Requirements for Professional Services Contracts” as revised July 23, 2013 is hereby replaced by the attached Exhibit A with a revision date of August 5, 2013.

End of Addendum 1

SANTA BARBARA METROPOLITAN TRANSIT DISTRICT
Insurance Requirements for Professional Service Contracts

18. Insurance

18.1 Contractor's Insurance Representations to MTD.

- a) It is expressly understood and agreed that the insurance coverages required herein:
 - i. represent MTD's minimum requirements and are not to be construed to void or limit Contractor's indemnity obligations as contained in this Agreement nor represent in any manner a determination of the insurance coverages Contractor should or should not maintain for its own protection; and
 - ii. are being, or have been, obtained by Contractor in support of Contractor's liability and indemnity obligations under this Agreement. Irrespective of the requirements as to insurance to be carried as provided for herein, the insolvency, bankruptcy, or failure of any insurance company carrying insurance of Contractor, or the failure of any insurance company to pay claims accruing, shall not be held to affect, negate, or waive any of the provisions of this Agreement.
- b) Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under this Agreement. If Contractor shall fail to remedy such breach within five (5) business days after written notice by MTD, Contractor will be liable for any and all costs, liabilities, damages and penalties resulting to MTD from such breach, unless a written waiver of the specific insurance requirement(s) is provided to Contractor by MTD. In the event of any failure to Contractor to comply with the provisions of this portion of the Agreement, MTD may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to Contractor, purchase such insurance, at Contractor's expense, provided that MTD shall have no obligation to do so and if MTD shall do so, Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

18.2 Conditions Affecting All Insurance Required Herein.

- a) Cost of Insurance. All insurance coverage shall be provided at Contractor's sole expense.
- b) Maintenance of Insurance. All insurance coverage shall be maintained in effect with limits not less than those set forth below at all times during the term of this Agreement.
- c) Status and Rating of Insurance Company. All insurance coverage shall be written through insurance companies admitted to do business in California and with a Best's Financial Strength Rating of A- or better, as shown in the on-line version of Best's Rating & Criteria Center.
- d) Restrictive, Limiting, or Exclusionary Endorsements. All insurance coverage shall be provided to Contractor Parties in compliance with the requirements herein and shall contain no endorsements that restrict, limit, or exclude coverage in any manner without the prior express written approval of MTD.
- e) Limits of Liability. The limits of liability may be provided by a single policy of insurance or by a combination of primary and umbrella policies, but in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required herein.
- f) Notice of Cancellation, Nonrenewal, or Material Reduction in Coverage. In the event of cancellation, nonrenewal, or material reduction in coverage affecting the certificate holder, thirty (30) days prior written notice shall be given to the certificate holder by certified mail, return receipt requested, except in the event of cancellation for nonpayment, in which event fifteen (15) days prior written notice shall be given. If insurer will not include in its coverage such written notifications, it shall be incumbent upon Contractor to comply with such written notification requirements.

- g) Additional Insured Status. MTD and its officers, employees and agents, including consultants, shall be included as additional named insureds on all liability insurance required herein except workers' compensation/employer's liability and the certificate of insurance shall reflect same. Such additional insured coverage shall be primary to and shall seek no contribution from all insurance available to MTD, with MTD's insurance being excess, secondary, and noncontributing.
- h) Waiver of Subrogation. All insurance coverage carried by Contractor required herein shall provide a waiver of subrogation in favor of MTD for all loss covered by such insurance, and Contractor waives all rights of action against MTD for such loss.
- i) Primary Liability. All insurance coverage required herein shall be primary to and shall seek no contribution from all insurance available to MTD, with MTD's insurance being excess, secondary, and noncontributing. Where necessary, coverage shall be endorsed to provide such primary liability, and the certificate of insurance shall reflect same.
- j) Deductible/Retention. All insurance required for this project shall have a maximum deductible or self-insured retention of \$10,000 per policy.
- k) Claims Against Aggregate. MTD must be notified in writing by Contractor at MTD's address set forth herein immediately upon knowledge of possible claims against Contractor that might cause a reduction below seventy-five (75%) of any aggregate limit of any primary policy.

18.3 Commercial General Liability Insurance.

- a) Coverage: Such insurance shall cover liability arising out of all locations and operations of Contractor, including but not limited to liability assumed under this Agreement (including the tort liability of another assumed in a business contract). Defense shall be provided as an additional benefit and not included within the limit of liability.
- b) Form: Commercial General Liability Occurrence form, at least as broad as an unmodified ISO CG 00 01 10 93 or its equivalent.
- c) Amount of Insurance: Coverage shall be provided with limits of not less than:

i. Each Occurrence Limit	\$1,000,000
ii. General Aggregate Limit	\$2,000,000
iii. Product-Completed Operations Aggregate Limit	\$2,000,000
iv. Personal and Advertising Injury Limits	\$1,000,000
v. Fire Damage (any one fire)	\$50,000
vi. Medical Expense (any one person)	\$5,000
- d) Required Endorsements:
 - i. Additional Insured status as required in 18.2(g), above.
 - ii. Notice of Cancellation, Nonrenewal, or Material Reduction in Coverage, as required in 18.2(f), above.
 - iii. Personal Injury Liability: The personal injury contractual liability exclusion shall be deleted.
 - iv. Primary Liability, as required in 18.2(i), above.
 - v. Waiver of Subrogation, as required in 18.2(h), above.
 - vi. Continuing Commercial General Liability Insurance: Contractor shall maintain such insurance in identical coverage, form, and amount, including required endorsements, for at least three (3) years following the date of acceptance by MTD of the last bus built pursuant to this Agreement.

18.4 Auto Liability Insurance.

- a) Coverage: Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned).

- b) Form: Business Auto Form (at least as broad as an unmodified ISO CA 0001 or its equivalent).
- c) Amount of Insurance: Coverage shall be provided with a limit of not less than:
 - i. \$1,000,000, combined single limit
- d) Required Endorsements:
 - i. Additional Insured status as required in 18.2(g), above.
 - ii. Notice of Cancellation, Nonrenewal, or Material Reduction in Coverage, as required in 18.2(f), above.
 - iii. Waiver of Subrogation, as required in 18.2(h), above.

18.5 Workers' Compensation/Employer's Liability Insurance.

- a) Coverage: Such insurance shall cover liability arising out of Contractor's employment of workers and anyone for whom Contractor may be liable for workers' compensation claims. Workers' compensation insurance is required, and no "alternative" forms of insurance shall be permitted.
- b) Amount of Insurance: Coverage shall be provided with a limit of not less than:
 - i. Workers' Compensation: Statutory limits
 - ii. Employer's Liability: \$1,000,000 each accident and disease.
- c) Required Endorsements:
 - i. Notice of Cancellation, Nonrenewal, or Material Reduction in Coverage, as required in 18.2(f), above.
 - ii. Waiver of Subrogation, as required in 18.2(h), above.

18.6 Professional Errors & Omissions Liability Insurance.

- a) Coverage: Such insurance shall cover claims alleged to arise out of the negligent performance of Contractor's professional services.
- b) Amount of Insurance: Coverage shall be provided with a limit of not less than \$1,000,000 annual aggregate.

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Insurance Requirements for Professional Service Contracts

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 - ii. are being, or have been, obtained by Contractor in support of Contractor's liability and indemnity obligations under this Agreement. Irrespective of the requirements as to insurance to be carried as provided for herein, the insolvency, bankruptcy, or failure of any insurance company carrying insurance of Contractor, or the failure of any insurance company to pay claims accruing, shall not be held to affect, negate, or waive any of the provisions of this Agreement.
- b) Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under this Agreement. If Contractor shall fail to remedy such breach within five (5) business days after written notice by MTD, Contractor will be liable for any and all costs, liabilities, damages and penalties resulting to MTD from such breach, unless a written waiver of the specific insurance requirement(s) is provided to Contractor by MTD. In the event of any failure to Contractor to comply with the provisions of this portion of the Agreement, MTD may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to Contractor, purchase such insurance, at Contractor's expense, provided that MTD shall have no obligation to do so and if MTD shall do so, Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

Deleted: Contract

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- c) Status and Rating of Insurance Company. All insurance coverage shall be written through insurance companies admitted to do business in California and with a Best's Financial Strength Rating of A- or better, as shown in the on-line version of Best's Rating & Criteria Center.
- d) Restrictive, Limiting, or Exclusionary Endorsements. All insurance coverage shall be provided to Contractor Parties in compliance with the requirements herein and shall contain no endorsements that restrict, limit, or exclude coverage in any manner without the prior express written approval of MTD.
- e) Limits of Liability. The limits of liability may be provided by a single policy of insurance or by a combination of primary and umbrella policies, but in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required herein.
- f) Notice of Cancellation, Nonrenewal, or Material Reduction in Coverage. In the event of cancellation, nonrenewal, or material reduction in coverage affecting the certificate holder, thirty (30) days prior written notice shall be given to the certificate holder by certified mail, return receipt requested, except in the event of cancellation for nonpayment, in which event fifteen (15) days prior written notice shall be given. If insurer will not include in its coverage such written notifications, it shall be incumbent upon Contractor to comply with such written notification requirements.

- g) Additional Insured Status. MTD and its officers, employees and agents, including consultants, ~~shall be included as additional named insureds~~ on all liability insurance required herein except workers' compensation/employer's liability and the certificate of insurance shall reflect same. Such additional insured coverage shall be primary to and shall seek no contribution from all insurance available to MTD, with MTD's insurance being excess, secondary, and noncontributing.
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- j) Deductible/Retention. All insurance required for this project shall have a maximum deductible or self-insured retention of \$10,000 per policy.
- k) Claims Against Aggregate. MTD must be notified in writing by Contractor at MTD's address set forth herein immediately upon knowledge of possible claims against Contractor that might cause a reduction below seventy-five (75%) of any aggregate limit of any primary policy.

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- b) Form: Commercial General Liability Occurrence form, at least as broad as an unmodified ISO CG 00 01 10 93 or its equivalent.
- c) Amount of Insurance: Coverage shall be provided with limits of not less than:
- | | |
|---|-------------|
| i. Each Occurrence Limit | \$1,000,000 |
| ii. General Aggregate Limit | \$2,000,000 |
| iii. Product-Completed Operations Aggregate Limit | \$2,000,000 |
| iv. Personal and Advertising Injury Limits | \$1,000,000 |
| v. Fire Damage (any one fire) | \$50,000 |
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- d) Required Endorsements:
- Additional Insured status as required in 18.2(g), above.
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 - i. Workers' Compensation: Statutory limits
 - ii. Employer's Liability: \$1,000,000 each accident and disease.
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18.6 Professional Errors & Omissions Liability Insurance.

- a) Coverage: Such insurance shall cover claims alleged to arise out of the negligent performance of Contractor's professional services.
- b) Amount of Insurance: Coverage shall be provided with a limit of not less than \$1,000,000 annual aggregate.

Deleted: 18.6 Excess Liability Insurance.¶
 <#>Coverage: Such insurance shall be excess over and be no less broad than all coverages described above and shall include a drop-down provision.¶
 ¶
 <#>Form: This policy shall have the same inception and expiration dates and the commercial general liability insurance required above.¶
 ¶
 <#>Amount of Insurance: Coverage shall be provided with a limit of not less than \$5,000,000.¶
 ¶

Deleted: 7

Deleted: 18.8 Other Insurance. MTD shall have the right, exercisable in its sole judgment at any time by giving prior written notice thereof to Contractor, to require Contractor to increase the limit and coverage amount of any insurance Contractor is required to maintain pursuant to this Agreement to an amount that MTD may, in its sole judgment, deem reasonably sufficient; and purchase other insurance and/or endorsement in such amounts or types as MTD may reasonably require from time to time.