

1 [Authorizes MTA to proceed with CM/GC project delivery method for Muni Metro East Project.]

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3 **Ordinance exempting the Municipal Transportation Agency (MTA) from subcontractor**
4 **listing requirements of Administrative Code Chapter 6 for the proposed construction of**
5 **the Muni Metro East Light Rail Vehicle Maintenance and Operations Facility Project;**
6 **and authorizing the MTA to take all necessary steps to procure such work through a**
7 **CM/GC contract duly awarded pursuant to this Ordinance.**

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9 Note: This entire section is new.

10 Be it ordained by the People of the City and County of San Francisco:

11 Section 1. Construction Manager / General Contractor Contract.

12 The Municipal Transportation Agency (MTA) has determined that it is in the best
13 interests of the City to procure the construction of the proposed Muni Metro East Light Rail
14 Vehicle Maintenance and Operations Facility Project (Muni Metro East Project) through a
15 contract for a Construction Manager/General Contractor (CM/GC), also commonly referred to
16 as Construction Manager At-Risk or CM At-Risk contract, an alternative project delivery
17 method whereby the CM/GC acting as the prime contractor assumes the risks for full
18 performance of all construction work, for financial overruns, and schedule delays not caused
19 by the MTA.

20 The MTA proposes awarding a CM/GC contract to a qualified CM/GC selected through
21 an open, competitive Request for Qualifications/Sealed Bid process (RFQ/Sealed Bid)
22 outlined below. The CM/GC will subcontract the work to subcontractors and suppliers
23 selected through an open, competitive bidding process, except that the CM/GC may self-
24 perform a limited portion of the work.

1 The Board hereby authorizes the MTA to take all necessary steps to select a qualified
2 firm to serve as CM/GC, and to procure a CM/GC contract for the Muni Metro East Project so
3 long as MTA determines that procuring such services remains in the best interests of the City.

4 Section 2. Selection of Construction Manager/General Contractor and Award.

5 The CM/GC is to be selected through an open, competitive Request for
6 Qualifications/Sealed Bid (RFQ/Sealed Bid) process that conforms to the following:

7 A. Level I Qualifications Evaluation. Respondents shall be required to submit
8 written responses signed under penalty of perjury to a questionnaire included with the
9 RFQ/Sealed Bid documents. Responses to the questionnaire shall be evaluated by the MTA
10 on a pass or fail basis. The questionnaire may address the following areas or any others
11 deemed appropriate by the MTA:

- 12 1. Appropriate Contractor License
- 13 2. Construction experience and CM/GC experience
- 14 3. Staff experience and capabilities
- 15 4. Surety and bonding capacity
- 16 5. Safety record
- 17 6. Insurance limits and deductibles
- 18 7. Quality control program
- 19 8. Disciplinary measures
- 20 9. Litigation history
- 21 10. Financial status

22 B. Level II Qualifications Evaluation. Those firms passing the Level I Evaluation
23 shall be authorized to participate in the Level II Evaluation, which shall consist of an interview
24 before a selection panel whose members shall be designated by the MTA. The interview shall
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1 be scored on those criteria established by the MTA and published in the RFQ/Sealed Bid
2 documents.

3 C. Final Selection. Only those respondents who achieve the minimum score in the
4 Level II Qualifications Evaluation as pre-determined by the MTA shall be authorized to submit
5 sealed bids on the fixed fee and the cost of general conditions for all anticipated construction
6 work. Bids shall be received and publicly opened at a time and place to be determined by the
7 MTA, and the results published.

8 D. The MTA is hereby authorized to award a CM/GC contract to the respondent
9 successfully completing the Level II Qualifications Evaluation who submits the lowest
10 responsive bid.

11 Section 3. Subcontracts.

12 A. For the Muni Metro East Project, the Board hereby waives any otherwise
13 applicable contracting requirements of Administrative Code Sec. 6.21.A.9 requiring bidders to
14 designate their subcontractors at the time of bid.

15 B. The CM/GC contract awarded pursuant to this ordinance shall require the
16 CM/GC to subdivide and subcontract the work except as provided in subsection D below. The
17 CM/GC shall contract directly with all first tier subcontractors and suppliers. Any subcontract
18 procured under this provision shall not be deemed to be an unlawful assignment of any
19 portion of the CM/GC contract. All subcontracts shall require MTA approval by its Board of
20 Directors or the Board's designee prior to the CM/GC's award of subcontracts. The CM/GC
21 must rebid all subcontracts that the MTA may reject. Only after the MTA has approved the
22 award may the CM/GC award a subcontract.

23 C. The CM/GC shall use an open, competitive bidding process to procure
24 subcontracts according to the following:

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- 1 1. The CM/GC shall advertise the subcontracts for competitive bids in at
2 least one local newspaper or periodical of general circulation;
- 3 2. The CM/GC shall make all reasonable attempts to obtain bids from at
4 least three qualified bidders; and
- 5 3. Subject to the approval of the MTA, subcontracts procured under this
6 provision shall be awarded to the responsible bidder submitting the
7 lowest responsive bid.

8 D. The MTA may permit the CM/GC to self-perform a limited portion of the work.
9 The CM/GC may self-perform work only if it submits the lowest responsive bid for that work.
10 The MTA shall conduct the bidding for such a subcontract.

11 E. In compliance with federal Disadvantaged Business Enterprise (DBE)
12 regulations, the CM/GC shall be required to meet the overall project DBE subcontractor
13 participation goal established by the MTA, or, if it fails to meet the DBE goal, to show that it
14 made good faith efforts in its attempt to achieve the DBE goal. The CM/GC may assign sub-
15 goals to trade packages as appropriate.

16 F. The MTA may delegate the following responsibilities to the CM/GC:

- 17 1. Establishing a pre-qualification process for portions of the work to be
18 subcontracted where the CM/GC deems pre-qualification to be
19 necessary;
- 20 2. Responding to inquiries from potential bidders; and
- 21 3. Responding to bid protests, with any decision or recommendation of the
22 CM/GC appealable to the MTA.

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1 Section 3. The Board authorizes and directs the MTA to obtain all necessary approvals
2 from other local, state or federal agencies having jurisdiction of the project.
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5 APPROVED AS TO FORM:

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9 By:

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