

INVITATION FOR BIDS (IFB)

Children's Development Center, Children's Creativity Museum and Folsom Street Elevator Overhaul and Modernization

Yerba Buena Gardens

Yerba Buena Gardens CB3/Children's Development Center (CDC), Children's Creativity Museum (CCM) and Folsom Street Elevator

MJM Management Group ("MJM"), acting on behalf of the Office of Community Investment and Infrastructure (the Successor Agency ("Agency") to the former San Francisco Redevelopment Agency) is seeking proposals from qualified Elevator Contractors to provide Overhaul and Modernization of 3 Elevators. There is a current maintenance agreement in place for five elevators in Yerba Buena Gardens, two of which are called out in this IFB. An Invitation to Bid on the maintenance agreement will go out no later than early spring of 2018.

PROJECT DESCRIPTION

The Project is to provide the following:

Children's Development Center Elevator Overhaul

Elevator Manufacturer: U.S. Elevator

Type: Hydraulic

Application: Passenger

Landings/Openings: 3

Children's Creativity Museum Elevator Overhaul and Modernization

Elevator Manufacturer: U.S. Elevator

Type: Hydraulic

Application: Passenger

Landings/Openings: 3 Front / 1 Rear

Folsom Street Elevator Overhaul

Elevator Manufacturer: U.S. Elevator

Type: Hydraulic

Application: Passenger

Landings/Openings: 2 Front / 2 Rear

1. The Contractor shall submit a comprehensive proposal for modernizing the existing controllers in all three elevators (CDC, CCM and Folsom) in this Project Description. This scope calls for removing the existing controllers and replacing them with a new and complete functioning controller system in the CDC, CCM and Folsom elevators, including but not limited to:

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- a) Elevator motor controllers;
 - b) Elevator cab controllers;
 - c) Elevator cab buttons and floor plates; and
 - d) Elevator cable ways, among other mechanical parts in the controller system.
2. All overhaul and modernization work to be carried out by the Contractor shall be compliant with current ADA requirements for public service elevators. The Contractor will provide and install new vandal resistant Braille buttons in the CDC, CCM and Folsom elevators.
3. a) Mechanical and Elevator Cab Upgrades. The Contractor will remove existing door edge components and furnish and install electronic door edges that will sense the presence of passengers or obstruction in the CDC, CCM and Folsom elevators.
- b) In the CDC, CCM and Folsom elevators, the Contractor will remove the existing mechanical starter contactor assembly and provide and install a new solid-starter (hydraulic) to control motor starting and limit the inflow of current. The new starter shall have built-in protection for overload conditions, reverse phase, and loss of phase. The new starter shall be wired, adjusted and tested for smooth operation.
- c) The Contractor will provide and install new vandal resistant Braille buttons in the CDC, CCM and Folsom elevators.
The Contractor will upgrade elevator cabinet interior in the CDC, CCM and Folsom elevators – walls, ceiling and handrails. Interior upgrades shall be compliant with current ADA requirements for public elevators.
- d) The Contractor will remove and replace the damaged door plate in the CDC, CCM and Folsom elevators.
- e) The Contractor will remove and replace the existing power unit in the CDC, CCM and Folsom elevators. The power unit replacement should include the motor, pump, hydraulic valve, muffler, oil reservoir tank, hydraulic fluid, isolation assembly and all necessary hardware. Replace standard hydraulic fuel with Enviromax product.
- f) The Contractor will provide and install a new closed-loop door operator on the front of the CDC elevator. The Contractor will provide and install a new closed-loop door operator on the front and rear openings of the CCM and Folsom elevators. The equipment and materials include a motor with heavy duty sprocket, chain, belt and sheaves. The operator should regulate speed via motor performance feedback and automatically adjust for wind and door conditions.
- g) The Contractor will provide labor and materials needed to perform a complete hoist-way cleaning from the top of the shaft to the bottom of the pit of the CDC, CCM and Folsom elevators. The cleaning should include but is not limited to the following: exposed hoist

beam, rails, car top, door equipment, pit supports, clean and lubricate door tracks & landing sills.

The Contractor's responsibility for the CDC, CCM and Folsom elevators includes but is not limited to all design or equipment submittals, permit and inspection fees, scheduling of inspections, and compliance with all State and Local regulations pertaining to the operation and maintenance of elevators.

This is a "turn-key" project and the Contractor shall provide all items necessary for a complete, safe, fully functional system as described herein including all demolition, disposal, tools, scaffolding, labor, training, and supervision, even though they may not be specifically enumerated.

Time is of the essence on this project. The successful bidder shall submit proposed scheduling, milestone, and project completion dates prior to the project kick-off meeting.

IMPORTANT DATES and SUBMISSION PROCESS

Important Dates

Bids are due by 2:00 PM on Wednesday, ~~June-July 2015~~, 2016

IFB Released	Thursday, June 16, 2016
Pre-Submittal Meeting	Thursday, June 30, 2016 at 3:00 PM
Deadline for questions and requests for additional information	Wednesday, July 6, 2016 at 2:00 PM
IFB Due Date / Bid Opening	Wednesday, July 20, 2016 at 2:00 PM

General procedures for the Bids

- A pre-submittal meeting will be held at the YBG Green Room on ~~Friday~~Thursday, ~~May-June 30-27~~, 2016 at ~~32:00 PM~~~~-in a room to be determined~~. The meeting will include an overview of IFB and provide an opportunity to ask questions and view the existing equipment and site. Although attendance is not mandatory, it is highly recommended to ensure Bidders are familiar with the Bid documents, equipment, equipment condition, and access.
- All questions and requests for approved equals or additional information regarding this IFB must be received in writing by MJM by e-mail on or before the date and time as shown above. All addendums, responses and additional information will be distributed to all registered IFB – holders. MJM reserves the sole right to determine the timing and content of the response, if any, to all questions and requests for additional information. Questions and information requests should be directed to the Project Manager, at projects@ybgardens.com.
- Although it is not necessary to register to receive a copy of the IFB or to submit a Bid, it is strongly recommended as it will permit MJM to mail addenda information and respond to inquiries. Only registered IFB-holders will receive responses to all written questions, addendums and any additional information distributed prior to the Bid submission date. Register by sending contact information to projects@ybgardens.com.

Bids and Bidder's Security shall be securely sealed in a package and clearly marked with the Contract title ("**Yerba Buena Gardens– Children's Development Center, Children's Creativity Museum and Folsom Street Elevator Overhaul and Modernization**"), and shall also include the name and address of the Bidder.

The Bid submittal shall be mailed or personally delivered to:

Patricia Avery, Project Manager
MJM Management Group
750 Howard Street
San Francisco, California, 94103

All bids must be received by MJM's Contracts & Procurement Department by 2:00 PM on Wednesday, ~~June-July 15-20~~, 2016 ~~at 2:00 PM~~ at which time they will be opened and read.

CONTRACT STRUCTURE

The contract will be based on the Contractor's total grand bid price.

MINIMUM QUALIFICATIONS

Contractor shall have the following qualifications:

1. General contractors, specialty contractors and the individuals responsible for construction, assembly or installation in the field shall have been continuously engaged in projects similar to that specified herein for a minimum of five years, and shall have completed work on at least five projects of this type and scope.
2. Manufacturers shall have been continuously engaged in the manufacturing of machinery/equipment similar to that specified herein for a minimum of five years.
3. Contractor shall have previous experience in dealing with public service clients who make numerous program changes during the course of construction.
4. Contractor candidates selected shall have an opportunity to do maintenance on the elevators in the abovementioned project description.
5. Specialty subcontractors shall have at time of bid and continuously maintain throughout the project and warranty period a CA Specialty Contractor's license appropriate for the work in the project scope.
6. Contractor shall secure insurance and provide performance and payment bonds as stipulated in Agency's policies, found below.
7. Contractor must possess a valid "C-11" license at the time of bid opening and shall maintain said license(s) during the entire term of the Contract.

PUBLIC WORKS CONTRACTOR REGISTRATION PROGRAM REQUIREMENTS

This is a public works contract. All bidders for this project must comply with the State of California DIR Public Works Contractor registration requirements. All contractors and subcontractors who bid or work on a public works project must register and pay an annual fee to DIR prior to bidding on the project. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with DIR. No contractor or subcontractor may work on a public works project unless registered with DIR.

For more details and instructions regarding registration please visit:

<http://www.dir.ca.gov/Public-Works/PublicWorks.html>

SUBMISSION OF BIDS

Bids must contain all of the following information:

1. A description of qualifications and any areas of specialty and professional capabilities.
2. A brief written description of the contractor's operation including facilities, financial capabilities, and experience of key personnel.
3. A listing of three equivalent projects including:
 - a. Name, address and telephone number of project owner/facility manager;
 - b. Scope of work and date of completion.
4. Proposal shall list all subcontractors and manufactures as required.
5. Proposal shall include total cost to provide all items indicated in specifications and drawings. Bidder must submit a price quotation on all items requested on the Bid Form. In determining the lowest responsive and responsible Bidder, MJM shall compare and evaluate the submitted bids in its entirety and make a determination on the basis of the bid submittals, including the "Grand Total Bid Price" as quoted on the Bid Form **(Attachment #1)**.
Only "turn-key" complete proposals will be accepted that provide complete fully functional system.
6. Bidder's Security or Bond **(Attachment #1)**.
7. A statement from a bonding company agreeing to provide the required bonds in the amount required for the project.
8. A signed Small Business Enterprise Agreement **(Attachment #2)**.
9. A signed Declaration of Nondiscrimination in Contracts and Benefits **(Attachment #3)**.
10. A signed Minimum Compensation Policy Declaration **(Attachment #4)**.
11. A signed Health Care Accountability Declaration **(Attachment #5)**.
12. Complete responses to all Disclosure Questions **(Attachment #6)**.
13. A signed Statement of Compliance with Agency Policies & Certification of Applicant **(Attachment #10)**
14. Designation of subcontractors **(Attachment #15)**.
15. Noncollusion Declaration **(Attachment #16)**.
16. Disclosure of Lobbying Activities **(Attachment #17)**.

AGREEMENT TO COMPLY WITH AGENCY POLICIES

Each Bidder shall acknowledge receipt and understanding of the following Agency's contracting requirements and policies and state its ability and willingness to comply with each of them:

A. Small Business Enterprise Program

The Agency has adopted a Small Business Enterprise ("SBE") Program and the Contractor must make good faith efforts to achieve the goals of the SBE Program, which are 50% SBE participation for professional, personal services, and construction contracts. An SBE must be certified and accepted by the Agency in order to count the SBE's participation towards the goal. In addition, Contractor's attention is directed to the First Consideration provision of the SBE Program which provides first consideration in awarding contracts in the following order: (1) Project Area SBEs, (2) Local SBEs (outside an Agency project or survey area, but within San Francisco), and (3) all other SBEs (outside of San Francisco). Non-local SBEs should be used to satisfy participation goals only if Project Area SBEs or Local SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-local SBEs. (See **SBE Agreement, Attachment #2**). Further information on the criteria for determining eligibility is located in **Attachment #2**. For any questions, please contact the Agency's Contract Compliance Department, at (415) 749-2400.

B. Bidder's Duty of Loyalty

Bidder for itself and its subcontractors, if any, agrees to abide by the Agency's duty of loyalty, which appears at Section IX.H. (Prohibited Activities of Present and Former Employees, Commissioners and Consultants) of the Agency's Personnel Policy and which states in part the following: "Unless approved in advance in writing by the Agency, no present or former employee, Commissioner or consultant of the Agency shall knowingly act for anyone other than the Agency in connection with any particular matter in which the Agency is a party, or has a direct and substantial interest, and in which he or she participated personally and substantially as an Agency employee, Commissioner or consultant whether through decisions, recommendations, advice, investigation or otherwise. Violation of this section by a present employee, consultant or Commissioner may, in the case of an employee or consultant, be grounds for discharge or termination of the consultant contract, and in the case of a Commissioner, be considered misconduct in office pursuant of California Health and Safety Code Section 33115."

C. Limitations on Contributions

Through execution of this Agreement, Bidder acknowledges that it is familiar with section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the Agency for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) the Mayor or members of the Board of Supervisors, (2) a candidate for Mayor or Board of Supervisors, or (3) a committee controlled by such office holder or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Bidder acknowledges that the foregoing restriction applies only if the contract or a combination or series

of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Bidder further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Bidder's board of directors; Bidder's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Bidder; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Bidder. Additionally, Bidder acknowledges that Bidder must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

Finally, Bidder agrees to provide to the Agency the names of each member of Bidder's board of directors; Bidder's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Bidder; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Bidder.

D. Nondiscrimination in Contracts and Benefits

The Agency has established a policy prohibiting discrimination in contracting, which includes a prohibition on discrimination in providing benefits between employees with spouses and employees with domestic partners.

Bidders shall complete **Attachment #3**. Entities that have received certification from the San Francisco Contract Monitoring Division (formerly Human Rights Commission) regarding their compliance with the Equal Benefits Ordinance of the City and County of San Francisco will be deemed in compliance with the Agency's policy. For further information, see instructions contained in **Attachment #3** or contact the Agency's Contract Compliance Department at 415-749-2400.

E. Minimum Compensation Policy and Health Care Accountability Policy

The Agency has adopted a Minimum Compensation Policy ("MCP") for all contractors under personal services contracts that require the payment of a minimum level of compensation to employees (**Attachment #4**). In addition, the Health Care Accountability Policy ("HCAP") requires that contractors offer certain health plan benefits to their employees or participate in a health benefits program developed by the City's Department of Public Health, or make a payment in lieu of such benefits to the City's Department of Public Health (**Attachment #5**).

Bidders shall either submit a completed MCP Declaration Form and HCAP Declaration Form or state its intent to comply with these Agency policies.

F. Insurance

The selected Bidder must procure and maintain insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work under the contract by the contractor, its agents, representatives, employees or subcontractors.

Unless otherwise approved by MJM or the Agency, the selected Bidder must maintain insurance with an insurance company that has an A.M. Best rating of A: VII with the following coverage's and limits:

- General Liability: \$2,000,000 per occurrence;
- Automobile Liability: \$1,000,000 per accident for bodily injury and property damage;
- Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of \$1,000,000 for bodily injury by accident and \$1,000,000 per person and in the annual aggregate for bodily injury by disease. (Required only if Contractor has employees);
- Professional Liability: \$1,000,000 per occurrence; and the insurance requirements may be modified by the Agency's Risk Manager in his/her sole discretion.

G. Contract Bonds

PERFORMANCE AND PAYMENT BOND

Upon execution of the Contract, the Contractor shall furnish, at its own expense, Performance and Payment Securities in a form satisfactory to MJM as a guarantee of good faith on behalf of the Contractor that the terms of this Contract shall be complied with in every particular. This Performance and Payment Security shall be in the amount of 100% of the Contract price and the Performance and Payment Security shall be issued by an admitted surety insurer authorized to transact surety business within the State of California.

Alternatively, the Contractor may deposit with MJM a Certified or Cashier's Check upon some solvent bank or irrevocable Standby Letters of Credit for the amount, for the faithful performance of the Contract. The Bond or equivalent securities shall remain in full force and effect for the entire term specified in the Bond Document. MJM must give its written consent to any substitution of surety and maintains the right to reject such a proposed substitute.

H. Indemnity

The selected Bidder shall defend, hold harmless and indemnify MJM Management Group, the Agency, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees from and against all claims, loss, damage, injury, actions, causes of action and liability of every kind, nature and description directly or indirectly arising out of or connected with the performance of the Agency contract and any of the contractor's operations or activities related thereto, excluding the willful misconduct or the gross negligence of the person or entity seeking to be defended, indemnified or held harmless.

I. Disclosure Questions

Each consultant shall Complete **Attachment #6**, Disclosure Questions, and submit the completed form as part of its Statement of Qualifications.

The selected Bidder shall certify under penalty of perjury under the laws of the State of California that all the information provided in the Bid submittal is true and correct (**Attachment #10**).

ADDITIONAL TERMS AND CONDITIONS

A. Personal Services Contract

The selected Bidder will be required to enter into a Personal Services Contract with MJM using MJM's Form Services Contract (**Attachment #11**). MJM will provide the Form Services Contract prior to submittals of bids. The contractor will be required to comply with all of the provisions of the personal services contract, including, but not limited to, the Agency's policies and provisions regarding indemnification, insurance, small business enterprise requirements, and non-discrimination in employee benefits and hiring, prevailing wage provisions, permanent workforce agreement and construction workforce agreement.

B. Bidder's Security

Each Bidder shall furnish and submit with its bid one of the following forms of Bidder's Security:

- a) Unconditional "certified check," "cashier's check," or "official check" drawn on a solvent bank payable to the order of MJM Management Group;
- b) A Bidder's Bond using the form entitled "Bidder's Bond," provided with the Bid Forms (see Attachment #1), which is properly executed by the Bidder and an admitted surety insurer and is accompanied by the corporate surety's power of attorney. The surety's signature shall be notarized and the surety shall be acceptable to MJM; or
- c) An Irrevocable Stand-by Letter of Credit, a sample of which is provided in the Bid Forms (see Attachment #1).

No personal or business checks will be accepted. The Bidder's Security shall be in the amount of five percent (5%) of the bid price.

The Bidder's Security shall be a guarantee that the Bidder, if awarded the Contract, will execute the required Contract and performance bond within 5 days after such Contract has been awarded to it or such additional time as may be allowed by MJM. If the Bidder fails or refuses to execute the required Contract and bonds within that time, the money and proceeds from the Bidder's Security shall be applied towards payment of the resulting damage to MJM of the delay and the necessity of accepting a higher or less desirable bid. The Bidder's Security shall remain in full force and effect until a written Contract is executed and all the required bonds are furnished.

The Bidder's Security of the successful Bidder and the next two lowest Bidders will be returned after execution of the Contract with the successful Bidder and the approval and acceptance on behalf of MJM of all other Contract bonds and insurance requirements. The Bidder's Security of the other Bidders not one of the three lowest, will be returned promptly after the bids have been opened and reviewed by MJM.

C. Withdrawal of Bid

A Bidder may withdraw its bid before the expiration of the bid due date and time without prejudice to itself, by submitting a written request for bid withdrawal to the Project Manager.

D. Bid Opening

At the due date and time specified in the Notice, MJM Project Manager or designee, will open, examine, and publicly read all bids received. Bidders, their representatives, and others interested, are invited to be present at the opening of bids. MJM reserves the right to postpone the bid opening for any reason.

E. Award or Rejection of Bids

Award will be made or bids will be rejected by MJM within a reasonable time after bids have been opened. MJM may reject any and all bids, and may reject a bid of any party who has been delinquent or unfaithful in any former contract with MJM. Also, MJM reserves the right to waive any irregularities or informalities in any bid or in the bidding procedure. If an award is made, it shall be made to the lowest responsive and responsible Bidder. All Bidders shall be notified of the award.

F. Bid Protest Procedures

Any Bid protest must be submitted in writing to the Office of Community Investment and Infrastructure, Attn: Contract Compliance Office, One South Van Ness Avenue, 5th Floor, San Francisco, California 94103, before 5 o'clock p.m. (as determined by the clock in the OCI's Reception Area) on the third (3rd) business day following the bid due date.

- a. The initial protest document must contain a complete statement of the basis for the protest.
- b. The protest must refer to the specific portion of the document that forms the basis for the protest.
- c. The protest must include the name, address and telephone number of the person representing the protesting party.

- d. The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest that may be adversely affected by the outcome of the protest. Such parties shall include all other Bidders who appear to have a reasonable prospect of receiving an award depending upon the outcome of the protest.
- e. The procedure and time limits set forth in this paragraph are mandatory and are Bidder's sole and exclusive remedy in the event of Bid protest. Bidder's failure to comply with these procedures shall constitute a waiver of any right to further pursue the Bid protest, including filing a Government Code Claim or legal proceedings. A Bidder may not rely on a protest submitted by another Bidder, but must timely pursue its own protest

G. Approved Equal Requests and Procedures

It is understood that specifying a brand name or specific types of components, equipment, and/or processes in these specifications shall not relieve the Bidder from its responsibility to furnish the end product in accordance with the warranty and contractual requirements. The Bidder is responsible for notifying MJM of any inappropriate brand names, or types of components, equipment, and/or process that may be called for in these specifications, and to propose a suitable substitute for consideration. Unless otherwise specifically provided in the specifications, reference to any equipment, material, article, or patented process by trade name, make or catalog number shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. A Bidder may, at its option, use any equipment, material, article, or process which, in the judgment of MJM, is equal to that designated. To do so a Bidder shall furnish, at its own expense, all test results, technical data and background information required by MJM in making the determination as to whether the proposed equipment, material or article or process, in the judgment of MJM, is equal to that designated. This shall be submitted on the Request for Approved Equals Form (see **Attachment #1, Form B-5**) and adhere to the following procedures.

- a. Prospective Bidders may discuss these specifications with MJM's Project Manager. This, however, will not relieve Bidders from the procedure of submitting written documented requests as required by Paragraph B below.
- b. Requests for Approved Equals must be received by MJM, in writing, no later than the Deadline date and time for Questions and Requests for Additional Information specified above. No such requests will be considered by MJM if received after this date. Any request for an Approved Equal must be fully supported with technical data, test results, or other pertinent information as evidence that the substitute offered is equal to or better than the specification requirement. In addition, any test requirements in the specifications that pertain to an item under consideration for Approved Equal must be submitted with the request for Approved Equal. All requests for Approved Equals shall be addressed to the Project Manager.

To be considered, all Requests for Approved Equals must be in writing, separately identified, and delineated for each item, and must be submitted on form "B-5, Request for Approved Equals" included herewith. FAILURE TO SUBMIT FORM B-5 WITH EACH REQUEST FOR APPROVED EQUAL MAY RESULT IN DENIAL OF THE REQUEST.

Failure to properly submit a written Approved Equals Request Form in accordance with this Section, or a "denial" response from MJM to any Approved Equals Request, will constitute a Bidder's acknowledgement and acceptance of all terms, conditions, specifications, or provisions contained in the Contract Documents. All terms, conditions, specifications, or provisions contained in this Solicitation, or as may be amended by a written Addendum issued by MJM, are binding on Bidders.

- c. MJM's reply to requests received pursuant to Paragraph B above will be provided to requestor and posted to the OCII website at <http://sfocii.org> within seven (7) days after the Deadline for Questions. MJM reserves the right to postpone this deadline for its own convenience.

H. Warranty of Title

The Contractor shall warrant to MJM, its successors and assigns, that the title to the material, supplies or equipment covered by the Contract, when delivered to MJM or to its successor or assigns, is free from all liens and encumbrances.

I. Warranty

The Contractor guarantees and warrants that all work performed and items supplied under this Contract shall (1) conform to the Technical Specifications and all other requirements of this Contract; (2) fulfill its design functions and be fit for both its ordinary and intended purposes; (3) be free of all patent and latent defects in design, materials and workmanship; and (4) perform satisfactorily.

It is understood and agreed that by acceptance of this warranty and the acceptance of materials or supplies to be manufactured or assembled pursuant to these Specifications, MJM does not waive any warranty, either expressed or implied in Sections 2312 to 2317, inclusive, of the Business and Professions Code of the State of California, or any products liability of the Contractor as determined by any applicable decisions of a court of the State of California or of the United States.

J. Claims and Disputes

The Contractor shall be solely responsible for providing timely written notice to MJM of any claims for additional compensation and/or time in accordance with the provisions of the Contract. It is MJM's intent to investigate and attempt to resolve any Contractor claims before the Contractor has performed any disputed work. In addition, MJM desires to mitigate its responsibility (if any) for any Contractor

claims before the disputed work is performed. Therefore, Contractor's failure to provide timely notice, as provided for in the Contract, shall constitute a waiver of Contractor's claims for additional compensation and/or time.

The Contractor shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by MJM, including the failure or refusal to issue a modification, or the happening of any event or occurrence, unless it has given MJM due written notice of a potential claim. The potential claim shall set forth the reasons for which the Contractor believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

If based on an act or failure to act by MJM, such notice shall be given to MJM prior to the time that the Contractor has started performance of the work giving rise to the potential claim for additional compensation. In all other cases, notice shall be given within 10 days after the happening of the event or occurrence giving rise to the potential claim.

If there is a dispute over any claim, the Contractor shall continue to work during the dispute resolution process in a diligent and timely manner as directed by MJM, and shall be governed by all applicable provisions of the Contract. The Contractor shall maintain cost records of all work which is the basis of any dispute.

If an agreement can be reached which resolves the Contractor's claim, the parties will execute a Contract modification to document the resolution of the claim. If the parties cannot reach an agreement with respect to the Contractor's claim, they may choose arbitration and/or mediation.

K. Subcontracting

Each Bidder shall list the name, business address and license number of each subcontractor to whom the Bidder proposes to subcontract a portion of the work in an amount in excess of one-half of one percent (0.5%) of the Total Contract Price, along with a description of the portion of the work which shall be done by each subcontractor, as part of the "Designation of Subcontractors" form included in the **Attachment #15**.

Contractor shall not subcontract any work to be performed by it under this Contract without the prior written approval of MJM. Contractor shall be solely responsible for reimbursing any subcontractors and MJM shall have no obligation to them. Nothing in the Contract shall create any contractual relationship between MJM and any subcontractor. The Contractor is fully responsible to MJM for the acts and omissions of its subcontractors and persons either directly or indirectly employed by its subcontractors, just as it is for the acts and omissions of persons directly employed by the Contractor.

The Contractor shall not, without the prior written consent of the Project Manager, substitute any subcontractor in place of any previously-approved subcontractor.

L. Labor Code Requirements

This project includes public works as defined by Labor Code section 1720. The California Department of Industrial Relations' General Prevailing Wage Determination **2016-1** shall constitute the Prevailing Wage for the duration of the Contract. In addition, this project may be financed in whole or in part with U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant program income. To the extent applicable, Contractors shall comply with California Labor Code, Prevailing Wages Laws and the Davis-Bacon Act, as amended (40 U.S.C. 3141-3148), as supplemented by Department of Labor regulations (29 CFR Part 5). General Wage Determinations issued by the Director of Industrial Relations and the federal minimum wage rates issued by the Secretary of Labor can be accessed at the following websites:

State: <http://www.dir.ca.gov//DLSR/PWD/>

Federal: <http://www.wdol.gov/dba.aspx>

If there is a difference between the federal minimum wage rates predetermined by the Secretary of Labor and the state general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the contractor and subcontractors must pay the higher wage rate.

a. Prevailing Rate of Per Diem Wages (Prevailing Wage)

The Contractor shall post a printed copy of applicable prevailing wage determinations in a prominent place at the work site.

The Contractor and subcontractor(s) shall pay no less than the applicable Prevailing Wage to any worker performing Prevailing Wage Covered Work under the Contract for all work hours specified within of applicable prevailing wage determinations.

1) Future Wage Increases

Predetermined increases to the Prevailing Wage can be found within the applicable prevailing wage determinations. California prevailing wage determinations with predetermined increases are denoted by a double-asterisk (**) following the published expiration date. MJM will not recognize any claim for additional compensation based on the payment by the Contractor of any predetermined increase to the Prevailing Wage during the term of the Contract. The possibility of wage increases during the course of the Contract is one of the elements to be considered by the Contractor in determining the bid, and such wage increases will not, under any circumstances, be considered as the basis of a claim against MJM with regard to the Contract.

b. Hours of Labor

The Contractor and subcontractor(s) shall comply with Labor Code sections 1810 through 1815.

The Contractor and subcontractor(s) shall recognize that eight (8) hours labor constitutes one (1) day's work. The Contractor and subcontractor(s) shall only permit a worker to work in excess of eight (8)

hours in one (1) day and work in excess of 40 hours in one (1) week when that work is paid at no less than one and one-half (1½) times the Prevailing Wage basic hourly rate of pay.

The Contractor and subcontractor(s) shall maintain accurate records showing the name of and actual hours worked each calendar day and each calendar week by each worker employed in connection with Prevailing Wage Covered Work performed under the Contract. The Contractor and subcontractor(s) shall make these records available for inspection by MJM, OCII and by DIR's Division of Labor Standards Enforcement.

c. Certified Payroll Records (CPRs)

The Contractor and subcontractor(s) shall comply with Labor Code section 1776 and Title 8 of the California Code of Regulations section 16400.

MJM shall withhold Contract payments due or estimated to be due to the Contractor or subcontractor whose CPRs are delinquent or inadequate (terms defined in subsequent language of the Contract), plus any additional amount that MJM has reasonable cause to believe may be needed to cover unpaid wages and penalties assessed against the contractor or subcontractor whose CPRs are delinquent or inadequate; the Contractor shall be required in turn to cease all payments to a subcontractor whose payroll records are delinquent or inadequate until MJM provides notice that the subcontractor has cured the delinquency or deficiency.

The Contractor and subcontractor(s) shall maintain CPRs for a period of three (3) years following the completion of the Contract.

1) Content of CPRs

The Contractor and subcontractor(s) shall keep accurate CPRs detailing the following information: name, address, social security number, work classification, wage rates, straight time and overtime hours worked each day and each week, check number, deductions, contributions, payments, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee(s) employed by the Contractor or subcontractor in connection with the Contract.

Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- (a) The information contained in the payroll record is true and correct.
- (b) The employer has complied with the requirements of Labor Code sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

A CPR is inadequate if the CPR does not contain all of the abovementioned parts.

2) Timely Submission of CPRs

The Contractor and subcontractor(s) shall submit one (1) CPR each week from the start of Prevailing Wage Covered Work through the completion of the work. Each CPR shall be submitted within one (1)

calendar week from the last day of the Contractor's or subcontractor's work week. A CPR shall be considered delinquent if the CPR has not been submitted within 30 calendar days from the end of the work week.

3) Additional Requests for CPRs and Other Payroll Records

The Contractor's and subcontractor's CPRs and all payroll records, as defined by Chapter 8 of the California Code of Regulations section 16000, shall be available for inspection at all reasonable hours at the Contractor's or subcontractor's office, and copies thereof shall be provided by the Contractor or subcontractor on the following basis:

- (a) Upon request of an employee or the employee's authorized representative.
- (b) Within ten (10) calendar days of a written request from MJM, OCII or from DIR's Division of Labor Standards Enforcement or Division of Apprenticeship Standards. When copies of payroll records are not provided within ten (10) calendar days, the Contractor or subcontractor shall forfeit to MJM a penalty of \$100.00 per worker for each calendar day or portion thereof that copies are not provided. The MJM shall withhold Contract payments from the Contractor equal to the amount of any accrued penalties. Withheld Contract payments shall be released in accordance with Labor Code sections 1742 through 1743 and 1771.6.

4) Submittal of Payroll Records via Online System

The Contractor and subcontractor(s) shall submit all CPRs via the OCII online submittal system (<http://www.elationsys.com>), unless otherwise required by MJM. Access to this online submittal system is provided by MJM free of charge to the Contractor and subcontractor(s). Any optional interface desired by the Contractor (such as an automated payroll system interface) with the online submittal system shall be at the sole expense of the Contractor.

d. Apprenticeship Requirements

Labor Code section 1777.5(n) emphasizes that a prime contractor is responsible for compliance with apprenticeship requirements. Therefore, the Contractor shall be responsible for compliance by the Contractor and any subcontractor(s) with Labor Code sections 1777.5 through 1777.6 related to the employment of apprentices. The Contractor shall be responsible for any penalties assessed by the Labor Commissioner in accordance with Labor Code section 1777.7.

The Contractor and subcontractor(s) shall pay a worker at the appropriate journeyman prevailing wage rate if any of the following apprenticeship standards are not met:

- (1) The worker is registered as an apprentice with the DAS and the contractor has obtained written proof of his or her registration.

- (2) The worker is registered with U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services and the contractor has obtained written proof of his or her registration.
- (3) The worker is employed in accordance with the apprenticeship standards of the apprentice agreement under which he or she is training.

e. **Wage Kickbacks and Worker Registration Fees Prohibited**

The Contractor and subcontractor(s) shall comply with Labor Code sections 1778 through 1779.

The Contractor and subcontractor(s) shall not take, receive, or conspire with another to take or receive, for his own use or the use of any other person any portion of the wages of any worker or subcontractor in connection with the Contract.

The Contractor and subcontractor(s) shall not charge, collect, or attempt to charge or collect, directly or indirectly, a fee or valuable consideration for registering any person for work in connection with the Contract, or for giving information as to where such employment may be procured, or for placing, assisting in placing, or attempting to place, any person in connection with the Contract.

M. Equal Employment Opportunity

In connection with the performance of the contract, the Contractor shall not discriminate against any employee or an applicant for employment because of race, color, religion, national origin, ancestry, sex, gender, sexual orientation, age (over 40), marital status, pregnancy, medical condition, or disability as specified in federal, State and local laws. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to the above factors. Such actions shall include but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay; other forms of compensation; and selection for training, including apprenticeship. The Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

N. Liquidated Damages and Force Majeure

TIME IS OF THE ESSENCE IN THIS CONTRACT. Complete and safe functioning of public elevators is essential to operations of the public facilities under this proposal. The Contractor candidate selected and MJM may specify through service contract a penalty payment paid to MJM for each and every day that the Contractor fails to provide the required services by the completion date or as mutually agreed at the beginning of a project.

The Contractor will be granted an extension of time and will not be assessed with liquidated damages for any delay beyond the schedule for completion or the required response time for delays caused by *force majeure*, such as acts of God or of the public enemy, fire, floods, epidemics, quarantine,

restrictions, strikes, labor disputes, shortage of materials and freight embargoes, or other causes, including requests by MJM, deemed by MJM to be beyond the reasonable control of the Contractor, provided Contractor notifies the MJM Representative in writing of the causes of delay within five calendar days from the beginning of any such delay. The MJM Representative shall ascertain the nature of the delay and determine whether an extension of time is warranted, which determination shall be final and conclusive. Contractor has the burden of proof that the delay was beyond its control.

O. Contractor Expenses

Bidders responding to this IFB do so at their own expense. MJM will not consider any contractor costs related to this IFB or to negotiating a Personal Services Contract as reimbursable or as eligible costs under the contract.

P. MJM Right to Modify or Suspend IFB

MJM reserves the right at any time and from time to time, and for its own convenience, in its sole and absolute discretion, to modify or suspend any and all aspects of the selection process, including, but not limited to this IFB, and all or any portion of the contractor selection process in or subsequent to the IFB; to obtain further information from any contractor, to waive any defects as to form or content of the IFB or any other step in the selection process; to reject any and all responses submitted; to reissue the IFB; procure the desired services by any other means or not proceed in procuring the services; to negotiate with any, all, or none of the respondents to this IFB as to fees, scope of services, or any other aspect of the IFB or services; to negotiate and modify any and all terms of an agreement; and to accept or reject any Bidder for entry into a Personal Services Contract.

Q. Claims Against MJM and the Agency

Each Bidder by responding to this IFB, waives any claim, liability or expense whatsoever against MJM, the Agency, and its respective officers, commissioners, employees and agents, by reason of any or all of the following: any aspect of this IFB, the selection process or any part thereof; any informalities or defects in the selection process; the failure to enter into any agreement; any statements, representations, acts or omissions of MJM and the Agency; the exercise of any discretion set forth or concerning any of the foregoing; and any other matters arising out of all or any of the foregoing.

FEDERAL CONTRACTING REQUIREMENTS

A. Copeland “Anti-Kickback” Act

Contractor agrees to comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). Contractor agrees to prohibit from inducing, by any means, any person employed in the construction, completion,

or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

B. Contract Work Hours and Safety Standards Act

Contractor agrees to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). As applicable, all contracts in excess of \$100,000 that involve the employment of mechanics or laborers require Contractors to agree to the provisions of 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Under 40 U.S.C. 3704, each contractor agrees that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

C. Clean Air Act and Federal Water Pollution Control Act

As applicable to all contracts in excess of \$150,000, contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387).

D. Energy Policy and Conservation Act

Contractor agrees to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

E. Debarment and Suspension

By submitting a bid, Contractor declares that it is not debarred, suspended, or otherwise listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” Contractor declares that it is eligible to enter into a contract that received federal financial assistance.

F. Byrd Anti-Lobbying Amendment

Contractors that apply or bid for an award of \$100,000 or more shall file the required certification (form attached as **Attachment #17**) pursuant to Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a

member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

G. Solid Waste Disposal Act

Contractors agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) that contain the highest percentage of recovered materials practicable; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

H. Compliance with Housing and Urban Development (HUD) Section 3

Section 3 (24 CFR Part 135) is a provision of the U.S. Department of Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires Contractor, to the greatest extent feasible, to provide job training, employment, and contracting opportunities for low-income Section 3 residents in connection with this project. All types of employment opportunities should be made available to low and very low-income persons, including permanent employment and long-term jobs.

In addition, Contractors are encouraged to have Section 3 residents make up at least 30 percent of their permanent, full-time staff. Note: a Section 3 resident who has been employed for 3 years may no longer be counted towards meeting the 30 percent requirement. This encourages Contractors to continue hiring Section 3 residents when employment opportunities are available.

In the performance of this contract, Contractor agrees, to the greatest extent feasible, to comply with the requirements of HUD Section 3 by making efforts to hire Section 3 residents for 30 percent of its new hires, when such positions are available; and subcontracts 10 percent of the value of the contract to Section 3 business concerns, when subcontracting opportunities are available.

Section 3 residents are defined as follows:

- Public housing residents; or
- Persons who live in San Francisco MSA and who have a household income that do not exceed 80 percent of the median family income for the area (see <https://www.hudexchange.info/resource/3679/hud-income-limits/>).

Section 3 business concerns are defined as a business that:

- Is 51 percent or more owned by Section 3 residents;
- Employs Section 3 residents for at least 30 percent of its full-time, permanent staff; or

- Provides evidence of a commitment to subcontract to Section 3 business concerns, 25 percent or more of the dollar amount of the awarded contract.

ATTACHMENTS

1. Bid Forms
2. Small Business Enterprise Agreement
3. Declaration of Nondiscrimination in Contracts and Benefits
- 3a. Declaration of Nondiscrimination in Contracts and Benefits Instructions
4. Minimum Compensation Policy Declaration
5. Health Care Accountability Policy Declaration
6. Disclosure Questions
7. Prevailing Wage Provisions
8. Intentionally Omitted
9. Construction Workforce Agreement
10. Statement of Compliance with Agency Policies & Certification of Applicant
11. Form of Services Contract
 11. A Addendum to MJM Form of Services Contract
12. Intentionally Omitted
13. Intentionally Omitted
14. IFB Registration Form
15. Designation of Subcontractors
16. Noncollusion Declaration
17. Disclosure of Lobbying Activities