

# **National Cooperative Highway Research Program Project 20-65 Task 63**

## **OVERSIGHT OF FACILITY PROJECTS GUIDEBOOK**

**Prepared for:**  
National Cooperative Highway Research Program  
Transportation Research Board  
Of  
The National Academies

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March 2017

## **ACKNOWLEDGMENT OF SPONSORSHIP**

This work was sponsored by one or more of the following as noted:

American Association of State Highway and Transportation Officials, in cooperation with the Federal Highway Administration, and was conducted in the **National Cooperative Highway Research Program,**

Federal Transit Administration and was conducted in the **Transit Cooperative Research Program,**

Federal Aviation Administration and was conducted in the **Airports Cooperative Research Program,**

Research and Innovative Technology Administration and was conducted in the **National Cooperative Freight Research Program,**

Pipeline and Hazardous Materials Safety Administration and was conducted in the **Hazardous Materials Cooperative Research program,**

Federal Railroad Administration and was conducted in the **National Cooperative Rail Research Program,**

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# FOREWORD

State Departments of Transportations (DOTs) continue to play a variety of roles when administering Federal Transit Administration (FTA) grant programs. Of particular importance is the implementation and oversight of transit facility-type projects both in new construction and rehabilitation. The purpose of this guidance is to provide a useful tool for State DOTs and their subrecipients in undertaking construction projects, either for the first time or with little prior experience with construction project management. This document provides a comprehensive introduction to construction project management, including the applicability of the principles of project management and of all phases of project development from project initiation through planning, environmental clearance, real estate acquisition, design, construction, and closeout. State DOTs and their subrecipients have indicated the need to have such a guidance tool that will assist with the implementation, oversight, and on-going monitoring role which involves complex and often confusing federal requirements. To this end, this guidance is structured to use a “plain language” approach to describe the numerous requirements for carrying out a successful and compliant facility improvement project.

A rigorous process is required to successfully plan, program, design, and implement a transit construction project. This reference guide can help in the navigation of the process, and provide the framework for the successful planning and implementation of a facility construction project. State DOTs and their subrecipients can use this reference guide as a valuable tool to clarify the implementation, oversight and on-going monitoring process for transit facility rehabilitation and construction projects. The guidance is targeted to projects generally carried out by small urban and rural systems.

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# 1. INTRODUCTION AND BASIC REQUIREMENTS

The common grant rules for Federal Transit Administration (FTA) recipients are contained in [2 CFR Part 200 and 1201](#), “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.” The common grant rule defines specific federal requirements for States and their subrecipients including those that guide the subject of this guidebook. Such requirements are summarized below.

State DOT’s may follow their own procurement procedures but, at a minimum, must comply with the following federal statutory requirements:

- Provide full and open competition
- Include all applicable FTA clauses
- When contracting for architectural and engineering (A&E) services, States are required to use competitive proposal procedures based on the Brooks Act or an equivalent qualifications based requirement adopted before August 10, 2005
- Prohibit geographic preferences
- Comply with the five- and seven-year limitation on purchases of rolling stock or replacement parts
- Award only to responsible and responsive contractors
- Comply with Buy America
- Comply with debarment and suspension
- Comply with restrictions on lobbying

Instrumentalities of the State are considered State agencies. Subrecipients that are public entities can follow the respective State’s procurement procedures and requirements.

State subrecipients that are private non-profit agencies or private for-profit agencies must comply with the requirements contained in the [FTA Circular 4220.1](#) that provides third party contracting guidance. These private non-profit or private for-profit agencies do not have the same flexibility as States and their public-entity subrecipients.

Some of the significant additional requirements under this circular are:

- Maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts
- Have written procurement policies and procedures
- Have written protest procedures to handle and resolve disputes relating to the award of contracts
- Have procedures for settlement of contract issues/disputes
- Analyze each planned acquisition in order to identify and evaluate potential organizational conflicts of interest
- Review procurement requests to avoid duplicative or unnecessary purchases

- Incorporate a clear and accurate description of the material, product, or services being procured; identify all requirements that offerors must fulfill; and identify evaluation factors in solicitations
- Develop an independent cost estimate (ICE) before receiving bids or proposals
- Conduct a cost or price analysis for every procurement
- Evaluate options at the time of bid award, exercise the options at the agreed upon terms, and determine that the option price is better than current market prices before exercising the options

- Maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions and specifications of their contracts or purchase orders
- Maintain a written record of procurement history

Requirements referenced in this document that do not necessarily apply to States and public-entity subrecipients are still recommended and represent sound business practices. For example, development of an ICE is a sound business practice to determine the financial feasibility at the earliest stage of a project. Guidance for the development of an ICE can be found in [NCHRP Project 20-65 Task 53](#).

## 2. PROJECT ORGANIZATION AND RESPONSIBILITIES

### BASIC REQUIREMENT

A transit construction project involves numerous steps or phases. Successful completion of these steps requires individuals with varying skill sets. Each project should be outlined to identify the skill sets required and a determination should be made as to how the project will be organized. This process will result in a comprehensive listing of the team members involved with the project, as part of a Project Management Plan (PMP). Additionally, each team member's responsibilities should be clearly defined in the reporting organizational structure. A best practice is to produce a responsibility matrix that lists key project steps which identifies the members of the team that will have either lead or support responsibilities for each step.

### PERSONNEL

At a minimum, every transit construction project should involve the following individuals and resources:

1. Chief executive officer (CEO)
2. Project manager
3. Financial manager
4. Grants manager
5. Procurement manager
6. Disadvantaged business enterprise liaison officer (DBELO)
7. Architect/engineer
8. Construction contractor

The following personnel may also be required:

1. Construction manager
2. Property acquisition specialist
3. Environmental specialists

### BASIC RESPONSIBILITIES

The following paragraphs describe the basic responsibilities of each team member. Additional detailed descriptions of responsibilities are included in other sections of this guidebook.

#### CEO

The CEO is the highest ranking staff member of the agency for which the project is being undertaken. This individual reports to a governing board (typically, a Board of Directors or a municipal policy body).

The CEO is the person with the overall responsibility for the project.

#### Project Manager

The project manager is the project staff member responsible for defining the scope of the project and communicating the project vision and implementation to the project team. Tasks would include: developing the initial project schedule and the initial project budget. The budget and schedule is updated by the project manager during implementation phase of the project.

The project manager should have a direct reporting relationship with the Chief Executive Officer.

All oral and written communications should be documented and flow through the project manager to and from all other team members.

#### **Financial Manager**

The financial manager is responsible for authorizing project expenditures and managing the project budgets and associated change orders.

#### **Grants Manager**

The grants manager is responsible for submitting the application to the funding agencies for grants that will support project expenditures. Additionally, the grants manager is responsible for completing any grant amendments or revisions that may be necessary during project implementation and ensuring grant compliance such as reporting, is a key responsibility.

#### **Procurement Manager**

The procurement manager is responsible for acquiring third-party services required to implement the project work. These services normally include design and engineering services as well as construction management of procured resources. The procurement manager's primary directive is to ensure the third-party services are acquired using full and open competitive processes that result in contract awards to qualified firms while complying with the requirements of the grant funding agencies which have funded the project.

#### **DBELO**

The DBE manager is responsible for the communication of eligible work tasks to qualified and certified DBE firms, and that these firms have a maximum opportunity to participate in project activities. Maximum

opportunity is achieved when the DBE manager works in close collaboration with the procurement manager to identify potential DBE project opportunities. The DBE manager is also responsible for communicating these opportunities to certified DBE firms. Additionally, the DBE manager should insure that appropriate DBE requirements are being met during project implementation and that the required documentation is kept regarding any advertised DBE participation. The DBE manager reports directly to the agency CEO.

#### **Architect/Engineer**

A&E services are usually provided by a professional firm that is awarded a contract through the procurement process. The A&E firm is responsible for the design and engineering of the project in accordance with applicable laws, codes and other requirements. The firm should also be responsible for preparing pre-bid construction cost estimates, periodic oversight of the construction process, approving construction contractor payment applications, reviewing and making recommendations in connection with change order requests and ensuring proper project close out. The A&E firm should report to the project manager.

#### **Construction Contractor**

The construction contractor is awarded a contract through the procurement process. The construction contractor is responsible for completing the project in accordance with the work schedule and specifications and drawings prepared by the A&E firm.

## OTHER POTENTIAL TEAM MEMBERS

Based on the particular project, other team members may include: construction manager, property acquisition specialists and environmental specialists.

### **Construction Manager**

If the transit construction project is anticipated to be complex, or if multiple prime contractors will be used, it is usually advisable to retain the services of an outside (third party) construction manager. The construction manager is responsible for being the agency's full time representative throughout the design and construction process. The construction manager will prepare constructability assessments and value engineering prior to the bidding phase. The construction manager reports directly to the project manager.

### **Property Acquisition Specialists**

If the project requires the acquisition of real estate, a property acquisition specialist should be retained. The property acquisition specialist should be familiar with applicable federal and State real estate acquisition requirements and any grant funding requirements, if grant funding is to be used. Federal requirements are identified in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, in addition to basic real estate acquisition practices. The property acquisition specialist is responsible for obtaining property title searches, ensuring that property appraisals are conducted and

serving as the lead property acquisition negotiator. The property acquisition specialist should report to the project manager.

### **Environmental Specialists**

Most proposed construction projects will need to have some level of environmental analysis conducted. Environmental analysis usually follows either the National Environmental Policy Act (NEPA) requirements, Title VI equity analysis, or similar requirements based on State Laws. The environmental specialist is responsible for seeing that all environmental requirements are addressed. Some of these requirements may include:

- Phase I and Phase II environmental site assessments (prior to property acquisition)
- Storm water runoff requirements
- Traffic impacts and access issues (during and after construction)
- Noise impacts (during and after construction)
- Environmental justice requirements
- Zoning and compatibility with surrounding land uses
- Availability of utilities
- A review of any environmental concerns that could constrain or preclude the use of the site.

## COMMUNICATION AMONG ALL TEAM MEMBERS

Maintaining clear and consistent communications among all team members

is critical to the success of a project. A mutual understanding among all team members must be reached by which they understand that they are dependent upon each other for the overall success to the client.

In order to maintain effective communications, progress meetings among all project participants should be held on an agreed upon regular basis. The project manager is responsible for the progress meetings and should act as chairperson. Key agenda topics of the meetings should include the status of the schedule and budget, and updates of needed resources in order to carry out the project tasks.

Key project reporting processes must be developed and implemented. It is

recommended that reports be generated at least monthly. Suggested reports and reporting responsibility include:

- Grant status – grants manager
- Environmental review status – environmental specialist
- Professional services acquisitions – procurement manager
- Construction services acquisitions – procurement manager
- Budget status – financial manager
- Change orders – project manager
- DBE utilization status – DBELO
- Quality Assurance – project manager

These status reports should be reviewed at each progress meeting.

## 3. LAND ACQUISITION

### BASIC REQUIREMENT

Land acquisition activities must be undertaken in accordance with the requirements contained in the [Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970](#), as amended. This law, often referred to as the “Uniform Act,” identifies procedures for establishing fair market value of real property and also sets forth procedural requirements for residential and business relocation, if required.

If federal funds are used in any phase of the program or project, the rules of the Uniform Act apply, even when the land acquisition itself is not federally-funded. The rules encourage acquiring agencies to negotiate with property owners in a prompt and amicable manner so that litigation can be avoided. Property should be acquired based on fair market value. If property is to be acquired in an amount greater than fair market value, prior approval with funding agencies should be obtained through a process described as an administrative settlement.

It is recommended that a property acquisition specialist with expertise in property acquisition under the Uniform Act be directly involved with managing the land acquisition phase of the project. Persons with this expertise are frequently found within State departments of transportation (DOTs) or local municipal agencies where

projects have been undertaken involving land acquisition.

It is strongly recommended that the agency work closely with their respective FTA regional office program manager during this phase of the project.

Some of the key requirements of land acquisition include: a site selection process, determination of useable space, physical and geographic advantages/disadvantages for the site, ease of land acquisition and site cost. As noted, the process must be conducted using fair market values and be documented accordingly in the project folder.

### ENVIRONMENTAL SITE ASSESSMENT

Performing an environmental site assessment is a critical function that should be performed as early as possible after the selection of a preferred site location for a new facility. The environmental site assessment will determine if there are any existing environmental impacts that could affect the intended use of the property and expose any environmental liability in connection with property ownership.

Most environmental laws place responsibility for environmental liabilities on the owner of the property. Purchasing property with environmental issues can impact project development costs as well as exposing the owner of the property to future environmental liabilities.

An environmental site assessment is normally performed in two phases. It is recommended that the assessment be performed by a firm that has qualified staff to perform these assessments. Qualified staff that would perform these functions is normally part of a separate environmental assessment team. Please take note that the Brooks Act process should be used when procuring these services.

### **Phase I Assessment**

The Phase I environmental site assessment is a study that looks at the history of the property. This study will include historic use of the site as well as any past environmental findings recorded in federal or State records. In addition, the Phase I Assessment should include a physical inspection of the site for any signs of pollution. As a result of the information collected, a recommendation will be made whether it would be necessary to perform a Phase II assessment.

### **Phase II Assessment**

A Phase II environmental site assessment would be performed if information discovered during the Phase I assessment indicates the potential presence of environmental issues that may require cleanups or other mitigating actions.

Performance of a Phase II assessment requires soil testing, ground water tests, or other activities to determine the presence and severity of environmental impacts. This activity would require permission from the existing property owner to enter the site to perform these tests. Permission is usually granted through a temporary easement or some other agreement for entry.

Results of the Phase II assessment are used to determine if the property is eligible for selection for the facility and if mitigation actions will be needed in connection with the use of the property. This information should contribute to the establishment of the fair market value and updating the project budget.

## **ESTABLISHING FAIR MARKET VALUE**

The Uniform Act requires that real property be acquired based on fair market value. Establishing fair market value should be based on appraisal reports completed by licensed appraisal firms.

Based on the size and complexity of the property to be acquired, funding agencies may require up to two separate appraisals as well as a review appraisal report that is prepared by a third firm. The review appraisal report would analyze the two individual appraisal reports and provide an opinion of the fair market value.

It is normally an accepted practice to use appraisal firms that have been placed on approved lists of the State DOT. In any event, it is prudent to obtain the approval of funding agencies for appraisal firms to be used prior to the undertaking of any appraisals.

## **ACQUIRING THE PROPERTY**

Acquiring real property is a process that should be performed by an experienced specialist in consultation with legal counsel.



There are several basic steps in connection with this process. These would include:

**Title Search**

A title search must be completed. The title search should review past property owners as far back as possible to determine if there are any open warrants or liens on the property. Any warrants or liens should be cleared by the existing property owner before property acquisition.

**Offer to Purchase**

An offer to purchase must be in writing and presented to the property owner. The offer must be based on the fair market value established during the appraisal process.

It is recommended that the legal counsel be retained to prepare the offer to purchase.

All negotiations should be documented. Obtain prior approval from funding agencies if it is determined that a value greater than fair market value should be paid.

## 4. ACQUIRING A&E SERVICES

### BASIC REQUIREMENT

The A&E firm is a critical member of the project team. Procuring A&E services requires a specialized process. This includes a competitive process of evaluating the qualifications of potentially several firms. Great care should be taken to ensure that the A&E scope of work includes all the services required at each phase of the project. In many cases the services required will include services related to contractor award and the construction phases.

While the reputation and experience of the A&E firm is important, it is more important to evaluate the experience of the individuals to be assigned to the project. It is the agency's responsibility to ensure that in addition to the firm as a whole, qualified personnel with the necessary and appropriate expertise are also being acquired to provide these services. This can be evaluated during the procurement process by scoring the experience and other qualifications of project personnel who would work on the project.

### PROCUREMENT PROCESS

Acquiring A&E and A&E related services using FTA funds requires the use of a qualification-based procurement process as described in federal statutory legislation referred to as the "Brooks Act". Most States also require a qualifications-based process similar to the Brooks Act. The Brooks Act requires an open and competitive process

that evaluates firms solely on qualifications without using cost or price information. Firms submitting qualifications packages are evaluated by a predetermined selection committee. The firms are ranked based on evaluation criteria provided in the request for qualifications.

The top ranked firm is requested to submit a price proposal. If, after negotiations, the selection committee determines the price is fair and reasonable a contract may be executed. If it is determined that a fair and reasonable price cannot be obtained, the top rated firm is eliminated from the selection process and an invitation for a price proposal is sent to the second rated firm. This process can continue until a fair and reasonable price is obtained.

The steps within the procurement process that ultimately lead to the selection of the A&E firm include:

- preparation of an independent cost estimate (ICE)
- DBE goal and request for qualifications (RFQ) package development
- formation of the selection committee, preparation of the scope of work and the design schedule
- solicitation of RFQ responses, pre-proposal conference
- RFQ addendum
- receipt and ranking of proposals, interviewing potential firms
- negotiation of price
- recommendation and award

# PREPARATION OF THE SCOPE OF WORK AND THE DESIGN SCHEDULE

The scope of work is a detailed description of the tasks to be performed by the A&E firm. This document is the heart of the RFQ package and will be incorporated into the final A&E contract agreement. Preparation of the scope of work should be done by both the project manager and the construction manager. The scope of work should not contain any unnecessary requirements that would restrict competition.

The scope of work should include the following basic sections:

## **Preliminary Design Phase**

The preliminary design phase documents the basic facility requirements as well as establishing general specifications in connection with construction materials and equipment. This phase should also include a requirement to prepare a general schematic facility design as well as an initial facility cost estimate and construction schedule.

## **Design Development Phase**

Once the preliminary design phase is approved, the prospective consultant should be directed to enter into the design development phase. During this phase, the facility design should become more detailed. Final determinations are made regarding construction materials and equipment specifications. More detailed drawings are produced that include elevations, utility layouts, and site work. This phase will include an updated

construction cost estimate and any necessary refinement to the project schedule.

## **Construction Document Phase**

After approval of the design development phase, the A&E firm will be authorized to begin the construction document phase. This phase will result in construction quality drawings as well as detailed specifications. Construction documents should also include requirements for contractor safety plans, and the provision of staff training and facility maintenance documentation from the prospective contractor.

## **Construction Award Services**

In some cases, the A&E firm will be asked to evaluate contractor bids and make a recommendation for award of construction contracts. These services normally include a determination of bidder responsiveness.

## **Construction Phase Services**

The following tasks are often requested of the A&E firm during construction:

- Periodic site inspections
- Processing and approval of contractor payment applications
- Administering change orders
- Development and processing of punch lists
- Preparation of substantial and final completion certifications and permits

# PREPARATION OF AN ICE

To enable a confident decision on the bids and to establish a credible review record, an ICE should be prepared based on the tasks requested in the scope of work. The

estimate should be in writing, be dated, and contain a description of the basis of how the estimated cost was determined. A standard guideline for the value of A&E services is six to 10 percent of the estimated construction budget in the grant application. The estimate should be prepared prior to receiving a price quotation from the highest ranked firm. This document should be retained in the procurement file. An example ICE can be found in [Appendix A](#).

## **DBE GOAL DEVELOPMENT**

The scope of work should be provided to the DBELO for the purpose of establishing a DBE goal for the procurement. The DBE liaison officer will establish a DBE goal based on the availability of DBE firms willing and able to participate in the project.

## **DEVELOP THE RFQ PACKAGE**

The RFQ package is the document that is received by A&E firms interested in providing services. An example RFQ package can be found in [Appendix I](#). The RFQ package should contain the following sections:

### **RFQ Notice**

This is a short notice that informs firms that the agency is requesting qualifications packages. The notice includes a brief description of the project, the date and time of a pre-proposal meeting, the date, time, and location for submission of

qualifications packages and the name, address, and phone number of the RFQ contact person.

### **Instructions for Proposers**

This section provides information on the selection process, the evaluation criteria to be used to rank firms, protest procedures, required contents for proposals submitted, and the number of copies of proposals required. Evaluation criteria should include items such as direct qualifications experience (for similar projects), experience of project staff to be assigned, project understanding, project approach, and adherence to any of the project requirements.

### **Scope of Work**

This section contains the scope of work discussed earlier.

### **Required Documents**

This section contains any documents and certifications required to be submitted with the proposal.

### **Proposed Contract**

This section contains the proposed contract document containing required terms and conditions to be executed by the successful proposer.

Once the package is complete it is recommended that it undergo a quality assurance/quality control check to ensure it contains all required FTA clauses and applicable state and local certifications. This is usually conducted by the procurement manager in conjunction with any personnel responsible for quality.

## FORMATION OF A SELECTION COMMITTEE

The initial step in the procurement process is to form a selection committee. The role of the selection committee is to review and evaluate the qualification packages that are submitted by consultants responding to the RFQ.

The committee should be comprised of staff members having an interest in the project and who possess a general knowledge of the project vision. Members normally include an operations manager, maintenance manager, general manager and other stakeholders that can add value to the selection process. Committee members should agree to execute a conflict of interest statement and nondisclosure agreement that would preclude any bias in the selection process. The process should include an independent review, prior to the meeting to discuss their evaluative scoring. The procurement manager should be responsible for managing the committee to ensure the review and evaluation process is conducted in accordance with the agency's procurement guidelines and procedures and meet the necessary proposal requirements.

### SOLICITATION FOR RFQ RESPONSES

Soliciting proposals from qualified A&E firms is accomplished in two ways, which can be conducted concurrently. The first way is:

#### Direct Solicitation

The RFQ package should be sent directly to firms thought to be qualified to perform the

work. Direct solicitation should be made to multiple firms to encourage full and open competition.

The second way to solicit proposal responses is:

#### Public Advertisement

The RFQ notice should be placed in publications of general circulation. The RFQ package will be sent to firms responding to the advertisement. The RFQ notice should also be placed on the agency's website, in trade journals and markets that have the skill and expertise to conduct the work. Public notices should be undertaken to achieve maximum competition.

A listing of all firms who were solicited and were provided RFQ packages should be maintained in the procurement file and placed in the project folder.

## PRE-PROPOSAL CONFERENCE

A pre-proposal conference provides a valuable opportunity for interested firms to obtain clarifications or ask questions prior to submitting a qualifications package.

Holding a pre-proposal conference is not required, but it can prove useful to both parties. If a conference is held, an attendance list and minutes should be prepared and maintained in the procurement file. Any new information for competing firms from the pre-proposal meeting should result in a formal addendum to be sent out to the potential competitors.

## **RFQ ADDENDUM**

If there is a need to amend or modify the RFQ package once it has been made public, the change or modification must be done through a formal addendum. The addendum needs to describe the change or modifications and must be provided to all known firms that received the initial RFQ package.

Any change to the proposal submittal due date should be done by formal addendum.

## **RECEIPT AND RANKING OF PROPOSALS**

A formal record must be kept of all firms that submit a proposal in accordance with the required due date. Proposals received after the required due date should not be opened and should be returned to the respective sending agency.

A copy of each proposal should be provided to each member of the review committee along with proposal ranking forms. The proposal ranking forms will use the same evaluation criteria that were included in the RFQ solicitation document.

Each member of the review committee will rank each proposal independently. The sum of points for the completed evaluations will be totaled to provide a qualifications ranking for each firm. The evaluation forms should also include information from each member of the evaluation team describing the rationale for their scoring. It is important to have a narrative component to the scoring, so the scoring committee member can clarify their interpretation of

how they arrived at a determined score. An example RFQ evaluation form can be found in [Appendix B](#).

## **INTERVIEWING POTENTIAL FIRMS**

The selecting agency has latitude in determining if or when interviews will be held. There is no requirement that the agency hold interviews with any or all potential firms. The selecting agency may want to hold interviews with a “short list” of firms. A short list usually consists of the top three to five firms based on the qualifications ranking. In some cases, it may prove beneficial to invite firms for a face-to-face interview. The selecting agency’s option to perform interviews should be disclosed in the RFQ. This process can be used to clarify contents of the proposal and obtain a better understanding of the firm’s qualifications. If interviews are held, it is important to require the firm to arrive with the key individuals they propose to use for the project, and adhere to the time schedule for presenting their material and answering questions.

Separate rankings can be completed after the interview process and combined with the initial evaluation results to provide a total qualifications ranking.

## **NEGOTIATION OF PRICE**

As required by the Brooks Act, price negotiations are commenced only with the highest ranked qualified firm. As a best practice, the highest ranked firm is contacted in writing and requested to

provide a cost proposal. Obtaining cost proposals in separately sealed envelopes from each proposer, while not forbidden by the Brooks Act, has the potential to lead to inadvertent release of costs and can negate the entire selection process. The cost proposal must detail the cost elements such as:

- The timeline for the budgeted tasks
- Titles of the individuals to be assigned to the project
- The estimated hours for each individual
- The unburdened hourly rates for each individual
- The firm's overhead rate
- Any anticipated indirect costs associated with the project
- A listing and costs of any subconsultants to be used
- The total fixed fee

The cost proposal will serve as a negotiating baseline. When a final price is agreed upon, a cost analysis will be prepared and a determination made as to the reasonableness of the price. If it is determined that a reasonable price cannot

be agreed upon, a formal written determination will be provided to the most qualified firm that negotiations will cease. At this point, the price negotiation process will commence with the next most qualified firm.

## **RECOMMENDATION AND AWARD**

At the conclusion of successful price negotiations, a formal recommendation for award will be provided to the agency personnel with contract award authority. Award authority is normally with the CEO or the agency's governing body.

After approval to award is provided, a notice of award is provided to the firm along with a contract document for execution. This notice should also require submission of any insurance certifications or other required documents.

Upon receipt of an executed contract and all required documents, the contract is executed by the agency and a formal notice to proceed is issued to the firm.

## 5. INDEPENDENT CONSTRUCTION COST ESTIMATE

### BASIC REQUIREMENT

When preparing an ICE for the construction of the project:

- The ICE must be prepared prior to solicitation of bids
- The ICE shall include the basis for how the estimate was determined
- The ICE cannot be prepared by a potential vendor or contractor

### CONSTRUCTION COST ESTIMATES

The scope of work for the design and engineering contract should include a requirement to provide construction cost estimates during various phases of the project design. The next sections provide descriptions of recommended cost estimating techniques.

#### 25 Percent Design

A cost estimate should be provided to the agency at the completion of 25 percent design. This is a very early estimate and usually takes into account the general type of construction, total square footage, and general equipment required. The primary value of this estimate is to provide the agency with an early reality check of expected costs against the project budget.

Issues arising at this stage of design need to be addressed prior to moving ahead with

more detailed design phases. This is a time when the design firm, the construction manager, and the agency work as a team and carry out a very rudimentary level of value engineering to bring the 25 percent design estimate in line with the project budget. At this stage, the estimate may carry a contingency line item that might have a 20 percent of construction cost.

#### 50 Percent Design

At this stage of the design, more detailed levels of materials and equipment have been defined. The same process is followed as described with the 25 percent estimate. Again, this estimate is providing a design versus budget check and may require a more detailed level of value engineering before proceeding with final design. At this stage, the budget may contain an estimated 15 percent contingency.

#### 100 Percent Design

At this stage, the design of the project is complete. Specifications have been written for all construction materials and equipment. Drawings have been completed. The construction contingency should be no more than 10 percent. A construction contingency is an amount within the budget that is reserved for change orders. This document will serve as the final and official independent cost estimate. The document should be detailed and include unit pricing and quantities.



## 6. THE CONSTRUCTION PHASE SOLICITATION & AWARD PROCESS

### BASIC REQUIREMENT

FTA requires that construction solicitation be undertaken using a process that will encourage full and open competition, including a requirement for public advertising of the requests for bids or proposals. FTA allows the use of either the Invitation for Bid (IFB) or the Request for Proposals (RFP) methods of procurement for construction. Since the IFB method of solicitation is the most common method, it will be described in more detail in this section. An example step by step description of the procurement process is contained in [Appendix C](#). An example IFB is shown in [Appendix J](#).

The resulting construction contract must include all applicable FTA-required contract clauses and certifications. The resulting construction contract must also comply with US Department of Transportation (USDOT) requirements set forth for the utilization of DBEs. Awards of contracts should be made to a responsible firm providing the lowest responsive bid.

### DBE

Agencies that utilize a race conscious DBE goal must include a DBE contract goal as part of the bidding process. A bidder's compliance with DBE goals as part of the submission of the bid must be reviewed as a matter of responsiveness or

responsibility. The agency has the discretion to determine if the bidder must present information on DBEs proposed to meet the goal as part of bid responsiveness (provided at the time of bid) or no later than five days after bid opening as a matter of responsibility.

Prior to awarding a contract to a firm that did not meet a specific DBE contract goal, the agency must determine whether the efforts the firm made to obtain DBE participation were "good faith efforts" to meet the goal. Examples of efforts the agency may consider include whether the contractor attended any pre-bid meetings held by the agency to inform DBEs of contracting opportunities, or whether the contractor provided written notice to a reasonable number of specific DBEs, and that their interest in the contract was being solicited in sufficient time to allow participation. A more extensive list of examples is provided in [Appendix A to 49 CFR Part 26](#).

It is important to note that DBEs are certified to perform certain types of work. To receive credit for good faith efforts and to count towards goal attainment, named DBEs must be certified to do the scopes of work that they are contracted to perform.

The agency's DBELO should set the DBE contract goal based on the availability of willing and able DBE firms that are included in the applicable Unified Certification Program.

The DBELO will undertake a DBE responsiveness or responsibility review of the apparent low bidder and provide a written determination of DBE responsiveness or responsibility to the project manager prior to recommendation of award.

## DEVELOPMENT OF THE BID DOCUMENTS

The official bid documents contain several sections. It should never be assumed by the agency that either the A&E firm or the construction manager are aware of FTA requirements in connection with the documents. It is normally the responsibility of the procurement manager to ensure required FTA clauses and certifications are contained in the bid documents.

Bid documents normally contain the following sections:

- Invitation for bid (IFB)
- Instructions for bidders
- Bid forms
- General conditions
- Special conditions
- Technical specifications
- Contract drawings

Below are descriptions of various FTA requirements in connection with these sections.

### IFB

The IFB is usually the same document that is used for advertising the bid. It should contain a brief description of the project, the time and place of bid opening, how to

obtain bid documents, and applicable contact information.

### Instructions for Bidders

This section of the procurement document provides important information for prospective bidders. It should contain the following information:

- Instructions for bid submittal, including the location and time of bid opening
- Number of copies to be provided
- Time, date, and location of the pre-bid conference
- DBE goal for the project
- Instructions for submitting questions or requests for clarifications
- Cut-off dates for bid addenda
- Basis for contract award, timing for award and project schedule
- Bid protest procedures
- Requirements for bid security

### Bid Forms

This section of the procurement document contains various forms that are required to be submitted with bids. Typically, these forms include:

Bid Form – This form will contain the bid amount submitted. In most cases the bid form will contain various unit costs for materials contained in the detailed specifications. Using unit pricing can simplify the values of quantities included in any future change orders. The bid form normally requires the bidder to express the total bid in both numerical form and verbal or word form.

Bid Security – Bid security is normally allowed through a bid bond that is

expressed in either 5 percent or 10 percent of the total bid amount. A bid bond may not be required (private non-profit and private for-profit subrecipients must comply with FTA Circular 4220.1F which requires a five percent bid bond), but is generally provided at no cost along with the bonding company's agreement to provide a performance bond. The purpose of bid security is to ensure the low, responsive and responsible bidder will enter into a contract for the amount provided in their bid. Bid security should secure the amount bid for the period identified in the "instructions for bidders" for the period of award (normally 60 to 90 days). Submission of proper bid security is a bid responsiveness requirement. If improper bid security is provided, the bid should be declared non-responsive and would be rejected.

Financial Statements – It is a good practice to request a bidder's most recent financial statements with the bid proposal. This information can assist in determining the financial ability of the bidder to complete the project.

DBE Participation – These forms require the bidder to provide documentation of DBE firms that will be utilized to meet the DBE goal as stated in the IFB section.

Non-collusion affidavit – This form is a certification by the bidder that its bid was arrived at independently and it did not collude with any other bidder in arriving at the bid amount.

Acknowledgment of Addenda – This form should contain a numerical listing of all addenda that were issued. Bidders must

acknowledge by their signature receipt of each addendum issued. This form ensures that the bids submitted reflect any and all modifications of the bid documents that were made prior to bid opening.

Required FTA Certifications – If the project exceeds \$100,000, the agency must obtain a lobbying certification whereby the contractor certifies that it will disclose any professional lobbyist firms it retains.

If the project exceeds the federal simplified acquisition threshold (currently set at \$150,000), the agency must obtain a Buy America certification. FTA requires that iron, steel and manufactured products used in the project have origin in the United States. The certification requires the bidder to either certify that its bid will comply with the Buy America requirement or that it will not comply. Compliance with the Buy America requirement is a condition of bid responsiveness. Buy America certifications cannot be provided by a bidder after the bid opening.

Bid forms checklist – This form provides a checklist of the various bid forms to be provided with bids. An example form is provided in [Appendix D](#) and serves as a best practice to help ensure each bidder will be responsive to the requested bid submission requirements.

### **General Conditions**

The general conditions section of the bid documents represents all required contractual provisions for the project. It should be developed in consultation with legal counsel and is normally boilerplate. Certain FTA requirements are normally included in the general conditions, such as

progress payment provisions, change order provisions, insurance requirements, termination clauses, dispute resolution provisions, liquidated damages provisions, Davis-Bacon prevailing wage determinations, and all required FTA contract clauses.

### **Special Conditions**

The special conditions section normally contains special work related requirements that the contractor will need to comply with. Special conditions can contain site safety requirements, clean up requirements, risk assessment and management, temporary utility requirements, training requirements, warranty requirements, project communications and general project close out requirements.

### **Technical Specifications**

This section contains the detailed project specifications prepared by the A&E firm. The agency should review these specifications to ensure they are not restrictive. If brand names are used, there should be wording that allows for an approved equal to the brand name specified. The specifications should also contain salient characteristics of brand names that are specified. The salient characteristics allow the ability to evaluate any approved equals requests from potential bidders.

### **Contract Drawings**

This section contains the various drawings prepared by the A&E firm. The contract drawings should contain the A&E firm's stamp and the signature of the lead designer.

## **ADVERTISEMENT OF THE BID**

FTA requires agencies to ensure full and open competition is achieved when obtaining bids. The primary requirement is to publish an IFB. The IFB document previously described must be advertised in a local newspaper, journals and media sources of general circulation. To achieve maximum competition, many agencies also use various local, state-wide, and national sources that are viewed by contractors to find out potential projects that are being solicited.

There is no set FTA requirement for the number of days between advertisement and bid opening. It is recommended that Local or State requirements can be used. However, the bid period must provide adequate time for bidders to prepare proper bids. The size and realistic complexity of the project should be taken into account when setting the advertisement period. For non-complex projects, a 30-day bid period is typical.

Documentation of the advertisements and other solicitations need to be maintained in the procurement file and noted in the project folder.

It is normally the duty of the A&E firm to distribute bid documents to prospective bidders once the advertisement is published. A deposit can be required before distribution of the bid documents. This deposit is refundable if the documents are returned in fair condition. A listing of firms obtaining the bid documents should be

kept. This listing is referred to as the “bidders of record.”

In addition to the bid document distribution, it is a good practice to allow for a location or locations where prospective bidders can come and review the documents. This should be part of the solicitation process.

## **THE PRE-BID CONFERENCE**

Holding a pre-bid conference is not an FTA requirement. However, the pre-bid conference is highly recommended. If a pre-bid conference will be held, the time and location of the conference should be included in the invitation for bid notice. If call-in participation is acceptable, the call-in number needs to be included, and the meeting location needs to be able to accept telephone participation.

The primary purpose of the pre-bid conference is to answer any questions prospective contractors may have, to describe the DBE program and its requirements, and allow for a project site inspection, if applicable.

The following project personnel should be in attendance at a pre-bid conference:

- Agency’s project manager
- Agency’s DBELO
- Representatives from the A&E firm
- Representatives from the construction management firm (if applicable)

A record of attendance list should be kept.  
A record of any questions or clarifications

should be made and placed in the project folder.

## **PREPARATION AND ISSUANCE OF BID ADDENDUM**

After completion of the pre-bid conference it may be determined that questions or clarifications may need to be included in a formal bid addendum. Any clarifications or changes to the specifications or drawings that may materially change the project need to be documented in a formal bid addendum. The bid addendum should be serially numbered and prepared by the A&E firm. The project manager and the construction manager should review the addendum document and provide their approval. Once approved, the addendum must be sent to any bidder of record.

## **BID OPENING**

The opening of bids is held at the time and location specified in the bid documents. Bid opening is a function that is open to the public. This means that the agency must allow anyone to attend and witness the opening of bids. Submitted bids should be marked with a date stamp to signify the time/date of the accepted delivery.

The agency should maintain an official clock that is used to determine when the time for submission of bids has expired. Once the time has expired, no additional bids can be accepted and formal bid opening can begin. All bids should be read aloud by the procurement manager with the name of the

bidders, the amount of the bid, and the amount of the bid security (if necessary). An individual designated by the agency should enter this information into a tabulation of bids form, also referred to as a bid abstract, and place this information in the project folder. An example bid abstract is included in [Appendix E](#).

After conclusion of bid opening it should be announced that bids will be evaluated to determine the low responsive and responsible bidder. If any individual requests to view a bid or bids, it is a local determination to allow such a viewing. If viewing of the bids is allowed, care should be taken to closely observe this function to preserve the actual documents received.

## EVALUATION OF BIDS

Once received, bids should be reviewed to determine if they are responsive and the bidders have provided the necessary information.

### **Responsiveness**

This is determined by reviewing the bid for inclusion of all required bid forms. In addition, it should be determined if the submitted bid is conditioned upon situations not allowed for in the bid documents. A conditional bid can be deemed as being non-responsive.

### **Responsibility**

A responsibility determination is made to ensure the bidder has the technical and financial capability to perform the requested work.

FTA does not allow an award to firms that are on the federal list of debarred or

suspended firms. This can be checked using the federal website System of Award Management at [www.sam.gov](http://www.sam.gov). The name of the contractor can be entered into the search engine to determine whether or not the firm is on this list. Documentation of this verification should be retained in the procurement file.

An agency may also choose to look at the contractor's financial statements and past projects completed to assist in determining contractor responsibility.

In most cases, a contractor can be determined responsible if it can obtain proper insurance and bonding, and is not on the federal debarred or suspended list.

A formal determination of responsiveness and responsibility should be made and retained in the project procurement file.

## DETERMINING PRICE REASONABLENESS

FTA requires agencies to make a determination that the contract price is reasonable before awarding the contract. In situations where there are two or more responsive and responsible bids, a price analysis will be sufficient to determine price reasonableness.

All responsive and responsible bids should be reviewed to determine if they are within a competitive cost range. Bids that are within a competitive cost range will not have significant price variances from one another.

The low responsive and responsible bid should also be compared to the pre-bid ICE developed by the A&E firm.

If the low bid is within an acceptable range of the ICE and all bids are within a competitive range, the low bid can be determined to be reasonable. However, care needs to be taken so that the apparent low bid is not provided with an advantage until after the full criteria have been evaluated.

A formal price reasonableness analysis containing the above elements should be prepared and retained in the procurement file.

As stated, it is not sufficient to simply declare the price of the low bidder as reasonable. In some cases, the low bid could be far below the ICE and out of the competitive range of the other bidders. In such a situation, the bidder may have left something significant out of the bid. In this situation, the agency is advised to hold a post-bid conference with the low bidder and get a determination from the bidder that they are satisfied with their bid. In no event can the low bid be negotiated at this point. If the low bidder does not want to continue with the award, the agency can determine if it wants the bidder to forfeit their bid security.

It is imperative to document a situation that results in the award to a contractor that

was not the low bidder. Such documentation will include the determinations of responsiveness, responsibility and price reasonableness.

## **NOTICE OF INTENT TO AWARD**

A written letter of intent to award a contract should be sent to the low responsive and responsible bidder. The letter of intent should direct the contractor to submit the required insurance certificates as well as the performance and payment bonds within a specified number of days. The letter should state that when these submittals are received and approved a formal letter of award will be issued. It is recommended that performance and payment bonds be required in the amount of 100 percent of the construction cost to be awarded.

## **NOTICE OF AWARD**

Upon receipt and approval of insurance certificates and bonds, a recommendation of award should be made to the agency's governing body. Once approval to award is obtained, the agency and contractor should execute the contract documents and the agency should issue a formal letter of award and a notice to proceed.

## 7. CONSTRUCTION ADMINISTRATION

### BASIC REQUIREMENT

Construction administration activities begin upon issuance of the notice of contract award and a notice to proceed to the construction contractor. Elements of a good construction administration system include the following elements:

- The pre-construction meeting
- Lines of communication
- Reporting and monitoring requirements
- DBE reporting and monitoring
- Davis-Bacon monitoring
- Construction inspection
- Project scheduling
- Progress payment requirements
- Controlling project configuration and changes
- Change orders
- Construction progress meetings
- Procurement and contracts
- Dispute resolution
- Maintenance plans
- Contract close-out

#### **The Pre-Construction Meeting**

A pre-construction meeting should be held shortly after the contractor is issued a notice to proceed. An example pre-construction meeting agenda is included in [Appendix F](#). Meeting attendance should be mandatory for the entire project team. The following elements should be included in the pre-construction meeting:

#### **Lines of Communication**

The primary purpose of the pre-construction meeting is to establish lines of communication between the contractor and the agency. There should be a single point of contact for the contractor. If a construction manager is being used, they should be the agency's point of contact. If there is no construction manager, the agency's project manager should serve as the point of contact with the construction contractor. All members of the project team should agree to the individuals who are established as the points of contact.

#### **Reporting and Monitoring Requirements**

The types and frequency of project reports should be discussed with the construction contractor. If possible, standard reporting forms should be provided to ensure consistency of reporting throughout the life of the project. At a minimum, reports should include information on project progress against the project schedule, project costs compared to the project budget, and change order reports. It is a best practice to require that reports be provided on a monthly basis. Roles and responsibilities of the people preparing and receiving these reports should be established at this meeting.

#### **DBE Reporting and Monitoring**

The USDOT requires ongoing monitoring of DBE activities. Obtaining a monthly report from the contractor regarding the utilization of DBE is one tool to ensure that the DBE subcontractors committed to by the construction contractor are, in fact, utilized during the construction process. It is



strongly recommended that the construction contractor attach a DBE utilization report to the monthly payment application. The content of this report should be reviewed by the project manager and the DBELO. An example monthly DBE status report is contained in [Appendix G](#).

On-site inspections should also be performed to verify actual construction activities being performed by DBE firms. The on-site inspections must be formal and certified by the individual that undertakes them.

### **Davis-Bacon Monitoring**

The Davis-Bacon Act requires that wages paid to workers on publicly funded construction projects must comply with prevailing rates for the locality of the project. In most cases, prevailing rates reflect hourly wages and benefits as negotiated by local trade unions. The prevailing rates are normally maintained by State labor departments. Copies of the rates must be included in the construction solicitation document.

During construction, the contractor should be required to provide copies of certified payroll information. This information should be compared to the prevailing rates to ensure workers are being paid the proper rates.

### **Construction Inspection**

It is recommended that the construction project team include an individual that will be on-site 100 percent of the time until the project is closed out. If a construction manager is employed, it should provide on-site inspections. If there is no separate construction manager, it is recommended

that a staff member be tasked to perform this service. This staff member would provide full time on-site construction supervision and inspection. In either case, the construction manager or the assigned staff member would report directly to the project manager.

As part of the construction inspection, daily inspection reports should be prepared by the on-site inspector. The inspection report should contain information on the contractors and trades on site, the work being done, the numbers of workers on site, weather conditions, and any information that may be significant in determining a potential slip in the project completion schedule. Daily inspection reports should also include any information that may lead to future change orders. Copies of the inspection reports should be provided to the project manager and the A&E firm.

### **Progress Payment Requirements**

Payments to contractors during a transit construction project commonly consist of a series of progress payments. Progress payments are normally issued on a monthly basis. The key element which establishes that progress payments will be made is a document referred to as a “schedule of values.” The schedule of values is a listing of construction activities which have a monetary value associated with them. The schedule of values is initially prepared by the contractor. This document is reviewed by the A&E firm and (if applicable) the construction manager. This review should ensure the monetary values associated with the various construction activities are properly established. Care should be taken to ensure the schedule of values is not front

loaded; in other words, the true value of the activity should be reflected regardless of when the activity takes place during the performance of the contract. If the schedule of values is front loaded, the contractor will receive additional compensation that is not related to the actual value of work completed. Terms should be negotiated with the contractor until the schedule of values is balanced and represents fair compensation for work as it is completed.

The contractor is responsible for preparing a monthly payment application and delivering it to the designated representative of the agency. If a construction manager is being used, this should be the designated agency's representative. If no construction manager is employed, the payment application should be delivered to the on-site inspector. The payment application should have the approved schedule of values attached with claims for work completed under each category of the schedule. This schedule is reviewed by the agency's team. If there is disagreement over an invoiced activity, a review of the invoice should be undertaken with the contractor until agreement on the amounts is reached. At this point, the A&E firm will certify the payment application and submit it to the agency for approval and payment.

### **Change Orders**

Change orders are a common occurrence during the construction process. It is very important to have a structured process for reviewing and approving any change orders.

Change orders can take several forms: no cost schedule changes, cost changes that do not impact the schedule, and changes that impact both the project schedule and costs.

Regardless of the nature of the change order, there is a common process that must be followed and documented when dealing with change orders. The FTA considers each change order to be a sole source or non-competitive procurement. As such, any additional work contained in a change order must be within the general scope of the primary construction contract. In addition, the cost of the change order must be analyzed and found to be fair and reasonable.

Upon receiving notification of a potential change order, the first order of business should be to make a determination if the nature of the change order is within the scope of the current project and that all work involved in the change order is not already covered by the scope of the contract. If the requested change is for an extension of time to complete the project, the initial determination should be based on whether any delays in the project were beyond the contractor's control.

If a determination is made that the change order request is justified, the contractor should be asked to provide a proposal. The proposal should include all cost elements which make up the change order price and the time needed for implementation. These cost and time elements should include the worker classifications, labor hours, hourly rates, quantities and unit cost of materials, cost of fringe benefits, and any additional profit. An ICE should be prepared by the

project team as well. It is customary that the A&E firm prepare the ICE. The ICE would be prepared using the same cost elements requested from the contractor.

Upon receipt of the cost proposal, the A&E firm, and the construction manager if used, should evaluate the proposal. If they determine the costs and resulting price are reasonable, a written determination is provided to the agency. If costs are not determined reasonable, negotiations should commence with the contractor in order to arrive at a reasonable price. A written record of negotiations should be kept by the A&E firm.

A final version of the change order should be prepared and executed by the contractor, the A&E firm and the owner. An example change order form is included in [Appendix H](#).

### **Construction Progress Meetings**

Construction progress meetings are necessary to keep lines of communication open with the contractor. The key topics of these meetings are the project schedule, any potential or pending change order requests, and the status of the DBE program. Meetings should be scheduled no less frequently than every two weeks. The A&E firm's representative should prepare the agenda and keep written minutes of each meeting. The minutes should be transmitted to each member of the project team. Any corrections to the minutes should be addressed at the next project meeting.

### **Dispute Resolution**

FTA requires that contracts for projects that exceed the federal simplified acquisition

threshold contain provisions describing dispute resolution procedures. During construction projects, it is not uncommon for disputes to arise between the agency and the contractor. Whenever possible, disputes should be resolved between the agency and contractor through discussions held amongst the parties. When this process fails, it may be necessary to use a formal legal process. This process should be described in the contract document. It is important that the contract terms direct the contractor to proceed with the work as disputes are being settled. It is also customary that the contract provisions require the use of a court with local jurisdiction for dispute resolution.

### **Maintenance Plans**

Completed construction projects normally contain numerous equipment and systems that will require routine maintenance. The FTA requires the owner to prepare facility and equipment maintenance plans that will ensure the facility is properly maintained. The contract documents need to require the contractor to provide maintenance and operations manuals for the facility's equipment and systems. These manuals will serve as the reference documents for the facility and equipment maintenance plan.

## **Contract Close Out**

There are a number of formal actions that are required to successfully close out a transit construction contract. A good practice is to prepare a closeout checklist to ensure all activities are completed. The following items describe actions needed to perform a successful project closeout. These items should be included in the closeout checklist.

Substantial Completion – A notice of substantial completion is submitted to the A&E firm, or directly to the owner, from the contractor. This notice is a representation from the contractor that most if not all work required by the specifications has been completed. Upon receipt of this notice, the A&E firm, or the owner, will perform a walkthrough of the project with the contractor.

Certification of Substantial Completion – After the walkthrough inspection, the A&E firm will prepare and sign the certification of substantial completion. Any incomplete items will be listed in a document called the “punch list.” The punch list will be attached

to the certificate of substantial completion. The contractor should be given a date to complete items contained in the punch list. The contractor will provide notification to the A&E firm, or directly to the owner, when all items on the punch list have been completed. When this notification is received, another walkthrough inspection will be performed to verify completion.

Certification of Final Completion – Once all items contained in the punch list have been completed, the A&E firm will provide a signed certification of final completion. Upon receipt of the certificate of final completion, final payment, less retainage, may be made to the contractor.

Release of Liens – The contractor will provide a release of liens for itself as well as all subcontractors and material suppliers. The release of liens represents that all payments due have been received and there will be no claims for unpaid balances.

Release of Retainage – Upon receipt of all lien releases, the contractor can submit a request for payment of retainage amounts.

## **8. APPENDICES**

# APPENDIX A - INDEPENDENT COST ESTIMATE FORM

## INDEPENDENT COST ESTIMATE

**FOR SMALL PURCHASES (EXCEEDING \$10,000) AND LARGE PURCHASES (EXCEEDING \$150,000)**

**Purchases exceeding \$10,000 must be advertised and procured through competitive bidding.**

**Purchases exceeding \$20,000 must be approved by the [AGENCY] Board.**

Complete this form before requesting bids or proposals.

ITB OR RFP NUMBER: \_\_\_\_\_ AMOUNT OF INDEPENDENT ESTIMATE: \$ \_\_\_\_\_

GRANT NUMBER: \_\_\_\_\_ PROJECT TITLE: \_\_\_\_\_

**A. Telephone Budget Estimate**

(Name of Company & Estimate) \$ \_\_\_\_\_

(Name of Company & Estimate) \$ \_\_\_\_\_

(Name of Company & Estimate) \$ \_\_\_\_\_

\_\_\_\_ B Competitor's Catalogs (Sears, Home Depot, Office Depot, etc. -- Compare catalogs for the **same time frame**. The following 4 criteria must be met. 1. Established Catalog prices exist. 2. The items are commercial in nature. 3. Items are sold in substantial quantities. 4. Items are sold to the general public.) (Attach copy of the catalogue pages to this form.)

\_\_\_\_ C. Newspaper Advertisements (Current advertisement only -- attach copy of ad to this form.)

\_\_\_\_ D. Industrial Catalogues (The National Mechanical Contractor Estimator (NMCE) is an excellent source for pricing mechanical items. Name: attach pages.)

\_\_\_\_ E. Established Market Prices (The current price established in the usual or ordinary course of business between buyers and sellers free to bargain. These prices must be verified by buyers and sellers who are independent of the offeror. If you do not know the names of other commercial buyers and sellers, you may obtain this information from the offeror. Attach information.)

\_\_\_\_ F. Comparison to Previous Recent Purchase (Changes in quantity, quality, delivery schedules, and the economy cause price variations. Make sure previous price was fair and reasonable based on physical review of documentation contained in previous files. Analyze each differing situation through trend analysis. Explain.)

\_\_\_\_ G. Comparison to a Valid Independent Estimate (Attach estimator's methodology and data used in developing the estimate, and verify the facts and assumptions.)

\_\_\_\_ H. Value Analysis (Look at the item and the function it performs in order to determine its worth. The decision of price reasonableness remains with the contracting officer. Attach explanation.)

\_\_\_\_ I. Government Catalogues (Federal Supply Schedules may be used for price comparison even though they may not be able to fulfill the requirement.) (Attach catalogue page.)

\_\_\_\_ J. Government Price Index (Use to compare or analyze historical prices to predict current prices. Search [Http://stats.bls.gov](http://stats.bls.gov) under Data, Series Report. For code numbers for the Series Report, go to <ftp://ftp.bls.gov/pub/time.series/wp/wp.contacts> and call the contact listed. Attach analysis.)

\_\_\_\_ K. Prices Established by Law or Regulation (Prices determined through a rate schedule and verified that the prices apply to the situation, e.g., utilities. Attach schedule.)

\_\_\_\_ L. Personal knowledge of item procured. (Explain.)

\_\_\_\_ M. Other (e.g., Sole Source): (Explain) \_\_\_\_\_

**(Attach copies of catalogue pages, advertisements, purchase order, etc.)**

Buyer's Signature \_\_\_\_\_ Date \_\_\_\_\_

# APPENDIX B - ARCHITECTURAL & ENGINEERING SERVICE RFQ EVALUATION FORM

Contract No.: \_\_\_\_\_ Consultant: \_\_\_\_\_

Criteria	(a) Weight	(b) Score (0-10)	(a) x (b) Weighted Score
<b>1. PROJECT TEAM</b> <ul style="list-style-type: none"> <li>Qualifications and relevant individual experience</li> <li>Unique qualification of key personnel</li> <li>Time commitment of key members</li> <li>Organization Chart</li> </ul>	2.0		
<b>2. FIRM'S CAPABILITIES</b> <ul style="list-style-type: none"> <li>Demonstrated capability on similar or related projects</li> <li>Management and scheduling abilities</li> <li>Other on-going projects and priorities</li> <li>Quality and cost control</li> <li>Staff availability</li> </ul>	3.0		
<b>3. PROJECT UNDERSTANDING AND APPROACH</b> <ul style="list-style-type: none"> <li>Demonstrated knowledge of the work required</li> <li>Explanation of the project</li> <li>Knowledge of general engineering processes</li> <li>Innovative approaches and internal measures for timely completion of project</li> </ul>	3.0		
<b>4. FEASIBILITY OF OVERSIGHT</b> <ul style="list-style-type: none"> <li>Ability and willingness to respond to Department requirements</li> <li>Accessibility to Department reviewers</li> </ul>	1.0		
<b>5. REFERENCES*</b> <ul style="list-style-type: none"> <li>Record of producing a quality product on similar projects on time and within budget</li> </ul>	1.0		
<b><i>*All panel members must enter a zero (0) for all interviewed Consultants if time did not allow for reference checks or if the reference checks were not completed on <u>all</u> the Consultants.</i></b>			<b>Total</b>

Comments (continue on reverse if necessary):

I certify that I have performed an independent evaluation of the above named consultant. I further certify that I have not engaged in discussions within the last year with the above-named consultant regarding my future employment with said consultant.

Signature of Evaluator: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name of Evaluator \_\_\_\_\_

Checked by: \_\_\_\_\_

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

## SUGGESTED SCORING SYSTEM

### **Fail (0 points)**

Zero (0) points are given when the category being evaluated is nonresponsive.

### **Below Average (1 - 4 points)**

One (1) to four (4) points are awarded to responses that are considered to be minimally acceptable.

### **Average (5 points)**

Five (5) points are awarded if qualifications fully satisfy the requirement.

### **Above Average (6 - 9 points)**

Six (6) points to nine (9) points are awarded if qualifications more than satisfy the requirement and experience specifically applies to the project under consideration.

### **Exceptional (10 points)**

Ten (10) points are awarded if a firm's qualifications far exceed those required. Scores of ten (10) points generally are infrequent.



# APPENDIX C - PROCUREMENT PROCESS CHECKLIST

## TO DO BEFORE THE PROCUREMENT PROCESS

- \_\_\_\_\_ Review procurement process and policies
- \_\_\_\_\_ Implement procurement process and policies if necessary
- \_\_\_\_\_ Determine scope of procurement
- \_\_\_\_\_ Prepare a written Independent Cost Estimate and place in the procurement file – Check off item in Exhibit A
- \_\_\_\_\_ Identify who needs to be involved
- \_\_\_\_\_ Plan the procurement process
- \_\_\_\_\_ Decide on the method of procurement: Informal quotations, RFQ, IFB, or RFP

## PROCUREMENT PACKAGE PREPARATION

- \_\_\_\_\_ Convene Review Committee
- \_\_\_\_\_ Develop draft RFQ, IFB, or RFP
- \_\_\_\_\_ Insert required FTA clauses and certifications into the procurement package (See Exhibit A)
- \_\_\_\_\_ Develop technical specifications and/or Scope of Work
- \_\_\_\_\_ Identify potential bidders/proposers
- \_\_\_\_\_ Develop evaluation process and criteria for RFQ and RFP procurements
- \_\_\_\_\_ Review protest procedures (these should be a part of the procurement package)
- \_\_\_\_\_ Finalize draft of procurement package (i.e., IFB, RFP, or RFQ)
- \_\_\_\_\_ Procurement Department review and approval of procurement package – Check off items in Exhibit A

## CONDUCTING THE PROCUREMENT

- \_\_\_\_\_ Finalize RFQ/IFB/RFP Package
- \_\_\_\_\_ Advertising and Notifying of potential bidders/proposers and place documentation in the procurement file
- \_\_\_\_\_ Conduct pre-bid or pre-proposal conference (optional)
- \_\_\_\_\_ Procedures for Review/Acceptance of Approved Equals (if applicable)
- \_\_\_\_\_ Pre-bid/pre-proposal approved equals protests procedures (if applicable)
- \_\_\_\_\_ Bid/proposal deadline and acceptance

## PRE-AWARD REVIEW AND CONCURRENCE PROCESS

- \_\_\_\_\_ Conduct bid opening or receive proposals
- \_\_\_\_\_ Prepare tabulation of bids (place documentation in the procurement file)
- \_\_\_\_\_ Reconvene review committee for RFPs or RFQs
- \_\_\_\_\_ Conduct evaluation process for RFPs or RFQs (place documentation in the procurement file)
- \_\_\_\_\_ Evaluate bids/proposals for required elements/responsiveness (place documentation in the procurement file)
- \_\_\_\_\_ Conduct cost or price analysis on responsive bids/proposals (place documentation in the procurement file)
- \_\_\_\_\_ Check federal suspended or debarred contractor list (SAM) (place documentation in the procurement file)
- \_\_\_\_\_ Conduct responsibility determination (place documentation in the procurement file)
- \_\_\_\_\_ Conduct all pre-award activities and place signed certifications in the procurement file
- \_\_\_\_\_ Procurement Department review and approval – Check off items in Exhibit A
- \_\_\_\_\_ Review and approval of intent to award

- \_\_\_\_\_ Notify selected and rejected bidders/proposers
- \_\_\_\_\_ Handle intent to award protests using the local process

**POST – AWARD AND POST-DELIVERY ACTIVITIES**

- \_\_\_\_\_ Issue purchase order or service contract to selected bidder/proposer
- \_\_\_\_\_ Monitor contractor activities (if applicable)
- \_\_\_\_\_ Post-delivery inspection of capital equipment purchases (if applicable)
- \_\_\_\_\_ Complete and execute required post-delivery certification forms (if applicable)
- \_\_\_\_\_ Acceptance, warranty and service arrangements made with contractor (if applicable)
- \_\_\_\_\_ Contractor submission of required forms and certifications
- \_\_\_\_\_ Obtain verification of acceptance of the goods or services procured
- \_\_\_\_\_ Obtain approval for payment of the contractor invoice
- \_\_\_\_\_ Procurement Department review and approval – Check off items in Exhibit A
- \_\_\_\_\_ Verify payment to contractor

**EXHIBIT A**

<b>FTA CONTRACT CLAUSES</b>	<b>COMMENTS</b>	<b>MASTER AGREEMENT REFERENCE</b>	<b>"X" – Included "NA" – Not Applicable</b>
<i>No Federal government obligations to third-parties by use of a disclaimer</i>	<i>All contracts over \$3,000</i>	<i>§2.f</i>	
<i>Program fraud and false or fraudulent statements and related acts</i>	<i>All contracts over \$3,000</i>	<i>§3.f</i>	
<i>Access to Records</i>	<i>All contracts over \$3,000</i>	<i>§15.t</i>	
<i>Federal changes</i>	<i>All contracts over \$3,000</i>	<i>§2.c(1)</i>	
<i>Civil Rights (EEO, Title VI &amp; ADA)</i>	<i>All contracts over \$3,000</i>	<i>§12</i>	
<i>Incorporation of FTA Terms</i>	<i>All contracts over \$3,000</i>	<i>§15.a</i>	
<i>Energy Conservation</i>	<i>All contracts over \$3,000</i>	<i>§26</i>	
<i>Termination provisions</i>	<i>All contracts over \$10,000</i>	<i>§11</i>	
<i>Debarment and Suspension</i>	<i>All contracts over \$25,000</i>	<i>§3.b</i>	
<i>Buy America</i>	<i>When tangible property or construction will be acquired. All contracts over \$100,000 (\$150,000 for contracts funded from grants approved after 12/26/14)</i>	<i>§14.a</i>	

<b>FTA CONTRACT CLAUSES</b>	<b>COMMENTS</b>	<b>MASTER AGREEMENT REFERENCE</b>	<b>"X" – Included "NA" – Not Applicable</b>
<i>Provisions for resolution of disputes, breaches, or other litigation</i>	<i>All contracts over \$100,000 (\$150,000 for contracts funded from grants approved after 12/26/14)</i>	<i>§56</i>	
<i>Lobbying</i>	<i>All contracts over \$100,000</i>	<i>§3.d</i>	
<i>Clean Air</i>	<i>All contracts over \$100,000 (\$150,000 for contracts funded from grants approved after 12/26/14)</i>	<i>§25.b</i>	
<i>Clean Water</i>	<i>All contracts over \$100,000 (\$150,000 for contracts funded from grants approved after 12/26/14)</i>	<i>§25.c</i>	
<i>Cargo Preference</i>	<i>When acquiring property suitable for shipment by ocean vessel. All contracts (\$150,000 for contracts funded from grants approved after 12/26/14) over \$100,000</i>	<i>§14.b</i>	
<i>Fly America</i>	<i>When property or persons transported by air between U.S. and foreign destinations, or between foreign locations. All contracts over \$100,000 (\$150,000 for contracts funded from grants approved after 12/26/14)</i>	<i>§14.c</i>	
<i>Davis Bacon Act</i>	<i>Except for contracts less than \$2,000 or third party contracts for supplies, materials, or articles ordinarily available on the open market</i>	<i>§24.a</i>	
<i>Copeland Anti-Kickback Act Section 1 Section 2</i>	<i>All Construction Contracts over \$2,000</i>	<i>§24.a</i>	
<i>Contract Work Hours &amp; Safety Standards Act</i>	<i>All Construction Contracts over \$100,000 (\$150,000 for contracts funded from grants approved after 12/26/14)</i>	<i>§24.a</i>	

<b>FTA CONTRACT CLAUSES</b>	<b>COMMENTS</b>	<b>MASTER AGREEMENT REFERENCE</b>	<b>"X" – Included "NA" – Not Applicable</b>
Bonding for construction activities exceeding \$100,000	5% bid guarantee; 100% performance bond; and Payment bond equal to: <ul style="list-style-type: none"> <li>• 50% for contracts &lt; \$1 M</li> <li>• 40% for contracts &gt; \$1 M, but &lt; \$5 M</li> <li>• \$2.5 M for contracts &gt; \$5 M</li> </ul>	§15.o(1)	
Veterans Hiring Preference	All Construction Contracts	§17.x	
Seismic Safety	All Contracts for construction of new buildings or additions to existing buildings	§23.e	
Disadvantaged Business Enterprises (DBEs)	Contracts awarded on the basis of a bid or proposal offering to use DBEs	§12.d	
Prompt Payment and Return of Retainage	Per 49 CFR Part 26, if grantee meets the threshold for a DBE program	§12.d	
Recycled Products	Contracts for items designated by EPA, when procuring \$10,000 or more per year	§15.k	
ADA Access	Contracts for rolling stock or facilities construction/ renovation	§12.g	
Special Notification Requirements for States	Applies to contracts awarded by states	§38	
<b>CERTIFICATIONS AND OTHER REQUIREMENTS</b>	<b>COMMENTS</b>	<b>MASTER AGREEMENT REFERENCE</b>	<b>"X" – Included "NA" – Not Applicable</b>
Buy America Certification	Obtain signed certification with bid or proposal Procurements of steel, iron or manufactured products over \$100,000 (\$150,000 for contracts funded from grants approved after 12/26/14)	§14.a	
Pre-Award Audit	Obtain prior to award Rolling stock procurements over \$100,000 (\$150,000 for contracts funded from grants approved after 12/26/14)	§15.n(3)	
Excluded Parties Listing System search	Perform prior to award Procurements greater than \$25,000	§3.b	

<b>FTA CONTRACT CLAUSES</b>	<b>COMMENTS</b>	<b>MASTER AGREEMENT REFERENCE</b>	<b>"X" – Included "NA" – Not Applicable</b>
<i>Lobbying Certification</i>	<i>Obtain signed certification with bid or proposal</i>  <i>Procurements greater than \$100,000</i>	<i>§3.d(1)</i>	
<i>Standard Form LLL and Quarterly Updates (when required)</i>	<i>Obtain prior to award</i>  <i>Procurements greater than \$100,000 where contractor engages in lobbying activities</i>	<i>§3.d(1)</i>	

<b>CERTIFICATIONS AND OTHER REQUIREMENTS</b>	<b>COMMENTS</b>	<b>FTA C 4220.1F REFERENCES</b>	<b>"X" – Included "NA" – Not Applicable</b>
<i>Contract Administration System</i>	<i>Verify prior to contract award</i>	<i>Ch. III, §3</i>	
<i>Record of Procurement History</i>	<i>Verify prior to payment The file contains a complete procurement history.</i>	<i>Ch. III, §3.d(1)</i>	
<i>Protest Procedures</i>	<i>Verify prior to solicitation</i>	<i>Ch. VII, §1</i>	
<i>Selection Procedures</i>	<i>Verify prior to solicitation The procurement contains a description of contractor selection method.</i>	<i>Ch. III, §3d(1)(c)</i>	
<i>Independent Cost Estimate</i>	<i>Verify prior to solicitation An independent cost estimate is in the procurement file.</i>	<i>Ch. VI, §6</i>	
<i>Cost/Price Analysis</i>	<i>Verify prior to award A cost or price analysis is in the procurement file.</i>	<i>Ch. VI, §6</i>	
<i>Responsibility Determination</i>	<i>Verify prior to award A contractor responsibility determination is in the procurement file.</i>	<i>Ch. VI, §8.b</i>	
<i>Justification for Noncompetitive Awards</i>	<i>Verify prior to award If applicable</i>	<i>Ch VI, §3.i(1)(b)</i>	
<i>No excessive bonding requirements</i>	<i>Verify prior to solicitation If applicable</i>	<i>Ch. VI, §2.h(1)(f)</i>	
<i>No exclusionary specifications</i>	<i>Verify prior to solicitation</i>	<i>Ch. VI, §2.a(4)</i>	
<i>No geographic preferences</i>	<i>Verify prior to solicitation Except for A&amp;E services</i>	<i>Ch. VI, §2.a(4)(g)</i>	
<i>Evaluation of Options</i>	<i>Verify prior to award If applicable</i>	<i>Ch. VI, §7.b</i>	
<i>Exercise of Options</i>	<i>Verify prior to award If applicable</i>	<i>Ch. V, §7.a</i>	

## APPENDIX D - BIDDER CHECKLIST

The following forms must be completed and returned with the bid. Missing forms may result in the bid being declared non-responsive and rejected.

- \_\_\_\_\_ Bid Security
- \_\_\_\_\_ Bid Form Signed and Sealed
- \_\_\_\_\_ Bid Submission Form
- \_\_\_\_\_ Acknowledgement of Bidder Form
- \_\_\_\_\_ DBE Utilization Form
- \_\_\_\_\_ Buy America Certification
- \_\_\_\_\_ Lobbying Certification
- \_\_\_\_\_ Contractor Information Form
- \_\_\_\_\_ Non-Collusion Affidavit
- \_\_\_\_\_ Acknowledgement of Addenda

## APPENDIX E - ABSTRACT OF BIDS

Company Name  
 Company Address, City, State Zip  
 Telephone  
 Fax

### ABSTRACT OF BIDS

Project Number \_\_\_\_\_  
 Project Name \_\_\_\_\_ Location \_\_\_\_\_  
 Architect \_\_\_\_\_ Architect Estimate \_\_\_\_\_  
 Bid Date \_\_\_\_\_

Bidder	Rank	Base Bid Amount	(Description) Alternate 1	(Description) Alternate 2	(Description) Alternate 3	Total of Base Bid +/- Alternates	Subs Listed	Bidder's Bond Attached	Qualif. Verified



## **APPENDIX F - PRE-CONSTRUCTION MEETING AGENDA**

- I. Welcome and Introductions
- II. Primary Project Contacts
  - a. Owner Contact
  - b. Contractor Contact
- III. General Project Description
- IV. Project Schedule
- V. Liquidated Damages
- VI. Project Work Hours
- VII. Development of Schedule of Values
- VIII. Construction Progress Payments
  - a. Submission Date
  - b. Owner review and approval
  - c. Retainage requirements
  - d. Payment date
- IX. Submission of shop drawings and requests for information
- X. Disadvantaged Business Enterprise Program
- XI. Davis Bacon Monitoring
- XII. Progress Meetings
- XIII. Submission of Certified Payrolls
- XIV. Change Order Procedures
- XV. Safety program
- XVI. Environmental Requirements
- XVII. Site Offices
- XVIII. As-Built Drawings
- XIX. Maintenance Manuals
- XX. Project Closeout

## APPENDIX G - MONTHLY DBE STATUS REPORT

MONTHLY DBE STATUS REPORT (To be submitted with monthly payment application)

CONTRACTOR \_\_\_\_\_

MONTH \_\_\_\_\_ YEAR \_\_\_\_\_

SUBRECIPIENT \_\_\_\_\_

PROJECT NAME \_\_\_\_\_

TOTAL CONTRACT  
AMOUNT \_\_\_\_\_

DBE SUBCONTRACTOR	SCOPE OF WORK	TOTAL SUBCONTRACT AMOUNT	AMOUNT PAID THIS MONTH	AMOUNT PAID TO DATE	BALANCE TO COMPLETE

# APPENDIX H - CHANGE ORDER

## Change Order

Date\_\_\_\_\_

Project Name\_\_\_\_\_

Owner\_\_\_\_\_

Contractor\_\_\_\_\_

Change order number: \_\_\_\_\_

Original contract date: \_\_\_\_\_

**You are directed to make the following changes in this contract:**

Original Contract Amount \$\_\_\_\_\_

Amount of Previous Change Orders \$\_\_\_\_\_

Amount of this Change Order \$\_\_\_\_\_

New Contract Amount \$\_\_\_\_\_

Contract Completion Schedule will be Changed by the following days \_\_\_\_\_

Engineer Recommendation

\_\_\_\_\_

Date\_\_\_\_\_

\_\_\_\_\_

Name Printed

\_\_\_\_\_

Position

Contractor Approval

\_\_\_\_\_

Date\_\_\_\_\_

\_\_\_\_\_

Name Printed

\_\_\_\_\_

Position

Owner Approval

\_\_\_\_\_

Date\_\_\_\_\_

\_\_\_\_\_

Name Printed

\_\_\_\_\_

Position

# APPENDIX I – REQUEST FOR QUALIFICATIONS

This is an example of a Request for Qualifications of architectural and engineering services. It should not be used as a model for developing new Requests for Qualifications. It is not assured that this example is fully compliant and represents best practice in all respects.

## REQUEST FOR QUALIFICATIONS

### CONSULTING ENGINEERING AND ARCHITECTURAL SERVICES

*FOR THE:*

#### FRISCO TRANSIT CENTER

**Architectural and Civil Engineering Plans for  
Building and Site Design**

**CDOT PROJECT NO. 17-HTR-ZL-00012**



**Issue Date: August 24, 2016**

**ISSUED BY THE:**

**SUMMIT COUNTY TRANSIT  
DEPARTMENT  
0222 COUNTY SHOPS ROAD  
P.O. BOX 2179  
FRISCO, CO. 80443  
(970) 668-4161**

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- Frisco Transit Center Master Plan, February 2016
- Frisco Transit Center Property Survey, Prepared by Blue River Land Surveying, November 2015
- Geotechnical Investigation Report and Supplemental Letter, Prepared by CTL Thompson, Inc., November 2015
- Frisco Transit Center Master Plan – CAD Drawing of Site Concept Plan, Prepared by Civil Insight, February 2016
- Town of Frisco Sketch Plan and Development Application Submittal Requirements
- ATTACHMENTS REQUIRED BY CDOT
  - LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST
  - ADDENDUM A: FEDERAL REQUIREMENTS
  - CONSULTANT NOTICE FOR UDBE
  - UDBE DEFINITIONS
  - CERTIFICATE OF PROPOSED DBE PARTICIPATION

## PART 1 – GENERAL

### I. Purpose

Summit County is soliciting statements of qualifications from experienced consultant teams to provide architectural and engineering design services for site and building design to redevelop the Frisco Transit Center in accordance with the guidance provided in the 2016 Frisco Transit Center Master Plan (attached for reference). It is envisioned that a successful consultant team will include an architect, civil engineer and landscape architect with demonstrated experience in public facility and multi-modal site design (transit, automobile, bicycle and pedestrian). **All proposers shall be pre-qualified with the Colorado Department of Transportation (CDOT) for site and facility design.**

### II. Scope of Services

The services will consist of detailed site, building and plaza design, including preparation of all plan documents needed to obtain Town of Frisco development application approval, Town building and grading permits, and to prepare bid-ready construction documents for all phases of the project.

All buildings will need to be designed to follow the Town of Frisco Development Code and related Building Codes. Particular emphasis should be placed on innovative, sustainable and cost effective design that demonstrates environmental soundness and neighborhood compatibility. The County desires for the development to be energy efficient and environmentally sustainable in all aspects of its design and operation. We would like for the development to meet a LEED or equivalent standard; however we do not intend to actually pursue the award of the LEED designation due to the costs of commissioning and certification.

#### A. General Project Description

The Frisco Transit Center is located at 1010 Meadow Drive in the Town of Frisco, Colorado on a 6.2 acre property owned by Summit County (legally described as Lot 1, Summit Stage Transit Center). The property serves as a multi-modal transit center for the County's Summit Stage Transit System, regional bus services provided by Greyhound and CDOT Bustang, four Airport/Resort shuttle services and a Hertz rental car agency. A daily average of 800 transit riders pass through the FTC, with up to 2-3 times more daily riders during busy holiday periods.

The County completed the Frisco Transfer Center Master Plan in February, 2016, which establishes a site vision to guide redevelopment of the property over the next several years. The Plan includes site and building programming, and provides a recommended site configuration and building floor plan. The master planning process included high-level due diligence regarding site utilities, drainage and snow storage to ensure that any limiting factors were taken into account in the conceptual design.

The Conceptual Master Plan is just that: a concept. The next step of implementation is to execute full design, engineering and construction documents. Accordingly, the Master Plan's final site concept plan and building plan provide general guidance that shall be used to prepare the more detailed architectural and engineering plans now being requested. The County will utilize a Design-Bid-Build process, in which the construction documents prepared through this requested contract will then be put out for a competitive bid prior to selecting a contractor.

This project has been approved by CDOT for funding for the preparation of final design and construction plans. Project oversight will be provided by CDOT Region 3 in conjunction with the Department of Transit and Rail (DTR).

A copy of the Frisco Transit Center Master Plan is attached for reference and is also available at the Summit Stage website: <http://www.co.summit.co.us/1019/Frisco-Transit-Center-Master-Plan>. The following documents are also available: a property survey completed by Blue River Land Surveying in November 2015; a geotechnical investigation report and supplemental letter prepared by CTL Thompson, Inc. in November 2015; a CAD Drawing of the Frisco Transit Center Master Plan Site Concept Plan, prepared by Civil Insight in February 2016; and the Town of Frisco

Sketch Plan and Development Application Submittal Requirements. Additional attachments required by CDOT are also provided, including the Local Agency Contract Administration Checklist. County staff will work in conjunction with the selected consultant team to prepare and submit all documents required by CDOT for utilization of the awarded funds for project design.

## **B. Project Requirements**

### DBE Goals

- CDOT has determined the contract goal for DBE participation in this Contract will be met with certified DBE's who have been determined to be underutilized on professional services contracts (CDOT Form 1331). The DBE goal has been established as follows:
  - Professional Services Consultants and/or Subconsultants: 0% (CDOT Form 1331 will be required)

### General Requirements

- The consultant will be expected to provide a full range of architectural and engineering services and accept project management responsibility at all levels. The services shown below are not to be considered the final scope of work. The final scope of work will be determined between the selected consultant and the County.
- All work shall be completed using the latest CDOT design and construction standards, guidelines, practices, and procedures.

### Preliminary Design

- At the preliminary design level the consultant will be required to provide detailed design plans for all components of the project. A status set of plans will be kept available to the County for review and submittal to the appropriate agencies, utility companies, and affected property owners as needed.
- The plans must locate all existing utilities and structures. They must be shown both horizontally and vertically and in relation to the proposed improvements. All utility conflicts must be identified and relocation/removal plans must be coordinated through the appropriate utility companies.
- The County will coordinate the identification of rights-of-ways and easements, if applicable, and complete the preparation of right-of-way/easement exhibits and plans. In addition, the County has completed a conceptual design (Master Plan) and much of the field surveying in the project area. This existing information will be provided to the consultant.
- The consultant will be responsible for preparing documents in accordance with the requirements of the current federal and state environmental regulations including the National Environmental Policy Act of 1969 (NEPA).
- An initial site assessment will be conducted by the consultant to determine if any hazardous materials may exist in the project area.
- During construction if one acre or more of earth disturbance is anticipated a CDPS permit is required. A Storm Water Management Plan (SWMP) is one of the requirements for the CDPS permit.
- All geotechnical investigation services required for the design of this project will be provided by the consultant. These services will include a detailed soils report.
- The consultant must provide detailed written monthly progress reports throughout the duration of the design. The progress reports will be part of the billing submitted monthly.
- A preliminary drainage report will be required for review which shall consider historical flows on the site and suggest appropriate measures to address passing of such flows. The drainage report shall address all historical storm water crossings as well as analysis of the roadway drainage.

- At the completion of the Preliminary Design Phase, the consultant shall provide the County with four (4) 11"x17" sets of review plans, related specifications (CDOT special provisions), and an Engineer's Estimate. The plans/specifications should be approximately 75% complete. The consultant shall also be prepared to provide the County with drawings in electronic PDF format. The consultant shall attend a formal Field Inspection Review (FIR) meeting conducted by the County, and attended by CDOT staff.

#### Final Design

- At the final design level the consultant will be required to provide detailed design plans for all aspects of the project. This includes roadway plan/profile, drainage, property restoration, erosion control, and traffic control sheets. Typical CDOT style 11"x17" size drawings will be required and they shall be plotted on high quality paper to ensure accuracy and scale. One set of final design drawings shall be signed and stamped by a Colorado registered professional engineer in legal size format.
- The consultant will be required to prepare contract documents and specifications. The technical specifications format shall be in the (CDOT) format. The bidding documents will contain County standard contracts and bid forms, to be provided to the consultant.
- Near the completion of the Final Design Phase the consultant shall provide the County four (4) 11"x17" sets of review plans, related specifications, and an Engineer's Estimate. The plans should be approximately 95% complete. The consultant shall be required to provide the County with Final Drawings electronically (PDF format). The consultant shall attend a formal Final Office Review (FOR) meeting conducted by the County, and attended by CDOT staff. The consultant shall incorporate all comments into the final set of bid documents, and submit one stamped and signed set by the Professional Engineer in charge.

#### Construction Administration

- The consultant may be selected to provide construction administration and project management including submittal review, documentation, and continuous full time field inspection for the project per CDOT protocol. Any required materials testing not provided by the construction contractor will be arranged by the County.
- The consultant may also be required to produce "as constructed" drawings at the completion of the project. Final drawings shall also be submitted on CD in PDF format. All material submitted at the completion of the project shall become property of Summit County.
- The Project Representative, throughout the duration of the construction, must also keep monthly progress reports, daily logs, and all other documentation as described in the CDOT Local Agency Manual.

#### **C. Procurement and Project Schedule (Anticipated)**

- RFQ Advertisement Issued----- August 24, 2016
- Pre-proposal Meeting----- September 8, 2016 (1:30 PM)
- Deadline for Questions----- September 15, 2016 (5:00 PM)
- Qualifications due at Transit----- September 27, 2016 (4:00 PM)
- Shortlist by----- October 10, 2016
- Consultant Interviews----- Week of October 17, 2016
- Contract Negotiations/Award----- October 24, 2016

A **mandatory** pre-proposal meeting will be held on **September 8, 2016 (1:30 PM)** in the Buffalo Mountain Room at the Summit County Commons, located at 0037 Peak One Drive, Frisco, Colorado. Consultants must attend and record their presence at the mandatory pre-proposal meeting. Proposals received from Consultants without record of presence at this meeting, will be considered non-compliant and rejected. This meeting will be the best time for consultants to ask questions pertaining to this project.



The project schedule currently anticipates the following approximate timeline for key project tasks and milestones:

**Town of Frisco Development Review:**

- Town of Frisco Pre-Application Conference – November 2016 (1 month prior to sketch plan submittal)
- Submit Sketch Plan Application – January 2017
- Town of Frisco Sketch Plan Review Process – 2 weeks
- Submit Development Application – February/March 2017
- Application materials include: site plan, architectural plans, drainage and grading plan, landscaping and revegetation plan, lighting plan, and any additional materials that may be required by the Town (e.g., traffic study and detailed soils information, etc.)
- Town of Frisco Development Application Review Process – 52 days minimum, but plan to allow up to 3 months) – March 2017 – May 2017

**Concurrent CDOT Design Review:**

- FIR Plan Review (30% Plans) – March 2017 submit plans to CDOT project team for review; minimum 4 weeks for review
- FOR Plan Review (90% Plans – almost bid ready) – May 2017 submit plans to CDOT project team for review; minimum 4 weeks for review
- Finalize Construction Documents and Obtain All Permits – August 2017
- Advertise for Phase 1 Construction Contract – September 2017
- Contract Award – November 2017
- Phase 1 Construction Start – June 2018

**III. Instructions to Consultants**

**A. Submittal Requirements**

Qualified consultants interested in performing the work described in this request for qualifications should submit the following information to the County in any order they choose.

1. Qualifications of your firm and staff proposed to perform the work on this project.
2. A list of similar projects completed in the last five years.
3. A list of critical issues that the consultant considers to be of importance for the project.
4. Provide a scope of work and project schedule for the proposed design and management of the project, and an estimate of the number of hours required to complete each project task. Upon award of selection, the scope of work will be revised with County staff to formulate the final scope of work for the project.
5. References from at least three other projects with similar requirements that have been completed within the past five years and that have involved the staff proposed to work on this project. As part of the reference check process, the County may choose to visit one or more of the listed projects and/or request a copy of the plans and documentation completed.

6. A sample plan and profile sheet(s) of a similar project should be included in each submittal. Examples should be no smaller than 11"x17".
7. Detail any experience your firm has with road design and drainage analysis.
8. Consultant's willingness to enter into the Summit County Standard Contract Agreement included as part of the RFP, and their ability to meet the % UDBE goal set by CDOT.
9. Limit the total length of your proposal to a maximum of 20 pages (excluding covers, and CDOT Form 1331). The County will reject proposals received that are longer than 20 pages in length.
10. Submit a total of five copies of your proposal.
11. The RFQ is available electronically at [www.summitcountyco.gov](http://www.summitcountyco.gov)
12. Qualifications must be delivered to the Summit County Transit Department, 0222 County Shops Road, Frisco, CO 80443208 East Lincoln, Breckenridge, CO 80424, no later than 4:00 PM (Purchasing time clock), September 27, 2016.
13. Summit County reserves the right to reject any and/or all proposals, to further negotiate with the successful consultant and to waive informalities and minor irregularities in proposals received, and to accept any portion of the proposal if deemed to be in the best interest of Summit County to do so. The total cost of preparation and submission shall be borne by the consultant. All information submitted in response to this request for proposal is public after the Notice of Award has been issued. The consultant should not include as part of the proposal any information which they believe to be a trade secret or other privileged or confidential data. If the consultant wishes to include such material, then the material should be supplied under separate cover and identified as confidential. Entire proposals marked confidential will not be honored. Summit County will endeavor to keep that information confidential, separate and apart from the proposal subject to the provisions of the Colorado Open Records Act or order of court.

## **B. Contacts**

Questions related to the submittal requirements and procedures should be directed to:

Jim Andrew – Transit Director  
Summit County Transit Department  
Telephone: 970-668-4161  
Email: [Jim.Andrew@summitcountyco.gov](mailto:Jim.Andrew@summitcountyco.gov)

## PART 2 – SELECTION PROCESS

### IV. Selection Criteria and Method

The Summit County Purchasing Policy process prescribes the consultant selection criteria and method. This document is available by contacting the Summit County Finance Department at 970-453-3434. A selection committee shall include representatives from the County Manager, Engineering, Finance and Transit Departments.

#### Selection Criteria

##### Review and Assessment

Professional firms will be evaluated on the following criteria. These criteria will be the basis for review of the written proposals and interview session.

The rating scale shall be from 1 to 5, with 1 being a poor rating, 3 being an average rating, and 5 being an outstanding rating.

WEIGHTING FACTOR	QUALIFICATION	STANDARD
2.0	Scope of Proposal	Does the proposal show an understanding of the project objective, methodology to be used and results that are desired from the project?
2.0	Assigned Personnel	Do the persons who will be working on the project have the necessary skills? Are sufficient people of the requisite skills assigned to the project?
1.0	Availability	Can the work be completed in the necessary time? Can the target start and completion dates be met? Are other qualified personnel available to assist in meeting the project schedule if required? Is the project team available to attend meetings as required by the Scope of Work?
1.5	Motivation	Is the firm interested and are they capable of doing the work in the required time frame?
2.0	Firm Capability	Does the firm have the support capabilities the assigned personnel require? Has the firm done previous projects of this type and scope?
1.0	UDBE	Did the firm comply with the goals as established by CDOT?

## Reference evaluation (Top Ranked Firm)

The County will check references using the following criteria. The evaluation rankings will be labeled Satisfactory/Unsatisfactory.

QUALIFICATION	STANDARD
Overall Performance	Would you hire this Professional again? Did they show the skills required by this project?
Timetable	Was the original Scope of Work completed within the specified time? Were interim deadlines met in a timely manner?
Completeness	Was the Professional responsive to client needs; did the Professional anticipate problems? Were problems resolved quickly and effectively?
Budget	Was the original Scope of Work completed within the project budget?
Job Knowledge	If a study, did it meet the Scope of Work? If Professional administered a construction contract, was the project functional upon completion and did it operate properly? Were problems corrected quickly and effect?

## PART 3 – PROFESSIONAL SERVICES AGREEMENT

### V. Terms and Conditions

The successful consultant, upon award of a formal contract, shall be paid on a specific rate of pay basis, not to exceed a stipulated amount without a prior authorization. The consultant may submit invoices at monthly intervals for work satisfactorily completed. The amount of such partial payment shall be based upon certified progress reports and billings covering work performed.

### VI. Agreement for Professional Services (Sample of Standard Contract)

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between Summit County, Colorado, whose address is PO Box 68, Breckenridge, Colorado 80424, hereinafter referred to as County, and \_\_\_\_\_ whose address is \_\_\_\_\_, hereinafter referred to as "Contractor".

WITNESSETH:

WHEREAS, the County is in need of hiring an independent contract professional to perform the following "Professional Services:" the professional services listed in the Scope of Services attached hereto as ordered by the County and

WHEREAS, the Contractor has the time available and is willing to perform the Professional Services, according to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

1. TERM: The term of this Agreement shall be from \_\_\_\_\_, through and until \_\_\_\_\_.

2. SERVICES PROVIDED BY CONTRACTOR: Contractor agrees to perform the Professional Services for the compensation provided below and as attached in the Scope of Work.

COMPENSATION: County agrees to pay Contractor for all service performed hereunder as follows: the Professional Services shall be provided at the rates set forth in the Scope of Work and shall not exceed the maximum compensation of \$

Invoices will be submitted by the Contractor monthly for services performed and expenses incurred pursuant to this Agreement during the prior month. All compensation amounts payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

3. INDEPENDENT CONTRACTOR: Contractor agrees that he or she is an independent contractor and will not become an employee of the County, nor is he or she entitled to any employee benefits from the County as a result of the execution of this Agreement.

4. INDEMNIFICATION, DESIGN AND INSURANCE: Contractor shall indemnify the County and CDOT, its officers and employees, against liability for injury or damage caused by any negligent act or omission by Contractor in the performance of this Agreement and shall hold the County harmless from any loss occasioned as a result of the performance of this Agreement. Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all services rendered by Contractor and shall, without additional compensation, promptly remedy and correct any errors, omissions, or other deficiencies. Contractor shall maintain commercial general liability insurance in the amount of \$500,000 combined single limits and errors and omissions insurance in the amount of

\$1,000,000.

5. NON-ASSIGNMENT: Contractor may not assign or transfer this Agreement, any interest therein or claim there under, without the prior written approval of the County.
6. ACCESS TO RECORDS: County shall have access to Contractor's financial records for the purposes of audit. Such records shall be complete and available for audit 90 days after final payment hereunder and shall be retained and available for audit purposes for at least five years after final payment hereunder.
7. TERMINATION: Either party may terminate this Agreement at any time by providing the other party with a 10-day written notice thereof. Furthermore, this Agreement may be terminated at any time without notice upon a material breach of the terms of the Agreement.
8. TIME OF THE ESSENCE: Time is of the essence in each and all provisions of this Agreement.
9. ENTIRE AGREEMENT/MODIFICATIONS: This Agreement constitutes the entire understanding between the parties with respect to the promises and covenants made therein. No modification of the terms of this Agreement shall be valid unless made in writing and agreed to by both parties.
10. NON-APPROPRIATION: No portion of this Agreement shall be deemed to create an obligation on the part of County to expend funds not otherwise appropriated in each succeeding year.
11. WAIVER OF IMMUNITIES/THIRD PARTY LIABILITY: No portion of this Agreement shall be deemed to constitute a waiver of any immunities of County or its officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care with respect to any persons other than County and not a party to this Agreement.
12. COUNTY REPRESENTATIVE: County will designate, prior to commencement of work, its project representative ("County Representative") who shall make, within the scope of his or her authority, all necessary and proper decisions with reference to the project. All requests for contract interpretations, change orders, and other clarification or instruction shall be directed to County Representative.
13. MONTHLY REPORT: Commencing thirty (30) days after the date of execution of this Agreement and every thirty (30) days thereafter, Contractor is required to provide the County with a written report of the status of the work with respect to the Scope of Services, Work Schedule, and other material information. Failure to provide any required monthly report may, at the option of the County, suspend the processing of any partial payment request.
14. ACCEPTANCE NOT WAIVER: County's approval of drawings, designs, plans, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve Contractor of responsibility for the quality or technical accuracy of the work. County's approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights or benefits provided to County under this Agreement.
15. OTHER REQUIREMENTS: The design work under this contract shall be compatible with the requirements of a separate contract between the Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third party beneficiary of this contract for that purpose.

Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.

The Contractor shall review the construction contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, "Standard Specifications for Road and Bridge Construction", in connection with this work.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SUMMIT COUNTY, COLORADO

By: \_\_\_\_\_  
Clerk to the Board

By: \_\_\_\_\_  
Scott Vargo, County Manager

CONTRACTOR:

By: \_\_\_\_\_ Name: \_\_\_\_\_ Date \_\_\_\_\_  
\_\_\_\_\_ Title

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

WITNESS my hand and official seal.

My commission expires:

## PART 4 – ATTACHMENTS REQUIRED BY CDOT

### ADDENDUM A: FEDERAL REQUIREMENTS

Federal laws and regulations that may be applicable to the Work include:

- A. The "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Common Rule), at 49 Code of Federal Regulations, Part 18, **except to the extent that other applicable federal requirements (including the provisions of 23 CFR Parts 172 or 633 or 635) are more specific than provisions of Part 18 and therefore supersede such Part 18 provisions.** The requirements of 49 CFR 18 include, without limitation:
  - 1. the Local Agency/Contractor shall follow applicable procurement procedures, as required by section 18.36(d);
  - 2. the Local Agency/Contractor shall request and obtain prior CDOT approval of changes to any subcontracts in the manner, and to the extent required by, applicable provisions of section 18.30;
  - 3. the Local Agency/Contractor shall comply with section 18.37 concerning any subgrants;
  - 4. to expedite any CDOT approval, the Local Agency/Contractor's attorney, or other authorized representative, shall also submit a letter to CDOT certifying Local Agency/Contractor compliance with section 18.30 change order procedures, and with 18.36(d) procurement procedures, and with 18.37 subgrant procedures, as applicable;
  - 5. the Local Agency/Contractor shall incorporate the specific contract provisions described in 18.36(i) (which are also deemed incorporated herein) into any subcontract(s) for such services as terms and conditions of those subcontracts.
- B. Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or subgrantees).
- C. The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and subgrants for construction or repair).
- D. The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by grantees and subgrantees when required by Federal grant program legislation. This act requires that all laborers and mechanics employed by contractors or sub-contractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).
- E. Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by grantees and subgrantees in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).
- F. Standards, orders, or requirements issued under section 306 of the Clear Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and subgrants of amounts in excess of \$100,000).
- G. 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 (Pub. L. 94-163).
- H. Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.
- I. The Hatch Act (5 USC 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally-assisted programs.



- J. 42 USC 6101 et seq. 42 USC 2000d, 29 USC 794, and implementing regulation, 45 C.F.R. Part 80 et. seq. These acts require that no person shall, on the grounds of race, color, national origin, age, or handicap, be excluded from participation in or be subjected to discrimination in any program or activity funded, in whole or part, by federal funds;
- K. The Americans with Disabilities Act (Public Law 101-336; 42 USC 12101, 12102, 12111-12117, 12131-12134, 12141-12150, 12161-12165, 12181-12189, 12201-12213 47 USC 225 and 47 USC 611.
- L. The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of this contract.)
- M. The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 etseq.).
- N. The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et. seq. and its implementing regulation, 45 C.F.R. Part 91;  
Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.
- O. 23 C.F.R. Part 172, concerning "Administration of Engineering and Design Related Contracts".
- P. 23 C.F.R Part 633, concerning "Required Contract Provisions for Federal-Aid Construction Contracts".
- Q. 23 C.F.R. Part 635, concerning "Construction and Maintenance Provisions".
- R. Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973. The requirements for which are shown in the Nondiscrimination Provisions, which are attached hereto and made a part hereof.

**Nondiscrimination Provisions:**

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees and successors in interest, agree as follows:

- A. Compliance with Regulations. The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.
- B. Nondiscrimination. The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.
- D. Information and Reports. The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.
- E. Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - 1. Withholding of payments to the Contractor under the contract until the Contractor complies, and/or;
  - 2. Cancellation, termination or suspension of the contract, in whole or in part.
- F. Incorporation of Provisions. The Contractor will include the provisions of paragraphs A through F in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interest of the State and in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

**Certification for Federal-Aid Contracts**

The contractor certifies, by signing this contract, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agree by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Required by 23 CFR 635.112

## **ATTENTION CONSULTANTS - NOTICE**

In February, 1999 the U. S. Department of Transportation (USDOT) revised its Title 49, Code of Federal Regulations, Parts 23 and 26, concerning its continuing requirement that all States implement a Disadvantaged Business Enterprise (DBE) Program for all federally-funded contracts. That federal requirement applies to all section 24-30-1401, C.R.S., federally-funded professional services consultant agreements executed by CDOT.

In response to that federal regulation, in June, 2001 the Colorado Transportation Commission adopted Resolution No. 966. Among other things, Resolution No. 966 established a new DBE goal setting process for professional services consultant contracts, in order to more narrowly tailor CDOT's DBE program to conform with the results of the 2000 Statewide Disparity Study. That Disparity Study found that all DBEs will be considered to be UDBEs.

Accordingly, CDOT will now set individual project goals on consultant contracts for all UDBE professional services consultants/subconsultants, based upon the type of work included in each project and the availability of UDBEs capable of performing such work. CDOT will use a consultant's proposed use of UDBE participation in the project work as an evaluation criterion in the selection of a consultant for the project.

Project specific DBE goals will be set by the appropriate Regional EEO Representative or Headquarters DBE Program Manager, using a process similar to the one currently used to establish DBE goals for UDBEs on highway construction projects.

As a result, all CDOT professional services projects advertised after June, 2001 shall contain individual project UDBE goals conforming to Resolution No. 966, and each selected consultant shall be required by CDOT's project contract to provide the UDBE participation contained in its proposal. Please refer to the section in the Statement of Interest package that describes the new DBE goals and requirements.

DISADVANTAGED BUSINESS ENTERPRISE  
DEFINITIONS AND REQUIREMENTS

1. Definitions and Procedures - For this project, the following terms are defined:

- A. Disadvantaged Business Enterprise (UDBE). A small business concern that is certified as being:
  - 1. At least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
  - 2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
  - 3. "Socially and Economically Disadvantaged individuals" means those individuals who are citizens or lawfully admitted permanent residents of the United States and who are:
    - (a) Minorities or individuals found by the Small Business Administration pursuant to Section 8(a) of the Small Business Act to be disadvantaged.
    - (b) Individuals found by the Office of Certification at the Department of Regulatory Agencies to be socially and economically disadvantaged.
- B. UDBE Joint Venture. An association of two or more businesses formed to carry out a single business enterprise for profit for which purposes they combine their property, capital, efforts, skills and knowledge. UDBE joint ventures must be certified as a joint venture. The UDBE percentage of the joint venture will be determined at the time of certification.
- C. Underutilized UDBE (UDBE). A firm which meets the definition of Underutilized Disadvantaged Business Enterprise (UDBE) based on the findings and recommendations of CDOT's Disparity Study concerning consultants on CDOT projects and is eligible to meet the contract goal as defined in the paragraph titled "Contract Goal." The Colorado Transportation Commission adopted Resolution No. 966 and set a 10.93% overall annual goal for the remainder of FFY 2001 and for FFY 2002.
- D. Contract Goal. The goal for UDBE participation that the Department determines should appropriately be met by the selected consultant, based on the type of work included in each project and the availability of UDBEs capable of performing such work. The Contract goal will be the percentage stated in the invitation for consultant services and in the project documents.
- E. Certification as a UDBE by the Department
  - 1. Any small business may apply to the Department of Regulatory Agencies (DORA) for status as a UDBE. Application shall be made on forms provided by the DORA for certification of UDBEs. However, only work contracted or subcontracted to UDBEs that also qualify as UDBEs and independently Performed by UDBEs shall be considered toward contract goals as established elsewhere in these specifications.
  - 2. It shall be the UDBE applicant's responsibility to submit applications so that the DORA has sufficient time to render decisions. The DORA will review applications in a timely manner but is not committed to render decisions about a firm's UDBE status within any given period of time.
  - 3. The Department will prepare, publish or make available from time to time a list of UDBE contractors, consultants, vendors and suppliers for the purpose of providing a reference source to assist any consultant in identifying UDBEs and UDBEs. Consultants will be solely responsible for verifying the Certification of UDBEs they intend to use prior to submitting a Statement of Interest (SOI.) The Business Programs Office in the Center for Equal Opportunity will maintain a current list of eligible UDBEs. The UDBE list is also available at: <http://www.dot.state.co.us/business/design/consultantmgt/>

2. Selection of UDBEs by Consultant:

- A. Consultants shall exercise their own judgments in selecting any sub consultant to perform any portion of the work.

3. Requirements

- A. The use of UDBEs is an evaluation factor for consultant selection under Section 24-30-1403 (2) CRS. All Consultants shall submit with their proposals a list of the names of their UDBE subconsultants to meet the contract goal.
- B. If the Consultant proposes to voluntarily use any non-UDBEs on the project, the Consultant shall also submit the names of those UDBEs. However, the non-UDBEs will not be used to meet the UDBE goal for the project.
- C. Evaluation points will be awarded for UDBE participation during the Statement of Interest (SOI) scoring. A maximum of 5 evaluation points will be awarded for UDBE participation during the SOI scoring. If the consultant doesn't submit sufficient UDBE participation to meet the project goal, they may be awarded from 0 to 4 points, based on the amount of UDBE participation they submit.
- D. The selected consultant must use the UDBE firms named (if any) in the Statement of Interest for the items of work described. The replacement of a named UDBE firm will be allowed only as provided for in (6) of the UDBE Definitions and Requirements. Failure to comply may constitute grounds for default and termination of the Contract.
- E. Consultant's UDBE Obligation.
  - 1. The Consultant submitting a Statement of Interest and a Work Plan on consultant projects advertised by the Department agrees to ensure that UDBEs, as defined in this special provision, have the maximum opportunity to participate in the performance of contracts or subcontracts. The prime Consultant shall not discriminate on the basis of race, color, national origin, or sex in the selection and bidding process or the performance of contracts.
  - 2. To ensure that UDBEs are offered maximum opportunity to participate in the performance of contracts, it is the responsibility of the prime Consultant to offer and to provide assistance to UDBEs related to the UDBE performance of the subcontract. However, the UDBE must independently perform a commercially useful function on the project, as described in F(4) below.
- F. Counting UDBE Participation Toward Goals
  - 1. Once a firm has been certified as a UDBE, the total dollar amount of the contract awarded to the firm shall be counted toward the contract goal as explained below, and as modified for the project in the project special provisions titled "Contract Goal."
  - 2. The actual dollar total of a proposed subcontract, supply or service contract with any UDBE firm shall be reported to the Department in the Consultant's Cost Proposal.
  - 3. The eligibility of a proposed UDBE subconsultant will be finally established based on the firm's status at the time the contract is signed. If a firm becomes certified as a UDBE during performance under a fully executed contract with CDOT but prior to the UDBE performing any work, then 100% of the work performed by the firm under that contract may be claimed as eligible work. No work performed by a UDBE firm can be counted toward UDBE participation prior to the firm receiving certification as a UDBE.
  - 4. The Consultant may count toward its contract goal only that percentage of expenditures to UDBEs which independently perform a commercially useful function in the work of a contract. A UDBE is considered to be performing a commercially useful function by actually performing, managing, and supervising the work involved. To determine whether a UDBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, work performed solely by the UDBE, industry practices, and other relevant factors.

5. A UDBE may enter into subcontracts consistent with normal industry practices. If a UDBE subcontracts over 51% of the work of the Contract the UDBE shall be presumed not to be performing a commercially useful function. The UDBE may present evidence to rebut this presumption to the Department.
6. The Consultant may count toward its contract goal the percentage of expenditures for materials and supplies obtained from UDBE suppliers (regular dealers) and manufacturers specifically for use on the project, provided that the UDBEs assume the actual and contractual responsibility for and actually provide the materials and supplies.
  - a. The Consultant may count 100 percent of its expenditures to an UDBE manufacturer if the purchased items are to be used on the project. A UDBE manufacturer is a certified firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Consultant.
  - b. The Consultant may count 60 percent of its expenditures to UDBE suppliers that are not manufacturers, provided that the UDBE supplier performs a commercially useful function in the supply process. A supplier is a certified firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the Contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a supplier the firm must engage in, as its principal business and in its own name, the purchase and sale of the products in question. A supplier in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or suppliers within the meaning of this section.
  - c. The Consultant may count toward its UDBE goal the following expenditures to UDBE firms that are not manufacturers or suppliers:
    1. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, provided that the fee or commission is determined by the Department to be reasonable and not excessive as compared with fees customarily allowed for similar services.
    2. The fees charged for delivery of materials and supplies required to a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a supplier of the materials and supplies, provided that the fee is determined by the Department to be reasonable and not excessive as compared with fees customarily allowed for similar services.
    3. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the Contract, provided that the fee or commission is determined by the Department to be reasonable and not excessive as compared with fees customarily allowed for similar services.

#### 4. Determination of goal achievement

To determine the goals achieved under this Contract, the UDBE participation shall be divided by the original prime Contract amount and multiplied by 100 to determine the percentage of performance. The Consultant shall maintain records of payment that show amounts paid to all UDBEs and UDBEs. Upon completion of the project, the Consultant shall submit a list of all UDBEs (both UDBEs and other UDBEs) that participated in this Contract, the subcontract tier number of each, and the dollar amount paid to each. The Consultant shall certify the amount paid, which may be audited by the Department. When the participation by UDBEs is less than the Consultant committed to the Department, the Consultant shall submit a statement to CDOT that indicates the amount of participation and gives reasons why it was different from the Consultant's commitment.

5. Replacement of UDBEs used to meet the contract goal

- A. Based upon a showing of good cause the Consultant may request that a UDBE named in the Consultant's Statement of Interest be replaced with another UDBE pursuant to the terms and conditions of this special provision. Replacements will be allowed only with prior written approval of the Department.
- B. If a replacement is to be requested prior to the time that the named UDBE has begun to effectively prosecute the work under a fully executed subcontract, the Consultant shall furnish to the Department the following:
  - 1. Written permission of the named UDBE. Written permission may be waived only if such permission cannot be obtained for reasons beyond the control of the Consultant.
  - 2. A full written disclosure of the circumstances making it impossible for the Consultant to comply with the condition of award.
  - 3. Documentation of the Consultant's assistance to the UDBE named in the Consultant's Statement of Interest.
  - 4. Copies of any pertinent correspondence and documented verbal communications between the Consultant and the named UDBE.
  - 5. Documentation of the Good Faith Efforts in finding a replacement UDBE and the results of the efforts. It is within the control of the Consultant to locate, prior to award, UDBEs that offer reasonable prices and that could reasonably be expected to perform the work. For this reason, increased cost shall not, by itself, be considered sufficient reason for not providing an in-kind replacement.
- C. In the event a UDBE begins to prosecute the work and is unable to satisfactorily complete performance of the work, the Consultant shall furnish to the Department the following:
  - 1. Documentation that the subject UDBE did not perform in a satisfactory manner.
  - 2. Documentation of the Consultant's assistance to the UDBE prior to finding the UDBE in default.
  - 3. A copy of the certified letter finding the UDBE to be in default or a letter from the UDBE stating that it cannot complete the work and it is turning the work back to the Consultant.
  - 4. Copy of the contract between the Consultant and the UDBE, plus any modifications thereto.

6. Sanctions

- A. It is the obligation of the Consultant to provide UDBE firms with the maximum opportunity to participate in the performance of the work.
- B. It is the responsibility of UDBE firms to perform their work in a responsible manner fully consistent with the intent of the UDBE program, and in substantial compliance with the terms and conditions of these UDBE definitions and requirements.
- C. UDBE firms which fail to perform a commercially useful function as described in subsection 4(E) of these UDBE definitions and requirements or operate in a manner which is not consistent with the intent of the UDBE program may be subject to revocation of certification.
- D. A finding by the Department that the Consultant has failed to comply with the terms and conditions of these UDBE definitions and requirements may constitute sufficient grounds for default and termination of the Contract.



<b>COLORADO DEPARTMENT OF TRANSPORTATION          CERTIFICATE OF PROPOSED          DBE PARTICIPATION FOR          PROJECT SPECIFIC (PS)          CONSULTANT CONTRACTS</b>	CMS #:	Anticipated Location(s):
	Project #:	Sheet: _____ of _____
	Contract DBE Goal: _____ %	Will Your DBE % Meet The Goal (box C)? <input type="checkbox"/> YES <input type="checkbox"/> NO

**Instructions For Prime Consultant:**

An officer of the consultant must complete and submit an original copy of this form as part of the *Commendation Section* of your PS contract Statement Of Interest (SOI).

Submit a separate COOT Form #1331 for each proposed DBE.

Attach a signed *Letter of Acceptance* and copy of DBE certificate from each DBE firm.

Retain a photocopy for your records.

(NOTE: See 49 CFR part 26.55, and the *DBE Definitions and Requirements* section of the contract, for further information concerning counting DBE participation toward the contract's DBE goal.)

NAME OF DBE SUBCONSULTANT	ITEMS OF WORK TO BE PERFORMED BY DBE SUBCONSULTANT

REQUIRED ATTACHMENTS:      ☐ Letter of Acceptance      ☐ DBE certificate;

A) What percentage of the overall contract is this proposed subcontract, supply/vendor contract, OR service/broker contract? NOTE: Calculate % based on actual subcontractor dollars and not prime contract prices. Only report % amounts that are eligible for counting toward the contract goal (See <i>DBE Definitions and Requirements</i> in contract).	A> _____ %
B) What is the total percentage value of proposed DBE participation from prior sheets/forms? _____ %	B> _____ %
C) What is the accumulative percentage value of the overall contract that is committed to DBEs? C = [ A + B ] _____ %	C> _____ %

**I certify that:**

- My company has accepted a proposal from the DBE subconsultant named above.
- My company has notified the proposed DBE subconsultant of the commitment % of work (*Letter of Acceptance* is attached).
- My company's use of the proposed DBE subconsultant for the items of work listed above is a condition of the contract award.
- My company will not use a substitute DBE subconsultant for the proposed DBE subconsultant's failure to perform under a fully executed subcontract, unless my company complies with the *DBE Definitions and Requirements* section of the contract.
- In addition, if my company does not meet the intended DBE goal for this contract and is unable to document adequate good faith efforts, I understand that my company will receive a poor contract performance rating from COOT, which will negatively impact the scoring of our Statements of Interest (SOI) on future COOT contracts.

I declare under penalty of perjury in the second degree, and any other applicable state or federal laws that the statements made on this document are true and complete to the best of my knowledge.

COMPANY NAME:	DATE: ____ / ____ / ____
COMPANY OFFICER SIGNATURE:	TITLE: _____

# APPENDIX J – INVITATION FOR BID

This is an example of an Invitation for Bid for facility construction. It should not be used as a model for developing new Invitation for Bid. It is not assured that this example is fully compliant and represents best practice in all respects.



**INVITATION FOR BID (IFB) NO. 15-448**

**FOR**

**TRANSPORTATION/PUBLIC SERVICES FACILITY AND  
METROLINK STATION IMPROVEMENT PROJECT**

**PROJECT NO. 7760**



**CITY OF NORWALK  
PURCHASING DIVISION  
12700 NORWALK BLVD., ROOM 6  
NORWALK, CA 90650**

**IFB RELEASE: THURSDAY, FEBRUARY 12, 2015  
PRE-BID CONFERENCE: MONDAY, MARCH 2, 2015  
SUBMISSION OF QUESTIONS: WEDNESDAY, MARCH 11, 2015  
BID DUE: MONDAY, MARCH 30, 2015**

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**NOTICE INVITING SEALED BIDS – IFB NO. 15-448**

**FOR THE**

**TRANSPORTATION/PUBLIC SERVICES FACILITY AND  
METROLINK STATION IMPROVEMENT PROJECT**

**PROJECT NO. 7760**

NOTICE IS HEREBY GIVEN that the City of Norwalk will accept Bids for this project until the hour of **11:00 a.m. on Monday, March 30, 2015**. Bids are to be submitted to the City of Norwalk Purchasing Division, 12700 Norwalk Blvd., Room 6, Norwalk, CA 90650. Bids will be opened at the same address in Conference Room 4, unless otherwise posted.

The solicitation can be downloaded at:

<http://www.ci.norwalk.ca.us/city-hall/departments/finance/purchasing/rfp-posts-list>

A pre-bid conference is scheduled for **Monday, March 2, 2015 10:00 a.m.** at the Norwalk Transit facility located at 12650 E. Imperial Hwy., Norwalk, CA 90650. A facility on-site tour shall be performed immediately after the conference.

It shall be mandatory upon the contractor to whom the contract is awarded, and upon all subcontractors under him, to pay not less than the general prevailing rates of per diem wages to all workmen employed in the execution of this contract in accordance with the provisions of Section 1770 to 1780 of the Labor Code. This project is partially funded by The American Recovery and Reinvestment Act of 2009 (ARRA). Therefore, the successful Bidder shall comply with the reporting requirements mandated by the Federal Transit Administration (FTA). Said general prevailing rate of per diem wages and classification, if applicable, to said contract and work was adopted by the City Council of the City of Norwalk and is on file in the office of the City Clerk. Attention is directed to the provisions in Section 1777.5 (Chapter 1411, Statutes of 1968) and 1777.6 of the Labor Code concerning the employment of apprentices by the contractor or any subcontractor under him. The Contractor will be required to submit weekly payrolls to the City of Norwalk to verify the above requirements. No payments shall be made until the above requirements are met. In performance of the terms of this Contract, the Contractor shall not engage in nor permit such sub-contractors as he may employ from engaging in discrimination in employment of persons because of the race, color, national origin or ancestry, or religion of such person. Violation of this provision may result in the imposition of penalties referred to in Labor Code Section 1735.

The City Council of the City of Norwalk reserves the right to reject any or all Bids, and/or waive any informality on a Bid. No Bidder may withdraw his Bid for a period of thirty (30) days after the date set for the opening thereof.

BY ORDER OF THE NORWALK CITY COUNCIL of the City of Norwalk, California. Dated this 3<sup>rd</sup> day of February, 2015.

/s/ Darlene Mena,  
Buyer

## INVITATION FOR BID (IFB)

DATE: FEBRUARY 12, 2015

ATTENTION: PROSPECTIVE BIDDERS

SUBJECT: INVITATION FOR BID (IFB) NO. 15-448, PROJECT NO. 7760

TITLE: TRANSPORTATION/PUBLIC SERVICES FACILITY AND METROLINK STATION IMPROVEMENT PROJECT

The City of Norwalk ("City") invites Bids from qualified and experienced companies ("Bidders") the opportunity to submit Bids for alterations of selected portions of the Norwalk Transit facility building and related site improvements located at 12650 E. Imperial Highway, Norwalk, CA 90650. The anticipated cost to complete this project is \$2,500,000.

A pre-bid conference is scheduled for Monday, March 2, 2015 10:00 a.m. at the Norwalk Transit facility located at 12650 E. Imperial Hwy., Norwalk, CA 90650. A facility on-site tour shall be performed immediately after the conference.

Only substantive inquiries will receive a response. All substantive questions raised at the pre-bid conference or submitted in writing as outlined below will be responded to according to the guidelines contained herein. Responses will be in writing and will be provided to all prospective Bidders. Responses to questions or comments regarding this IFB provided by any other department, employee, or City of Norwalk department other than the contact person set forth above shall not be considered valid and the City will not be bound by any such comments or responses. With the exception of inquiries received at the pre-bid conference, inquiries received via telephone or orally in-person will not receive a response.

All inquiries clarifications, requests for exceptions, deviations or equivalent products, or comments concerning this IFB are due on Wednesday, March 11, 2015 no later than 3:00 p.m. and shall be submitted in writing to:

City of Norwalk Purchasing Division  
12700 Norwalk Blvd., Room 6, Norwalk, CA 90650  
Attn: Darlene Mena  
Fax: (562) 929-5966

Bids must be in writing and must be received by the City of Norwalk Purchasing Division by 11:00 a.m., on Monday, March 30, 2015 via U.S. Mail, FedEx, UPS or courier or in person. Bids received after the above listed date and time will not be considered, regardless of postmark. Prospective Bidders are responsible for having Bids deposited on time at the place specified and assume all risk of late delivery, including any delay in the mail or handling of the mail by the U.S. Postal Service or City employees. Bidders

responding to this IFB must submit the original and three (3) copies of their Bid in a sealed envelope or package clearly marked as follows:

City of Norwalk Purchasing Division  
12700 Norwalk Blvd., Room 6, Norwalk, CA 90650  
"IFB NO. 15-448, TRANSPORTATION/PUBLIC SERVICES  
FACILITY AND METROLINK STATION IMPROVEMENT  
PROJECT"

No oral, electronic, telegraphic, telephonic or facsimile transmittals will be accepted. All Bids must contain an original signature by an authorized officer of the company.

The successful Bidder will be required to comply with all applicable Equal Opportunity Laws and Regulations. The City of Norwalk hereby notifies all prospective Bidders that the City will require each Bidder affirmatively demonstrate that Disadvantaged Business Enterprises are afforded full opportunity to participate in the performance of contracts and sub-contracts financed in part or in whole under this IFB, and will not be discriminated against on the grounds of race, color, gender, age, or national origin in consideration for an award. The City of Norwalk reserves the right to reject any or all Bids, to accept all or any part of any Bid, to waive any informality or minor irregularities in any Bid received, to the extent permitted by law and where such action best serves the interest of the City and to be the sole judge of the merits of the respective Bid received.

The City of Norwalk Department of Transportation is committed to ensuring that no person is excluded from participation in, or denied the benefits of its programs and/or services on the basis of race, color or national origin in accordance with FTA Circular 4704.1 and Title VI of the Civil Rights Act of 1964, as amended ("Title VI"). In addition to Title VI, NTS also prohibits discrimination based on sex, age or disability.

Any person who believes he or she has been subjected to discrimination under Title VI can file a complaint with NTS. For more information on Norwalk Transit System's Civil Rights Program, and the procedures to file a complaint, contact:

Norwalk Transit System  
12650 E. Imperial Hwy., Norwalk, CA 90650  
Tel: (562) 929-5550  
[transportation@norwalkca.gov](mailto:transportation@norwalkca.gov)

You may also contact the Federal Coordination and Compliance Office, Civil Rights Division at the Title VI Hotline: 888-TITLE-06 (888-848-5306) or send a letter to:

U.S. Department of Justice  
Civil Rights Division  
Federal Coordination and Compliance Section, NWB  
950 Pennsylvania Avenue, N.W. Washington, D.C. 20530

More information on Title VI is available from the Justice Department online at [www.justice.gov](http://www.justice.gov)

Issued by:

CITY OF NORWALK  
Purchasing Division

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Darlene Mena  
Buyer

## ESTIMATED SCHEDULE OF EVENTS

Thursday, February 12, 2015	INVITATION FOR BID (IFB) RELEASE
Monday, March 2, 2015	PRE-BID CONFERENCE
Wednesday, March 11, 2015	LAST DAY TO SUBMIT QUESTIONS
Wednesday, March 18, 2015	RESPONSE TO QUESTIONS
Monday, March 30, 2015	BID DUE DATE
Tuesday, May 5, 2015*	CITY COUNCIL APPROVAL

\* *Tentative Date*



## **SECTION 1 - INSTRUCTIONS TO BIDDERS**

### **IB.1 BID FORMAT AND SUBMITTAL**

Bids must be received at the City of Norwalk Purchasing Division by 11:00 a.m. on Monday, March 30, 2015, via U.S. Mail, FedEx, UPS or courier or in person. The sealed envelope or package must be clearly marked "IFB NO. 15-448 TRANSPORTATION / PUBLIC SERVICES FACILITY AND METROLINK STATION IMPROVEMENT PROJECT". Hard copy (printed) submittal of the Bid documents is required. Respondents to this IFB must submit the original and three (3) copies of their Bid on the provided Exhibit J in a sealed envelope or package to:

City of Norwalk Purchasing Division  
12700 Norwalk Blvd., Room 6, Norwalk, CA 90650  
"IFB NO. 15-448 TRANSPORTATION/PUBLIC SERVICES  
FACILITY AND METROLINK STATION IMPROVEMENT  
PROJECT"

No oral, electronic, telegraphic, telephonic or facsimile transmittals will be accepted. All Bids must contain an original signature by an authorized officer of the company.

Bids received after the above listed date and time will not be considered, regardless of postmark. Bids shall be time stamped when received and will be accepted up to and no later than the time indicated than the time indicated in this IFB. The Bidder assumes the risk of any delay in the delivery of the mail by the U.S. Postal Service or in the handling of the mail by employees of the City. Whether sent by mail or by means of personal delivery, Bidders assume responsibility for having Bids deposited on time at the place specified.

**Bids shall not include a photocopy of the following Sections:**

- 'INSTRUCTIONS TO BIDDERS' [Section 1],
- 'GENERAL CONDITIONS' [Section 2],
- 'SPECIAL PROVISIONS' [Section 3],
- 'PROJECT MANUAL' [Attachment A],
- 'CONSTRUCTION DRAWINGS' [Attachment B],
- 'Form FTA MA (8) dated October 2001' [Attachment C],
- 'FEDERAL PREVAILING WAGE DETERMINATION' [Attachment D],
- 'FEDERAL CLAUSES' [Attachment E], and
- 'FEDERAL CLAUSE - ARRA' [Attachment F]

Bids shall not include any unnecessarily elaborate or promotional material. Bids may not be modified or corrected after being opened unless an addendum is issued requesting resubmissions. Bids will not be valid until all information has

been verified and Bidders references have been checked. All Bids shall be accompanied by a completed and signed letter of transmittal provided as a part of this IFB.

Bids shall be submitted in accordance with the form prescribed herein. Failure to respond in this manner may render the Bid non-responsive. Unauthorized conditions, limitations, or provisions attached to a Bid will render the Bid non-conforming and non-responsive and may cause its rejection. The completed Bid shall be without interlineations, alterations, or erasures. Any and all alternate Bids must be submitted in writing and included with the original Bid, conforming to the requirements as stated herein. No verbal modifications will be accepted.

Bid documents shall be deemed to include by reference each and every one of the following:

- Invitation for Bid (IFB)
- Addenda to IFB
- Supplements to IFB
- All other required forms

Unauthorized conditions, limitations, or provisions attached to a Bid will render it informal and may cause its rejection. The completed Bid Forms shall be without interlineations, alterations or erasures. Alternative Bids will not be considered unless requested. No oral, telegraphic, or telephonic Bids or modifications will be considered. The Bid may be withdrawn upon request by the Bidder without prejudice to himself prior to, but not after the due date of Bids, provided that the request is in writing, that it has been executed by the Bidder or his duly authorized representative, and that it is filed with the City.

## **IB.2 BID GUARANTEE**

Each Bid shall be accompanied by a certified check, Bid bond, or other Bidder's security in accordance with section 20170 of the Public Contracts Code, in the amount of not less than ten percent (10%) of the total amount named in the Bid. Said check or bond shall be made payable to the City of Norwalk, and shall be given as a guarantee that the Bidder, if awarded the work, will enter into a contract within twenty (30) business days after the award and will furnish the necessary bonds as hereinafter provided. In case of refusal or failure to enter into said contract, the check or bond, as the case may be, shall be forfeited to the City.

## **IB.3 BID SIGNATURE**

If an individual makes the Bid it shall be signed and the full name and address of the Bidder shall be given.

If a partnership makes the Bid, it shall be signed with the partnership name, by a member of the partnership who shall sign by name and the name and address of each partner shall be given.

If a corporation prepares the Bid, the name of the corporation shall be provided and signed by two (2) duly authorized officers and, if available, stamped with the corporate seal, and the names and titles of all officers of the corporation shall be given. If a corporation provides a certified letter stating that one (1) duly authorized officer signature is binding for the corporation, this will suffice to omit the second signature requirement in the Bid. Certified letter is to be included in the Bid accompanied with the 'Letter of Transmittal'. Refer to Section 4A of this IFB.

#### **IB.4 ADDENDA**

Any changes made by the City to the requirements in this IFB will be made by written addenda. Any written addenda issued to this IFB shall be incorporated into the terms and conditions of any resulting Agreement. The City will not be bound by any modifications to or deviations from the requirements set forth in this IFB as the result of oral instructions. The City reserves the right to revise or withdraw this IFB at any time and for any reason.

#### **IB.5 CLARIFICATIONS**

Should a Bidder require clarifications of this IFB, the Bidder shall notify the contact person identified in this IFB in writing. Should the City, in its sole discretion, determine that the point in question is not clearly and fully set forth, the City Purchasing Division will issue a written addendum clarifying the matter. Said addendum shall be sent to all persons who have requested the IFB.

**All questions, requests for clarifications or comments must be submitted to the contact person in the Purchasing Division no later than 3:00 p.m., Wednesday, March 11, 2015. No questions will be answered individually by other City department.**

**All submitted requests must be clearly labeled "Written Questions for IFB NO. 15-448, Project No. 7760". Questions may be faxed to (562) 929-5966, ATTENTION: Darlene Mena, Purchasing Division. The City is not responsible for failure to respond to a request that has not been submitted in accordance with this section.**

Responses by the City to the clarifications, comments and questions will be communicated in writing to all recipients of this IFB. Every attempt will be made to provide responses to all Bidders in accordance with the procurement schedule for this IFB. Inquiries received after the deadline will not be accepted and will be returned to the sender without a response.

Requests for clarifications and questions should be formatted in the following manner:

Section

Paragraph number  
Page number  
Text of passage being questioned  
Question

**IB.6 ERRORS IN BIDS**

All Bidders are responsible for errors and omissions in their Bids. No consideration will be given by the City to allow Bids to be withdrawn once a contract has been awarded. Any errors and omissions will not serve to diminish the Bidder's obligations to the City.

**IB.7 WITHDRAWAL OF BIDS**

Bidders may withdraw their Bids in writing, provided that such requests are received by the City prior to the scheduled deadline for Bid submission or within six (6) months following the scheduled deadline for Bid submission when no contract has been awarded.

**IB.8 RETURN OF GUARANTEES**

Within ten (10) business days after the award of the contract, the Bid guarantees accompanying the Bids that are not considered in making the award will become null and void. All other Bid guarantees will be held until the contract has been finally executed. Any checks submitted as Bid guarantees will be returned to the unsuccessful Bidders.

**IB.9 BIDDERS INTERESTED IN MORE THAN ONE BID**

More than one (1) Bid from an individual, firm, partnership, corporation or association under the same or different names, will not be considered. Reasonable grounds for believing that any Bidder is interested in more than one (1) Bid for the work contemplated will cause the rejection of all Bids in which such Bidder is interested. If there is reason for believing that collusion exists among the Bidders, all Bids will be rejected, and none of the participants in such collusion will be considered in future Bids.

A person, firm or corporation who has submitted a sub-Bid to a Bidder or who has quoted prices on materials to a Bidder, is not thereby disqualified from submitting a Bid or quoting prices to other Bidders.

**IB.10 REGISTRATION OF CONTRACTORS**

For award, both projects require the successful Bidder to possess a valid State of California contractor's license of the proper classification in accordance with the provisions of the Business and Professions Code, Chapter 9, Division 3 and the provisions of Public Contract Code Section 10164. This project requires an "A" license. Copy of license shall accompany each Bid.

**IB.11 TAXES**

No mention shall be made of Sales Tax or Use Tax, as all Bid prices submitted will be considered as including such tax.

#### **IB.12 REFERENCES**

All reference information called for in each Bid must be submitted with each Bid. Refer to Exhibit B.

#### **IB.13 LIST OF SUB-CONTRACTORS**

Bidders shall comply with Section 2-3 of the Standard Specifications. Use forms provided in Exhibits F and F-1.

#### **IB.14 APPRENTICESHIP AND/OR TRAINING PROGRAMS - CONTRACTORS AND SUBCONTRACTORS**

All contractors and sub-contractors offering or agreeing to perform any work on this project, are required to provide proof of participation as a signatory to a recognized apprenticeship and/or training program under Chapter 4 (commencing at Section 3070), Division 3, of the California Labor Code and certified by the State of California Division of Apprenticeship Standards, where such programs exist for the work to be performed.

Failure to comply: Should the City, determine that said contractor or any sub-contractor is not a signatory to be recognized apprenticeship and/or training program under Chapter 4 commencing at Section 3070, Division 3 of the California Labor Code), and certified by the State of California Division of Apprenticeship Standards, where such programs exist for the work to be performed or qualifications to perform said contract or sub-contract, or that he does not possess, or cannot obtain in due time the necessary equipment to perform said contract, the City, may reject the Bid of any such contractor. If such determination affects only a sub-contractor, then City, may compel said contractor to substitute a subcontractor who is a signatory to a recognized apprenticeship and/or training program under Chapter 4 (commencing at Section 3070), Division 3 of the California Labor Code and certified by the State of California Division of Apprenticeship Standards, where such programs exist for the work to be performed.

#### **IB.15 CONTRACT BONDS**

Each Bid shall include a statement that the Contract bond requirements can be obtained and will be carried without reservation or exclusion should Bidder be awarded a contract pursuant to this IFB.

The successful Bidder shall furnish two (2) bonds with the Contract: a "Bond for Faithful Performance" and a "Labor and Materials Bond" that Comply with Standard Specifications Section 2-4, [refer to Exhibit M and Exhibit N], each in the amount of one hundred percent (100%) of the contract price. Said bonds shall be in a form furnished by the City and duly executed by a responsible

corporate surety, authorized (admitted) to issue such bonds in the State of California and secured through an authorized agent with an office in California.

#### **IB.16 AWARD OF CONTRACT**

The contract resulting from this IFB will be awarded to the responsive and responsible Bidder whose bid, conforming to the requirements of the IFB, is determined to be the most advantageous ("Best Value" as described in the Federal Transit Administration Circular 4220.1F) to the City. No agreement shall exist until the City Council or the City Manager has awarded the Agreement and it has been mutually executed. The City reserves the right to:

- (a) Accept all or any part of a bid;
- (b) Reject any or all bids for any reason;
- (c) Waive any informality or minor errors to the extent permitted by law;
- (d) Award the Agreement as the interest of the City may require;
- (e) Cancel the entire IFB; or
- (f) Issue subsequent IFBs.

#### **IB.17 EXECUTION OF CONTRACT**

The Bidder(s) to whom award is made shall execute a written contract with the City on the form(s) of agreement provided, and will have secured all insurance and bonds required by this IFB by the date of execution. Failure or refusal to enter into a contract as herein provided, or to conform to any of the stipulated requirements in connection therewith, shall be just cause for the annulment of the award and forfeiture of the Bid guarantee. If the successful Bidder refuses or fails to execute the contract, the City may award the contract to the second most responsible Bidder. If the second most responsible Bidder refuses or fails to execute the contract, the City may award the contract to the third most responsible Bidder. On the failure or refusal of such second or third most responsible Bidder to execute the contract, such Bidder's guarantees shall be likewise forfeited to the City. The work may then be re-advertised.

#### **IB.18 SUBMISSION OF BONDS AND INSURANCE**

Bidders are hereby notified that the specifications contain detailed requirements with respect to bonds and insurance. The successful Bidder will be required to furnish the required bonds and insurance forms to the City within ten (10) business days of the recommendation to award submitted to City Council. Failure to furnish these items within such time may result in the forfeiture of the Bidders Bid bond. The City Council may also on refusal or failure of the successful Bidder to execute the contract, award it to the next lowest responsible Bidder and the amount of the lowest Bidder's Bid bond shall be applied by the City to the difference between the low Bid and the second lowest Bid. (Sections 20171-20174 of the Public Contract Code).

#### **IB.19 INTERPRETATION OF DRAWINGS AND DOCUMENTS**

Should a Bidder find discrepancies in, or omissions from City provided drawings or specifications, or should the Bidder be in doubt as to their meaning, the Bidder shall notify the City Purchasing Division pursuant to the terms set forth in Section IB.5 titled 'Clarifications'. Should it be found necessary, written addenda shall be provided to all Bidders. Any addenda issued during the proposing period shall form a part of the contract and shall be included with the Bid.

#### **IB.20 INTENTIONALLY LEFT BLANK**

#### **IB.21 AFFIRMATIVE ACTION PLAN**

The City of Norwalk abides by the Greater Los Angeles Plan. All prospective Bidders who are not familiar with the plan are invited to review a copy of it, which is on file in the office of the City Engineer. The contractor and sub-contractors to whom the Bid is awarded will be required to submit the required affirmative action forms.

#### **IB.22 LEGAL RELATIONS AND RESPONSIBILITIES**

The State Specifications include Section 7 entitled "Legal Relations and Responsibility", and the contractor is advised that he/she will be required to comply with all provisions of said Section 7. All references in the State Specifications to the State of California, its officers or employees, shall be deemed to refer to the City of Norwalk and its respective officers and employees.

#### **IB.23 INTENTIONALLY LEFT BLANK**

#### **IB.24 INTENTIONALLY LEFT BLANK**

#### **IB.25 DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

It is the policy of the Department of Transportation and the City of Norwalk that Disadvantaged Business Enterprises ("DBE") as defined in 49 CFR part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirement of 49 CFR applies to this Agreement.

Effective October 1, 2012, the City of Norwalk's Department of Transportation Federal Transportation Administration (FTA) overall anticipated level of DBE participation for federal fiscal year 2013 is 2.5% of federal financial assistance. No specific goals are set on a contract by contract basis. The goal is accomplished through the use of race-neutral measures in accordance with 49CFR, Part 26. The City shall take all necessary steps to ensure non-discrimination in the award of all contracts to meet the objectives of the above cited regulation. When listing sub-contractors in Exhibit F, Bidder shall identify them as DBE with the approximate value of their sub-contract. Refer also to Attachment E.

#### **IB.26 CITY OF NORWALK RIGHTS**

In its discretion, the City reserves the right to:

1. Reject any and/or all Bids for no reason or any reason including but not limited to the following:
  - a. The Bid is incomplete, non-responsive, obscure, irregular or lacking necessary detail and specificity.
  - b. The Bidder, in the sole judgment of the City, lacks the qualifications, experience, and/or responsibility necessary to provide the services.
  - c. The Bidder failed or neglected to complete and submit any information within the time specified by the City, and as may be otherwise required herein.
2. Reject any Bid that, in the opinion of the City is so unbalanced in comparison to other Bids received and/or to the City's internal estimates that it does not accurately reflect the cost to perform.
4. Cancel the entire IFB;
5. Issue subsequent IFBs;
6. Waive any errors or informalities in any Bid, to the extent permitted by law.

## **IB.27 PROTEST PROCEDURES**

All protests must be filed in accordance with the following:

1. The protest must be in writing and identify the solicitation number.
2. The protest must be submitted by some return receipt method or guarantee of delivery that insures that the protest was received in a timely manner. The City is not responsible for lost or delayed deliverables.
3. The party's standing to protest must be identified.
4. Identification of the specific provision, law, regulation, specification, procedure or policy violated.
5. A statement of the relief requested.

Protests related to the content of the IFB shall be received no later than three (3) business days prior to the Bid due date.

Protests on matters related to the recommendation for award or any other item not related to the contents of the IFB shall be submitted within three (3) business days of the issuance of the recommendation for award.

If the Protest does not comply with the preceding requirements it may not be evaluated and may be returned to the Protestor.

All protests shall be submitted to the contact person identified in this solicitation.

As this solicitation is funded with Federal Transit Administration (FTA) monies a protest may be filed with the FTA. However, the FTA only accepts protests alleging that a grantee failed to have written protest procedures or did not comply with those procedures or protests that involve a conflict of interest or fraud.



## **IB.28 ALTERNATE BID PROCEDURES**

### **PART 1 – GENERAL**

#### **1.1 RELATED DOCUMENTS**

- A. Drawings and special provisions of the Contract, including General Conditions, and technical specifications in the Project Manual apply to this section.

#### **1.2 SUMMARY**

- A. Requirements and descriptions for products and scope of Work identified as Alternate Bid in the Drawings and Specifications

#### **1.3 RELATED SECTIONS**

- A. Divisions 2 through 32; the specific applicable specifications for Work associated with Component 1 - Vehicle Maintenance Building / Lobby – Tennant Improvements shall be considered a part of and included in Alternate 1, in addition to any amendments to the General Conditions. Nevertheless, it is the Contractor's sole responsibility to investigate the plans and specifications and determine the necessary Specification Sections that apply to Component 1 Vehicle Maintenance Building / Lobby – Tennant Improvements so as to achieve a complete assembly as described in the Construction Documents. Any questions or ambiguities in this regard shall be brought to the attention of the Construction Manager in the form of an RFI during the bidding process.

#### **1.4 GENERAL REQUIREMENTS FOR ALTERNATES**

- A. To enable The City to compare total costs where alternate materials and methods might be used. Alternates described in this section have been established.
- B. Contract Sum included in Base Bid as stated in executed Agreement shall include all costs for Work described in Contract Documents.
- C. Contract Sum shall include all necessary provisions, including bonds, insurance, warranties, etc. for Work described in Alternates, whether or not Alternates are accepted.
- D. Bid Form or other means prescribed for submission of proposed cost of Work shall include line items for each Alternate described in this Section. No Alternates other than as described in this Section shall be submitted, except in accordance with product option and substitution provisions as

outlined in the relevant product requirement sections of the Project Manual.

- E. Each Alternate is identified herein by number. This identification shall be used whenever referring to Work described in Alternate and when submitting cost proposals and payment requests.
- F. Alternative construction described in Alternates and revised scopes of Work shall be performed only when such Alternate is made part of the Work by specific provision in the City-Contractor Agreement, if directed by City prior to execution of the Agreement, or by Change Order or Change Directive if selected subsequent to the execution of the Agreement.
- G. Costs for Alternates shall be valid for no less than 45 days from the date of Agreement and City may select any or all Alternates during that time. Once an Alternate is selected and the Contract modified for Work as described in the Alternate, changes to return to original scope of Work will be made only by Change Order or Change Directive in accordance with provisions of the Conditions of the Contract for changes and Section 3 – Change Procedures of the Special Provisions.

## **1.5 PRODUCTS AND EXECUTION**

- A. If City elects to proceed on the basis of one or more of the described Alternates, Contractor shall make all modifications to Work as required to provide products complete, in place and fully functional, including all labor, equipment, services, and incidental consumables necessary to apply, install and finish Work described in Alternate in accordance with requirements specified in related product Section of these Specifications.

## **1.6 ALTERNATE BID #1**

- A. Provide Pricing complete for all work associated with Component 1: Vehicle Maintenance Building / Lobby – Tennant Improvements Complete:
  - 1. Drawing T1.04
  - 2. Architectural Drawings A2.01, A2.10, A2.20, A5.01, A5.02, A5.03, A5.04, A7.10, A7.11, A7.20, A7.60, A7.70
  - 3. Structural Drawings S1.01, S2.01, S2.02
  - 4. Mechanical Drawings M1.01, M1.02, M1.03, M1.04, M1.04, M2.01, M2.02
  - 5. Electrical Drawings E0.02, E0.03, E0.05, E0.06, E2.00, E3.00, E3.20, E3.50, E4.00
  - 6. All cost associated Bonds, Insurance, Warranties, General Conditions, Fee, and other conditions of the described work.

## **SECTION 2 - GENERAL CONDITIONS**

### **GC.1 SAMPLE AGREEMENT**

A form approved by the City Attorney must be executed between the City and the successful Bidder prior to commencement of any work.

### **GC.2 NOTICE OF LABOR DISPUTE**

Whenever Bidder has knowledge that any actual or potential labor dispute may delay the award of this IFB, Bidder shall immediately notify and submit all relevant information to the City of Norwalk. Bidder shall insert the substance of this entire clause in any subcontract thereunder.

### **GC.3 WAIVER OF TERMS AND CONDITIONS**

The failure of the City or the successful Bidder to enforce one or more of the terms or conditions of the Agreement or to exercise any of its rights or privileges, or the waiver by the City of any breach of such terms or conditions, shall not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect as if no waiver had occurred.

### **GC.4 INDEMNIFICATION**

Successful Bidder shall indemnify, defend, and hold harmless City, and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors and assigns in accordance with the terms and conditions of the Indemnification and Hold Harmless Agreement and Waiver of Subrogation and Contribution attached hereto as Exhibit A. The successful Bidder shall complete the Indemnification and Hold Harmless Agreement and Waiver of Subrogation and Contribution attached hereto as Exhibit A. Successful Bidder agrees that Bidder's covenant under this Section shall survive the expiration or termination of the awarded Agreement.

### **GC.5 INTEREST OF MEMBERS OF THE CITY**

The successful Bidder covenants that it presently has no interest and shall not acquire any interest, direct or indirect, in the City or any other interest which would conflict in any manner or degree with the performance of its services hereunder. The successful Bidder further covenants that in the performance of this Agreement no person having any such interest shall be employed by successful Bidder.

### **GC.6 DELIVERY**

The services described herein are to be delivered and installed at City of Norwalk Transportation / Public Services Facility, 12650 E. Imperial Hwy, Norwalk, CA 90650. At no time shall the successful Bidder deliver/drop-ship products/materials to City address without prior approval. The City shall not be responsible for the

receipt of materials nor will be held accountable for condition of materials while on premises.

#### **GC.7 CERTIFICATE OF NON-COLLUSION**

Bidders must represent and warrant that all submittals for this work are genuine and not sham or collusive or made in the interest of or on behalf of any person not therein named, and that the Bidder has not, directly or indirectly, induced or solicited any other Bidder to put in a sham Bid or any other person, firm or corporation to refrain from proposing, and that the Bidder has not in any manner sought by collusion to secure to the Bidder or another Bidder an advantage over any other Bidder. Refer to Exhibit C.

#### **GC.8 CONFLICTS OF INTEREST**

Each Bidder represents and warrants, and if awarded a contract, will covenant, that it presently has no interest and shall not acquire any financial interest, direct or indirect, in any City business or any other interest which would conflict in any manner or degree with the performance of the services to be performed. The successful Bidder shall further covenant that in the performance of the Agreement no person having any such interest shall be employed. Successful Bidder further covenants and warrants that successful Bidder and its officers, employees, associates and sub-contractors, if any, will comply with all conflict of interest statutes of the State of California applicable to the performance of services contemplated by this IFB, including, but not limited to, the Political Reform Act (Government Code Sections 81000, et seq.) and Government Code Section 1090. During the term of the Contract, successful Bidder and its officers, employees, associates and sub-contractors shall not, without the prior written approval of the City Manager, perform work for another person or entity for whom successful Bidder is not currently performing work that would require successful Bidder or one of its officers, employees, associates or sub-contractors to abstain from a decision under the Contract pursuant to a conflict of interest statute.

#### **GC.9 HAZARDOUS MATERIALS**

All work performed by the Contractor under this contract shall at all times be in compliance with all applicable federal, State, and local laws, statutes, ordinances, orders, guidelines, rules, and regulations pertaining to the excavation, removal, containment, hauling, transportation, disposal, recycling, or handling in any manner of Hazardous Substance and/or Contaminated Materials. During the term of this contract, Contractor shall acquire and maintain all permits required for the removal, excavation, hauling, containment, transportation, disposal, recycling, or handling of Hazardous Substances and/or Contaminated Materials by any and all applicable federal, state, and local laws, statutes, ordinances, orders, guidelines, rules or regulations.

## SECTION 3 - SPECIAL PROVISIONS

The following Special Provisions supplement and amend the Standard Specifications for Public Works Construction (2012) and the Standard Specifications of the State of California Department of Transportation (Caltrans) 2010, as noted herein. These Special Provisions have been arranged into a format that parallels the Standard Specifications for Public Works Construction.

### PART 1 – GENERAL PROVISIONS

#### 1-2 DEFINITIONS

Add or redefine the following:

Agreement	The Contract to be negotiated and entered into by the City and the successful Bidder for the Work described in this IFB.
Change	See Change Order
City	The City of Norwalk, a municipal corporation. The Agency.
Contract	The written agreement executed by the City and the successful Bidder which sets forth the rights and obligations of the Parties in connection with the Work, and which includes the Contract Documents.
Defect	Patent or latent malfunction or failure in manufacture or design of any component or subsystem that causes a product to cease operating or causes it to operate in a degraded mode.
IFB	Invitation for Bid
Special Provisions	Contract Document containing requirements that modify or supplement the General Conditions and the Standard Specifications.

## Specifications

Part of the contract documents that adequately and completely describes the locations, dimensions, character, properties, requirements and details of the Work. Contract specifications include, without limitation, all things described, referenced, or stated in any Contract document as a "Specification", "Statement of Work", "Project Manual" or "Scope of Work".

## Standard Specifications

Except as noted herein, on the Plans and/or within Permit requirements, all Work shall be performed in accordance with 2012 Edition of THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (GREENBOOK) and the 2009 Edition of the STANDARD PLANS FOR PUBLIC WORKS CONSTRUCTION including any supplements, as written and promulgated by Public Works Standards, Inc. Copies of these Standard Plans and Specifications are available from the publisher, BNI Building News, 990 Park Center Drive, Suite E, Vista, California 92081; telephone: 760-734-1113, [www.bnibooks.com](http://www.bnibooks.com).

## **SECTION 2.0 – SCOPE AND CONTROL OF WORK**

### **2-2 ASSIGNMENT**

Add the following paragraph.

Neither this IFB nor any interest herein nor claim hereunder may be assigned by successful Bidder either voluntarily or by operation of law, nor may all or part of this IFB or subsequent agreement be sub-contracted by successful Bidder, without the prior written consent of the City of Norwalk. Consent by the City shall not be deemed to relieve successful Bidder of obligations to comply fully with the requirements hereof.

### **2-5 PLANS AND SPECIFICATIONS**

2.5.1 All the work to be done under this contract shall be in accordance with these Special Provisions and the Standard Specifications for Public Works Construction (2012), including all supplements, as written or promulgated by Public Works Standards, Inc. Copies of Standard Specifications are available from the publisher

Building News, Incorporated 10801 National Boulevard, Suite 100, Los Angeles, CA 90064 (213) 202.7775.

The Standard Specifications set forth above (referenced hereinafter as Standard Specifications) will control the General Provisions, construction materials, and construction methods for this contract except as amended by the Plans, Special Provisions, or other contract documents which consist of the following:

- Notice Inviting Bids
- Instructions to Bidders
- General Conditions
- Federal Provisions
- Special Provisions
- Supplemental Special Provisions – Project Manual (Technical Specifications)
- Plans
- Permits
- Referenced Standard Specifications, Plans and Codes
- Bid
- Agreement

**The section numbers of these Special Provisions coincide with those of the said Standard Specifications. Only those sections requiring amendment, elaboration, or specifying options are called out. In case of conflicts these Special Provisions will take precedence.**

Reference in the Special Provisions to “State Standard Specifications” shall mean the Standard Specification (May 2006) of the State of California Department of Transportation. Copies of these specifications may be obtained from:

State of California-Department of Transportation  
Central Publication – Distribution Unit  
1900 Royal Oak Drive  
Sacramento, CA 95819

Reference in the Special Provisions to Standard Plans shall mean the Standard Plans of the City of Norwalk, and where applicable, the following:

Standard Plans for Public Work Construction 2012 edition  
Standard Plans – California State Department of Transportation

## **2-5.2 Precedence of Contract Documents.**

Replace the entire subsection with the following:

If there is a conflict between any of the Contract Documents, the document highest in precedence shall control. The order of precedence shall be as follows:

- 1) Permits.
- 2) Change Orders (including Plans and Specifications attached thereto).
- 3) Agreement
- 4) Addenda
- 5) Federal Provisions
- 6) Special Provisions
- 7) General Conditions
- 8) Supplemental Special Provisions – Project Manual
- 9) Plans
- 10) City Standard Plans
- 11) Other Standard Plans
- 12) Standard Specifications
- 13) Reference Specifications

With reference to the Plans/Drawings, the order of precedence is as follows:

- 1) Change Order plans govern over Addenda and Contract plans
- 2) Addenda plans govern over Contract plans
- 3) Contract plans govern over standard plans
- 4) Detail plans govern over general plans
- 5) Figures govern over scaled dimensions

Within the Specifications, the order of precedence is as follows:

- 1) Change Orders
- 2) Permits and/or Supplemental Contract Agreements
- 3) Special Provisions
- 4) Instruction to Bidders
- 5) Referenced Standard Plans
- 6) Referenced Standard Specifications

If the Contractor, in the course of the Work, becomes aware of any claimed errors or omissions in the Contract Documents or in the CITY's fieldwork, the Contractor shall immediately inform the Engineer. The Engineer shall promptly review the matter, and if the Engineer finds an error or omission has been made the Engineer shall determine the corrective actions and advise the Contractor accordingly. If the corrective work associated with an error or omission increases or decreases the amount of work called for in the Contract, the CITY shall issue an appropriate Change Order in accordance Standard Specifications Section 3-0. After discovery of an error or omission by the Contractor, any related work performed by the Contractor shall be done at the Contractor's risk unless specifically authorized by the Engineer in writing.

## **2-6 Work To Be Done**

Add the following Subsections:

### **2-6.1 Working Hours and Constraints**



General Constraints	<ul style="list-style-type: none"> <li>• Contractor allowable work hours are between 7:00 AM and 4:00 PM <ul style="list-style-type: none"> <li>▪ Contractor may begin mobilization for daily activities as early as 6:00 AM, but activities may not violate City of Norwalk Noise Ordinance</li> </ul> </li> <li>• Night and Weekend work will be considered upon request (unless otherwise required) <ul style="list-style-type: none"> <li>▪ Night work will be defined as any work that occurs outside the hours of 6:00AM to 4:00PM</li> <li>▪ 10 working-days notice required for request of night or weekend work</li> <li>▪ The Contractor will be responsible for costs incurred by the City for inspection during night work, unless this work is specifically required by the City to occur during night hours</li> </ul> </li> </ul>
Contractor Laydown Area	<ul style="list-style-type: none"> <li>• The Contractor will be allotted a portion of the top level of the existing parking structure for use as laydown area and employee parking <ul style="list-style-type: none"> <li>▪ 40 spaces must be reserved for use as City Employee parking</li> </ul> </li> <li>• The Contractor must provide one on-site trailer for Contractor staff, and one on-site trailer for Norwalk Construction Management/Inspection staff. Refer to section '8.1.1 - Agency Personnel Project Office' for description of requirements.</li> </ul>
Public Parking Lot	<ul style="list-style-type: none"> <li>• The Contractor must maintain vehicle access from Imperial Hwy. to the Bus Circle, Metrolink Platform and Public Parking area at all times <ul style="list-style-type: none"> <li>▪ Vehicle access must of sufficient size to accommodate commuter personal vehicles and City Transit Coaches</li> <li>▪ Access will be permitted to be disrupted during construction of Imperial Hwy. curb ramps as specified, and with required advanced notice</li> </ul> </li> <li>• A minimum of 2 "Visitor Parking" spaces must be maintained at all times for visitors to the Transit Facility</li> <li>• A minimum of 3 "handicapped" accessible parking spaces must be maintained for visitors to the Transit Facility</li> <li>• A minimum of 6 "handicapped" accessible parking spaces must be maintained for use at the Metrolink platform</li> <li>• The Contractor will be responsible for all striping required for temporary relocation of Visitor Parking and Accessible spaces as needed</li> <li>• The Contractor may not occupy any more than 75 spaces in the public parking area at any one time.</li> <li>• The Contractor must maintain a safe path of travel for pedestrians from Imperial Hwy to the Metrolink platform</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Path must be delineated with orange safety fencing.</li> <li>▪ No Chain Link fencing will be permitted for use as pedestrian pathways</li> <li>• The Contractor must submit a traffic control, pedestrian safety and construction phasing plan acceptable to Norwalk Transit prior to commencement of construction activities in the public parking area</li> <li>• The Contractor may not reduce the size of displaced parking spaces to accommodate these constraints.</li> </ul>
Curb Ramps at Imperial Hwy.	<ul style="list-style-type: none"> <li>• Construction of the new curb ramps at Imperial Hwy must be performed on a Weekend. <ul style="list-style-type: none"> <li>▪ Work will be allowed between 8:00PM Friday and 4:00AM Monday</li> <li>▪ Access to the Bus Stop, Metrolink Platform, and Public Parking must be restored by 4:00AM on Monday.</li> </ul> </li> <li>• Lane closures on Imperial Hwy will require a no-fee permit issued from the City of Norwalk</li> <li>• City requires 20 working days notice prior to commencement of this work</li> </ul>
Bus Wash	<ul style="list-style-type: none"> <li>• The Contractor must provide 20 working days notice before the Bus Wash can be taken out of service</li> <li>• The Contractor will have 70 calendar days to complete Bus Wash activities and restore Bus Wash service to Norwalk Transit once the Bus Wash has been taken out of service</li> <li>• The Contractor must maintain access to the Fuel Island and North/East rolling gate during Bus Wash construction.</li> <li>• The Contractor must accommodate the roll off dumpster to the south of the Bus Wash</li> </ul>
Vehicle Lift	<ul style="list-style-type: none"> <li>• The Contractor must erect a partition or barrier for dust control purposes during vehicle lift construction</li> <li>• The Contractor will be allowed to occupy the entire bay associated with Vehicle Lift construction for the duration of the activity <ul style="list-style-type: none"> <li>▪ Limits of the bay will be defined as: Yellow pedestrian path (North) to Rolling Door (South), and centerline of existing columns (East and West).</li> </ul> </li> <li>• The Contractor must complete installation of the new Vehicle Lift and return the bay to Norwalk Transit within 60 calendar days once the bay has been occupied</li> </ul>
Lobby	<ul style="list-style-type: none"> <li>• The Contractor must provide 20 working days notice prior to commencement of Lobby tenant improvement activities</li> <li>• The Contractor must maintain a safe path of travel from the facility main entrance to the elevator at all times</li> </ul>

	<ul style="list-style-type: none"> <li>The Contractor shall erect a partition wall south the existing elevator which shall remain in place during Lobby tenant improvement activities. This partition shall be no less than 8 feet in height, and of plywood.</li> </ul>
Maintenance Staff Offices	<ul style="list-style-type: none"> <li>The Contractor must provide 20 working days notice prior to commencement of Maintenance Staff Office tenant improvements</li> <li>The Contractor must ensure construction activities do not disrupt or prevent Norwalk Transit maintenance staff from performing normal daily operations</li> </ul>

## **2-6.2 SCOPE OF WORK**

### **2-6.2.1 GENERAL**

A. Project Name: Norwalk Transit System.

B. City's Name: City of Norwalk.

C. Architect's Name: La Canada Design Group.

D. The Project consists of the alteration of selected portions of the first floor of a three story building and related site improvements located at 12650 E. Imperial Highway, Norwalk, CA90650.

### **2-6.2.2 CONTRACT DESCRIPTION**

A. Contract Type: A single prime contract based on a Stipulated Price as described in Owner-Contractor Agreement.

B. The Work: The Work is construction and related services for interior alterations, CBC, Occupancy Type Assembly Group A-3, Business Group B, Moderate Hazard Storage Group S-1, and Low Hazard Storage Group S-2, Construction Type V-B, with Automatic Fire Sprinklers, totaling approximately 2,750 square feet.

1. The Work includes new interior improvements, building utilities, and related site improvements; with patch and repair as required, and other features to the extent indicated on the Drawings.

2. See Drawing T1.01 Cover Sheet for additional general information.

### **2-6.2.3 CONTRACT DOCUMENTS INCLUDED IN THE PROJECT MANUAL**

A. Contract Requirements: Conditions of the Contract and other Contract documents have been included in the Project Manual, as indicated in the Table of Contents. Such documents are not Specifications. Specifications are found in Divisions 1 through 33 of the Project Manual.

B. Contract Drawings: The Drawings provided with and identified in the Project Manual are the Drawings referenced in the Agreement.

1. The location, extent and configuration of the required construction and improvements are shown and noted on Drawings. The Drawings are referenced in the Agreement. An index of Drawings is included in the set of Drawings.
2. Drawings are arranged into series according to design discipline. Such organization and all references to trades, subcontractor, specialty contractor or supplier shall not control the Contractor in dividing the Work among subcontractors or in establishing the extent of the Work to be performed by any trade.
3. Where the terms "as shown", "as indicated", "as noted", "as detailed", "as scheduled", or terms of like meaning, are used in the Drawings or Specifications, it shall be understood that reference is being made to the Drawings referenced in the Agreement.
4. Where reference to the word "plans" is made anywhere in Drawings, Specifications and related Contract Documents, it shall be understood to mean the Drawings referenced in the Agreement.

C. Contract Specifications: The Specifications provided in the Project Manual are the Specifications referenced in the Agreement.

1. Specifications are organized by Divisions and Sections in accordance with the recommended practices of the Construction Specifications Institute. Such organization shall not control the Contractor in dividing the Work among subcontractors or in establishing the extent of Work to be performed by any trade.
2. Specifications are included in the Project Manual, which may also include other Bidding and Contract Documents. Contents

#### **2-6.2.4 DESCRIPTION OF ALTERATIONS WORK**

A. Scope of demolition and removal work is shown on drawings and specified in Section 02-4100.

B. Scope of alterations work is shown on drawings.

C. Plumbing: Alter existing system and add new construction, keeping existing in operation.

D. HVAC: Alter existing system and add new construction, keeping existing in operation.

- E. Electrical Power and Lighting: Alter existing system and add new construction, keeping existing in operation.
- F. Fire Suppression Sprinklers: Alter existing system and add new construction, keeping existing in operation.
- G. Fire Alarm: Alter existing system and add new construction, keeping existing in operation.
- H. Telephone: Alter existing system and add new construction, keeping existing in operation.
- I. Communications: Alter existing system and add new construction, keeping existing in operation.
- J. City will remove the following items before start of applicable work:
  - 1. Office furnishings and equipment.

#### **2-6.2.5 WORK BY OWNER**

##### **A. Concurrent Work Under Separate Contracts:**

- 1. Work Under Separate Contracts: City will award separate contracts for products and installation for interior improvements and other work as may be indicated on Drawings as NIC (Not in Contract).
- 2. Relationship to Work Under the Contract:
  - a. Work under the Contract shall include all provisions necessary to make such concurrent work under separate contracts complete in every respect and fully functional, including field finishing.
  - b. Provide necessary backing, supports, piping, conduit, conductors and other such provisions from point of service to point of connection, as shown on Drawings and specified herein.
- 3. Related Contract Documents:
  - a. City will make available, in a timely manner, drawings and specifications of work under separate contracts for coordination and further description of that work.
  - b. Such drawings and other data required for the coordination of the work of separate contracts with the Work of this Contract may be included with the Contract Documents.
  - c. If so, they are provided for convenience only and are not to be considered Contract Documents produced by Architect or Architect's consultants.
- 4. Permits, Notices and Fees:

- a. Permits, Notices and Fees: Notices required by and approvals required of authorities having jurisdiction for work under separate contracts and related fees will be solely the responsibility of City.
- B. Items noted NIC (Not in Contract) will be supplied and installed by City after Substantial Completion.
  1. Movable cabinets.
  2. Furnishings.
  3. Small equipment.
  4. Rugs.
  5. Artwork.
- C. City will supply the following for installation by Contractor:
  1. Owner-Furnished Products: City may furnish, for installation by Contractor, products which are identified on the Drawings and in the Specifications as OFCI (Owner-Furnished/Contractor-Installed).
  2. Relationship to Work Under the Contract: Work under the Contract shall include all provisions necessary to fully incorporate such products into the Work, including, as necessary, fasteners, backing, supports, piping, conduit, conductors and other such provisions from point of service to point of connection, and field finishing, as shown on Drawings and specified herein. See Section 01-3000 - Administrative Requirements for additional requirements.

## **2-9 SURVEYING**

(section modified as follows)

2.9.3 Surveying Service – Surveying required for this project shall be provided by the Contractor. It shall be performed by a licensed land surveyor or registered civil engineer. Payment for performing all survey work shall be included in the price Bid for the items of work where such service is needed and no additional compensation will be allowed therefore.

## **2-11 INSPECTION**

Replace the entire subsection with the following:

The Work is subject to inspection and approval by the Engineer. The Contractor shall notify the Engineer a minimum of 48 hours in advance of the required inspection.

The Engineer will make, or have made, such inspections and tests as he deems necessary to see that the Work is in conformance with the Contract Documents. In the event such inspections or tests reveal noncompliance with the Contract Documents, the Contractor shall bear the cost of such corrective measures as deemed necessary by the Engineer, as well as the cost of subsequent re-inspection and re-testing.

Work done in the absence of inspection by the Engineer may be required to be removed

and replaced under the inspection of the Engineer, and the entire cost of removal and replacement, including the cost of all materials which may be furnished by the CITY and used in the work thus removed, shall be borne by the Contractor, regardless of whether the work removed is found to be defective or not. Work covered without the approval of the Engineer shall, if so directed by the Engineer, be uncovered to the extent required by the Engineer, and the Contractor shall similarly bear the entire cost of performing all the work and furnishing all the materials necessary for the removal of the covering and its subsequent replacement, including all costs for additional inspection.

The Engineer and any authorized representatives shall at all times have access to the Work during its construction at shops and yards as well as the Work site. The Contractor shall provide every reasonable facility for ascertaining that the materials and workmanship are in accordance with the Contract Documents.

Inspection of the Work shall not relieve the Contractor of the obligation to fulfill all conditions of the Contract.

Add the following subsections:

**2-11.1 Special Inspection Fees.** If the Contractor elects to work under this Contract more than 8 hours/day or more than 40 hours/week, Saturday, Sunday, or CITY holidays, the Contractor shall arrange with the Engineer for the required inspection service and pay the Special Inspection Fees which will be charged at the following rates:

Mondays through Fridays -	\$150.00 per hour*
Saturdays, Sundays, Holidays -	\$1,200.00 per day*

Fees may be deducted from payments due to the Contractor at the discretion of the Engineer.

\*Note: These rates are associated with 3<sup>rd</sup> party inspection services. Rates for inspections outside of normal inspection hours provided by City of Norwalk Public Works as required by City issued construction permits can be obtained from the City of Norwalk Public Works Department.

If the Contractor works under this contract at times other than within the allowed working hours without permission from or prior arrangement with the Engineer, the Contractor will be charged a lump sum amount of \$2,000.00 for each occurrence, in addition to the above fees. The amount will be deducted from a Progress Payment.

### **2-11.3 Material Inspection/Testing and other City Expenses.**

- (a) If a City subcontractor hired to perform material inspection and/or testing is required to work additional time to perform inspection and testing as a result of an action or delay caused by the Contractor, except for specific work

allowed by the Engineer, the subcontractor may charge the City an additional fee. The Engineer may deduct the additional fee for said inspection and testing from a Progress Payment to the Contractor. The Engineer also may deduct the cost to perform additional testing when an initial test fails to meet the requirements of this Contract. The typical rates for material testing and inspection are available upon request from the City of Norwalk Transit and its subcontractor(s).

- (b) If the Contractor does not comply with a requirement of these Special Provisions or if it does not respond, after being informed, to a request by the Engineer to amend a site condition that jeopardizes the public health, safety or welfare, the Engineer may direct City crews to perform the work. For each occurrence, the City may charge the Contractor a base charge in the amount of \$750 in addition to all costs incurred by City crews for labor, equipment and materials. The standard rates for City crews are available upon request from the Public Works Department.
- (c) For each sign, drum, barricade, warning device, flagger or other type of required traffic control device that is not provided in accordance with the approved Traffic Control Plans, unless otherwise authorized by the Engineer, the Engineer may deduct \$50 per day from a Progress Payment for each missing device. The deduction does not apply to a device that is fraudulently removed by non-construction personnel.
- (d) Temporary lane closures maintained prior to 8:30 A.M. and/or after 3:30 P.M. may have a negative economic effect on the local residential, commercial or industrial community. Unless a temporary lane closure is otherwise authorized, the Engineer may deduct a fee from a Progress Payment for each temporary lane closure maintained prior to 8:30 A.M. or after 3:30 P.M. The fee will be assessed at a rate of \$700 per each travel lane per each thirty (30) minute interval, or fraction thereof.

Defective work shall be made good, and unsuitable materials will be rejected, notwithstanding the fact that such defective work and unsuitable materials have been previously overlooked by the City of Norwalk Director of Transportation, or his/her designee, and accepted or estimated for payment. For the purpose of restriping, work will be accepted seven (7) days after application.

The City shall not be held responsible for the care or protection of any material or parts of the work prior to final acceptance, except as expressly provided in these Special Provisions.

## **SECTION 3.0 – CHANGES IN WORK**

### **3-2 CHANGES INITIATED BY THE AGENCY**



### **3-2.1 General**

Add the following:

#### **Basis for Establishing Costs for Changes Initiated by the Agency**

##### **Overhead and Profit**

- a. If prior to commencement of performance of Changed Work the Parties agree on the amount of the direct costs of such Work, the Contractor shall be paid mark-ups on such direct costs for overhead and profit not to exceed:
  - (1) Fifteen percent (15%) for direct labor costs;
  - (2) Fifteen percent (15%) for material costs; and
  - (3) Fifteen percent (15%) for Construction Equipment use costs.
- b. If the direct cost of the Work is based in whole or in part on the Contractor's actual incurred costs, the mark-ups for overhead and profit shall be subject to determination by the Contracting Officer based upon audited overhead rates and a reasonable profit, not to exceed the markups set forth in Sub-Paragraph a of this Paragraph.
- c. The mark-ups for overhead include and are full compensation for all indirect costs of any nature, including without limitation home and field office overhead, all taxes of any nature (except taxes covered herein under labor or material costs), Performance and Payment Bond premium adjustments, small tools, incidental job burdens, incidental engineering and all other indirect costs of the Changed Work.
- d. Incidental engineering costs shall be included in the overhead.

#### **3-3.2.2.2 Basis for Establishing Costs.**

#### **3-2.2.3 Tool and Equipment Rental.**

Delete this section entirely and replace with the following:

The Contractor will be paid for the use of equipment at the lower of the actual rental rates paid by the Contractor or the rental rates listed for such equipment in either the "Rental Rate Blue Book" published by Dataquest, Inc., 1290 Ridder Park Drive, San Jose, California 95131; telephone (408) 971-9000 or the California Department of Transportation publication entitled "Labor Surcharge and Equipment Rates" available at the Caltrans web site, [www.dot.ca.gov/hq/eqsc/inforesources.htm](http://www.dot.ca.gov/hq/eqsc/inforesources.htm), which is in effect on the date upon which the work is accomplished, and that hereby is made a part of the Contract, regardless of ownership or any rental or other agreement, if such may exist, for the use of such equipment entered into by the Contractor. If it is deemed necessary by the Engineer to use equipment not listed in the said publication, a suitable rental rate will be established by the Engineer. The Contractor may furnish any cost data that might assist the Engineer in the establishment of such rental rate.

#### **3-3.2.3 Markups:**

Replace this section in its entirety with the following:

The markups mentioned hereinafter shall include, but are not limited to, all costs for the services of superintendents, project managers, timekeepers and other personnel not working directly on the change order, and pickup or yard trucks used by the above personnel. These costs shall not be reported as labor or equipment elsewhere except when actually performing work directly on the change order and then shall only be reported at the labor classification of the work performed.

**(a) Work by Contractor.** The following percentages shall be added to the Contractor's costs and shall constitute the mark-up for all overhead and profit, which shall be deemed to include all items of expense not specifically designated as cost or equipment rental in Subsections 3-3.2.2(a), 3-3.2.2(b), and 3-3.2.2(c).

Labor	15
Materials	15
Equipment Rental	15
Other Expenditures	15

To the sum of the costs and markups provided for in this subsection, one (1) percent shall be added as compensation for bonding.

**(b) Work by Subcontractor.** When any part of the extra work is performed by a subcontractor, the markup established in 3-3.2.3(a) shall be applied to the subcontractor's actual cost of such work. A markup of ten (10) percent on the first \$5,000 of the subcontracted portion of the extra work and a mark-up of 5 percent on work added in excess of \$5,000 of the subcontracted portion of the extra work may be added by the Contractor.

The markups specified in parts (a) and (b) above shall be considered as including, but not limited to, the Contractor's labor costs for personnel not working directly on the extra work, including the cost of any tools and equipment that they may use. Such costs shall not be reported as labor or equipment costs elsewhere except when they are actually used in the performance of the extra work. Labor costs shall in that case be reported for the labor classification corresponding to the type and nature of extra work performed.

### **3-5 DISPUTED WORK**

Add the following paragraphs.

The Agreement shall be constructed and all disputes hereunder shall be settled in accordance with the laws of the State of California. Pending final resolution of a dispute hereunder, Bidder shall proceed diligently with the performance of this agreement.

Disputes arising in the performance of the Agreement to be awarded which are not resolved by agreement of the parties shall be decided in writing by the City Manager or his/her designated representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the successful Bidder mails or otherwise furnishes a written appeal to the City of Norwalk City Council. In connection

with any such appeal, the successful Bidder shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City Council shall be binding upon the successful Bidder and the successful Bidder shall abide by the decision.

#### Performance During Dispute

Unless otherwise directed by the City Manager, successful Bidder shall continue performance under the Agreement while matters in dispute are being resolved.

#### Claims for Damages

Should either party to the Agreement to be awarded suffer injury or damage to person or property because of any act or omission of the other party or of any of its employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

#### Remedies

Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City and the successful Bidder arising out of or relating to the Agreement or any breach thereof, will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction. The parties shall further agree that the proper venue for any court action shall be in the Superior Court of Los Angeles County for state court actions and the United States District Court for the Central District of California sitting in Los Angeles.

#### Rights and Remedies

The duties and obligations imposed by the Agreement and the rights and remedies available thereunder, shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City or successful Bidder shall constitute a waiver of any right or duty afforded any of them under the 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 in writing.

### **SECTION 4 – CONTROL OF MATERIAL**

#### **4-1 MATERIALS AND WORKMANSHIP**

4-1.4 Test of Materials (the third sentence of paragraph 1 is amended as follows)

All initial testing, including relative compaction tests, will be performed under the direction of the City of Norwalk Director of Transportation, or his/her designee, and at no expense to the Contractor. Expenses for retesting of failed materials or work shall be at the expense of the Contractor.

(The following paragraph is added)

Whenever required the Contractor shall furnish to the City for test, and free of charge, samples of any one of the materials proposed to be used in the work. Said samples shall be delivered by the Contractor at the place within the City designated by the City. Rejected material must be immediately removed from the work by the Contractor and shall not again be brought back to the site of the improvement.

#### 4-1.6 Trade Names or Equals.

Add the following:

Wherever brand, manufacturer or product names are indicated in these specifications, they are included for the purpose of establishing identification and a general description. Wherever such names appear, the term “or approved equal” is deemed to follow. The decision whether a proposed unit is an approved equal will be made by the City. Specifying a brand name in the specification shall not relieve the successful Bidder, or any sub-contractor or supplier, of the responsibility to design and produce a unit which fully meets the performance specifications, the warranty and any other contractual requirements.

Requests for consideration of equivalents must be submitted in writing within 30 Calendar Days from the Notice to Proceed. Any request for an approved equal and/or complaint concerning the equipment and/or material specifications must be fully supported with technical data, test results, or other pertinent facts as evidence that the substitute offered is equal to or better than the specification requirement.

In order to establish a basis of quality, certain materials, types of machinery and equipment, or kinds of materials may be specified herein, either by description of process or by designating a manufacturer by name and referring to his brand of product designation or by specifying a kind of material. It is not the intent of these specifications to exclude other processes, equipment or materials of equal value, utility or merit, which are approved by the City.

Approval of equipment and materials offered as equivalents to those specified must be obtained prior to procurement of any such material offered as equivalents.

## **SECTION 6 – PROSECUTION, PROGRESS AND ACCEPTANCE OF WORK**

### **6-1 CONSTRUCTION SCHEDULE AND COMMENCEMENT OF WORK**

#### **6-1.1 Construction Schedule.**

Deleted in its entirety and replace with the following subsections.

Prior to issuing the Notice to Proceed, the Engineer will schedule a preconstruction meeting with the Contractor to review the proposed construction schedule and delivery

dates, arrange utility coordination, discuss construction methods and clarify inspection procedures. The Contractor shall submit its schedule a minimum of 72 hours prior to the scheduled preconstruction meeting.

The schedule shall be supported by written statements from each supplier of materials or equipment indicating that all orders have been placed and acknowledged, and setting forth the dates that each item will be delivered.

The names, addresses and telephone numbers of the Contractor and subcontractors, or their representatives, shall be filed with the Resident Engineer prior to beginning work. A separate emergency contact list, identifying key supervisory contacts of the Contractor and subcontractors shall also be submitted.

#### 6-1.1.1 GENERAL

Development of the schedule and project status reporting requirements of the Contract shall employ computerized Critical Path Method (CPM) scheduling. The CPM schedule and all reports should be prepared with the latest version of Microsoft Project®, or approved equal. Where submittals are required hereunder, the Contractor shall submit four color copies of each submittal item. The Contractor shall provide the Owner with the scheduling software and/or license throughout the duration of the project.

#### 6-1.1.2 QUALIFICATIONS

Upon notice of award and prior to initiation of compiling the schedule, the Contractor shall submit a statement of computerized CPM capability to document either that the Contractor has in-house capability qualified to use CPM technique and the required software or that the Contractor will arrange for the services of a CPM consultant so qualified. In either event the statement shall identify the individual who will perform the CPM scheduling. Capability shall be verified by description of construction projects on which the individual has successfully applied computerized CPM and shall include at least two projects of similar nature, scope and value not less than one-half the Total Bid Price of this project. This statement shall also identify the contact persons for the referenced projects with current telephone and address information. Compilation of the schedule shall not commence until the statement of CPM capability is approved by the Engineer.

#### 6-1.1.3 MINIMUM PROJECT PHASING AND CONSTRAINTS

a. General: The Contractor shall submit a construction phasing plan in conjunction with the CPM schedule to the engineer for review and approval. The plan shall identify work limits and working hours that will allow the contractor to complete the project while complying with traffic control / lane closure schedules and mitigating impacts to vehicular traffic, pedestrians, and businesses. The plan shall utilize the minimum phasing and constraints requirements herein. By submitting its bid, the Contractor acknowledges it has considered the phasing and constraints included herein and can execute the project within the Contract Time, including sub-milestone requirements. The City may consider and approve alternatives to these phasing and constraints

requirements if proposed by the Contractor, however no deviation will be allowed without prior written approval by the City.

The engineer shall have 10 working days to review and comment on the plan. Work will not be allowed to commence without an approved phasing plan and project schedule. The phasing plan shall adhere to the following minimum phases and constraints:

*Note: the phases and constraints detailed below is not intended to be a comprehensive breakdown of all tasks required for the Work. Contractor shall be required to complete all Work included in the Contract Documents while adhering to the minimum phasing and constraints below.*

Curb Ramps at Imperial Hwy.	<ul style="list-style-type: none"> <li>Construction of the new curb ramps at Imperial Hwy must be performed on a Weekend. <ul style="list-style-type: none"> <li>Work will be allowed between 8:00PM Friday and 4:00AM Monday</li> <li>Access to the Bus Stop, Metrolink Platform, and Public Parking must be restored by 4:00AM on Monday.</li> </ul> </li> <li>Lane closures on Imperial Hwy will require a no-fee permit issued from the City of Norwalk</li> <li>City requires 20 working days notice prior to commencement of this work</li> </ul>
Bus Wash	<ul style="list-style-type: none"> <li>The Contractor must provide 20 working days notice before the Bus Wash can be taken out of service</li> <li>The Contractor will have 70 calendar days to complete Bus Wash activities and restore Bus Wash service to Norwalk Transit once the Bus Wash has been taken out of service</li> <li>The Contractor must maintain access to the Fuel Island and North/East rolling gate during Bus Wash construction.</li> <li>The Contractor must accommodate the roll off dumpster to the south of the Bus Wash</li> </ul>
Vehicle Lift	<ul style="list-style-type: none"> <li>The Contractor must erect a partition or barrier for dust control purposes during vehicle lift construction</li> <li>The Contractor will be allowed to occupy the entire bay associated with Vehicle Lift construction for the duration of the activity <ul style="list-style-type: none"> <li>Limits of the bay will be defined as: Yellow pedestrian path (North) to Rolling Door (South), and centerline of existing columns (East and West).</li> </ul> </li> <li>The Contractor must complete installation of the new Vehicle Lift and return the bay to Norwalk Transit within 60 calendar days once the bay has been occupied</li> </ul>
Lobby	<ul style="list-style-type: none"> <li>The Contractor must provide 20 working days notice prior to commencement of Lobby tenant improvement activities</li> </ul>

	<ul style="list-style-type: none"> <li>• The Contractor must maintain a safe path of travel from the facility main entrance to the elevator at all times</li> <li>• The Contractor shall erect a partition wall south the existing elevator which shall remain in place during Lobby tenant improvement activities. This partition shall be no less than 8 feet in height, and of plywood.</li> </ul>
Maintenance Staff Offices	<ul style="list-style-type: none"> <li>• The Contractor must provide 20 working days notice prior to commencement of Maintenance Staff Office tenant improvements</li> <li>• The Contractor must ensure construction activities do not disrupt or prevent Norwalk Transit maintenance staff from performing normal daily operations</li> </ul>

#### 6-1.1.4 CPM SCHEDULE SUBMITTALS

- a. Original CPM Schedule: Within 5 working days from the date of the City approves the Scheduling Capabilities submittal and in no case later than 72 hours prior to the Preconstruction conference, the Contractor shall submit for review by the Engineer, (4) colored hard copies of the CPM schedule and the computerized Microsoft Project® schedule electronic file. This submittal shall already have been reviewed and approved by the Contractor's project manager, project superintendent and project estimator prior to submission. The schedule shall be supported by written statements from each supplier of materials or equipment indicating that all orders have been placed and acknowledged, and setting forth the dates that each item will be delivered.
- b. Original CPM Schedule Review Meeting: The Contractor's submitted CPM schedule and the City's review comments will be discussed as part of the preconstruction meeting. The Contractor shall have the Project Manager, Project Superintendent, and the Project Scheduler in attendance. The Engineer's review will be limited to the conformance to the Contract Documents. However, the review may also include:
  1. Clarifications of the design intent, process, and startup requirements.
  2. Directions to include activities and information missing from the submittal.
  3. Requests to the Contractor to clarify the schedule.
- c. Revisions to the Original CPM Schedule: Contractor shall have revised the original CPM schedule to address all review comments from the preconstruction meeting and resubmit the Engineer's review within 5 calendar days. The Engineer, within 5 calendar days from the date that the Contractor submitted the revised schedule will either (1) accept the schedule and cost loaded activities submitted, or (2) advise the Contractor in writing to review any part or parts of the schedule which either do not meet the Contract requirements or are unsatisfactory for the Engineer to monitor the project's progress and status or evaluate monthly payment requests by the Contractor. The Engineer may accept the schedule with conditions that the first monthly

CPM schedule update be revised to correct deficiencies identified. When the schedule is accepted, it shall be considered as the "Original CPM Schedule" until an updated schedule has been submitted. The Engineer reserves the right to require that the Contractor adjust, add to, or clarify any portion of the schedule which may later be discovered to be insufficient for the monitoring of the Work or approval of progress payment requests. No additional compensation will be provided for such adjustments, additions, or clarifications.

- d. Acceptance: Acceptance of the Contractor's schedule by the Engineer will be based solely upon compliance with the requirements. By way of the Contractor assigning activity durations and proposing the sequence of the Work, the Contractor agrees to utilize sufficient and necessary management and other resources to perform the Work in accordance with the schedule. Upon submittal of a schedule update, the updated schedule shall be considered the "current" project schedule. Submission of the Contractor's progress schedule to the City shall not relieve the Contractor of total responsibility for scheduling, sequencing, and pursuing the Work to comply with the requirements of the Contract Documents, including adverse effects such as delays resulting from ill-timed Work.
- e. Monthly Updates and Periodic CPM Schedule Submittals: Following the acceptance of the Contractor's original schedule, the Contractor shall monitor the progress of the Work and adjust the schedule each month to reflect actual progress and any changes in planned future activities. Each schedule update submitted shall be complete including all information requested in the original schedule submittal and be in the schedule report format indicated below. Each update shall continue to show all Work activities including those already completed. Completed activities shall accurately reflect "as built" information by indicating when the Work was actually started and completed. Each update shall be submitted 10 days prior to submittal of progress payment applications. **Failure to submit the updated progress report may result in the withholding of ten percent (10%) of the progress payment.**

Neither the submission nor the updating of the Contractor's original schedule submittal nor the submission, updating, change, or revision of any other report, curve, schedule, or narrative submitted to the Engineer by the Contractor under this Contract, nor the Engineer's review or acceptance of any such report, curve, schedule, or narrative shall have the effect of amending or modifying, in any way, the Contract Times, interim milestone or milestone dates or of modifying or limiting, in any way, the Contractor's obligations under this contract. Only a signed, fully executed Change Order can modify contractual obligations.

The monthly schedule update submittal will be reviewed with the Contractor during a weekly construction progress meeting. The goal of these meetings is to enable the Contractor and the Engineer to initiate appropriate remedial action to minimize any known or foreseen delay in the completion of the Work



and to determine the amount of Work completed since the last month's schedule update. The status of the Work will be determined by the percent complete of each activity in the updated CPM Schedule. These meetings are considered a critical component of the overall monthly schedule update submittal, and the Contractor shall have appropriate personnel attend. At a minimum, these meetings shall be attended by the Contractor's Project Manager and General Superintendent. Within 7 working days after the monthly schedule submittal review, the Contractor shall submit the revised CPM schedule, the revised CPM computerized tabulations as noted in this Section, the revised success/predecessor report, the project status report as defined below and the Contractor's Application for Payment. Within 5 working days of receipt of the revised submittals, the Engineer will either accept or reject the monthly schedule update submittal. If accepted, the percent complete in the monthly update shall be the basis for the Application for Payment to be submitted by the Contractor. If rejected, the update shall be corrected and resubmitted by the Contractor before the Application for Payment for the update period will be processed.

**Schedule Revisions:** The Contractor shall highlight or otherwise identify all changes to the schedule logic or activity durations made from the previous schedule. The Contractor shall modify any portions of the CPM schedule which become infeasible because of activities behind schedule or for any other valid reason.

- f. 4-Week Look Ahead submittals. The Contractor shall submit and be prepared to discuss a 4week look ahead of the current schedule, on or before noon Monday each week. The 4-week look ahead will show all activities that are currently in progress or planned to occur over the next working month. **Failure to submit any 4-week look ahead schedules may result in a \$250 back charge to the Contractor.**

#### 6-1.1.5 CHANGE ORDERS & EXTRA WORK

Prior to and required for approval of a Change Order, the Contractor shall utilize a time impact analysis / sub-network in the scheduling depicting any change in the work, purported to impact the schedule, and its effect on other activities. This sub-network shall be tied to the main network with appropriate logic so that a true analysis of the critical path can be made.

#### 6-1.1.6 CPM STANDARDS

- a. Definitions: CPM, as required by this Section, shall be interpreted to be generally as outlined in the Association of General Contractors (AGC) publication, "The Use of CPM in Construction" except that either "i-j" arrow diagrams or precedence diagramming format may be utilized. In the case of conflicts between this specification and the AGC document, this specification shall govern.

- b. Construction Schedules: Construction schedules shall included a graphic network diagram and computerized construction schedule reports as required below for status reporting.
- c. Networks: The CPM Network shall be in a form of a time “i-j” activity-on-arrow or precedence type diagram and may be divided into a number of separate sheets with suitable match lines relating the interface points among the sheets. Individual sheets shall not exceed 11 inches by 17 inches.
- d. Construction, submittal (including review times) and procurement activities shall be presented in a time-scaled format with a calendar time line along the entire sheet length. Each activity arrow or node shall be plotted so that the beginning and completion dates of each activity are accurately represented along the calendar time line. All activities shall use symbols that clearly distinguish between critical path activities, non-critical activities, and free float for each non-critical activity. All activity items shall be identified by their respective activity number, responsibility code, work duration, and their dollar value. All non-critical path activities shall show total float time in scale form utilizing a dotted line or some other graphical means.
- e. Duration Estimates: The duration estimate for each activity shall be computed in working days and shall represent the single best estimate considering the scope of the work and resources planned for the activity. Except for certain non-labor activities, such as curing of concrete or delivery of materials, activity duration shall not exceed 10 working days nor be less than one working day unless otherwise accepted by the Engineer.
- f. Float Time
  - i. Definition: Unless otherwise provided herein, float is synonymous with total float. Total float is the period of time measured by the number of working days each non-critical path activity may be delayed before it and its succeeding activities become part of the critical path. If a non-critical path activity is delayed beyond its float period, then that activity becomes part of the critical path and controls the end date of the work. Thus, delay of a non-critical path activity beyond its float period will cause delay to the project itself.
  - ii. Float Ownership: Neither the Owner nor the Contractor owns the float time. The project owns the float time. As such, liability for delay of the project completion date rests with the party actually causing delay to the project completion date. For example, if Party A uses some, but not all of the float time and Party B later uses the remainder of the float time as well as additional time beyond the float time, Party B shall be liable for the costs associated with the time that represents a delay to the project's completion date. Party A would not be responsible for any costs since it did not consume all of the float time and

additional float time remained, therefore the project's completion date was unaffected.

Administrative, procurement and Construction Activities: The CPM Schedule shall include activities for the submittal, review and approval of all required administrative and technical project submittals, as well as activities for the procurement activities of required products and materials. These activities shall be logically tied to their subsequent construction activities such that the entire submittal, review/approval, procurement and installation sequence is properly defined and can be monitored and tracked throughout the project.

## **6-4 TERMINATION OF THE CONTRACTO FOR DEFAULT**

Add the following Subsection:

### **6-4.6 CANCELLATION OF AGREEMENT**

In any of the following cases, the City shall have the right to cancel the Agreement without expense to the City: (1) the successful Bidder is guilty of misrepresentation; (2) the Agreement is obtained by fraud, collusion, conspiracy, or other unlawful means; or (3) the Agreement conflicts with any statutory or constitutional provision of the State of California or the United States. This section shall not be construed to limit the City's right to terminate the contract for convenience or default, as provided herein. City will provide the successful Bidder a thirty (30) calendar day written notice for termination of contract.

## **6-5 TERMINATION OF THE CONTRCATOR FOR CONVENIENCE**

Delete the entire subsection and replace with the following:

The performance of work under the Agreement may be terminated by the City in accordance with this section in whole or in part, whenever the City determines that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the successful Bidder of a thirty (30) calendar day written notice of termination specifying the extent to which performance of work under the Agreement is terminated and the date upon which such termination becomes effective.

Upon receipt of the notice of termination, and except as otherwise directed by the City, the successful Bidder shall:

- (1) stop work under the Agreement on the date and to the extent specified in the notice of termination;
- (2) place no further orders or sub-contracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;

(3) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination;

(4) assign to the City in the manner, at the times, and to the extent directed by the City, all of the right, title and interest of the successful Bidder under the orders and subcontracts so terminated in which case the City shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

(5) settle all outstanding liabilities and all claims arising out of such termination or orders and sub-contracts to the extent, if any, directed by the City the fabricated or unfabricated parts, work in process, or completed work, supplies, and other materials produced as a part of, or acquired in connection with their performance of, the work terminated, and the completed or partially completed plans, drawings, information and other property which, if the contract had been completed, would have been required to be furnished to the City;

(6) use its best efforts to sell, in the manner, at the times, to the extent, and at the price(s) authorized by the City, any property of the types referred to above, provided, however, that the successful Bidder shall not be required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed by and at a price(s) approved by the City and, provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the City to the successful Bidder under this Agreement or shall otherwise be credited to the price or cost of the work covered by this Agreement or paid in such a manner as the City may direct;

(7) complete performance of such part of the work as shall not have been terminated by the notice of termination;

(8) take such action as may be necessary, or as the City may direct, for the protection and preservation of the property related to the Agreement which is in the possession of the successful Bidder and in which the City has or may acquire an interest. Payments by the City to the successful Bidder shall be made for all services completed and/or delivered up to and including the effective date of termination but not thereafter. Except as otherwise provided, settlement of claims by the successful Bidder under this termination section shall be in accordance with the provisions set forth in 48 CSP Part 49, as amended.

## **6-7 TIME OF COMPLETION**

Add the following subsection:

**6-7.2 CONTRACT COMPLETION TIME:** The Contractor shall commence work on the date specified in the Notice to Proceed. All work shall be performed and completed within One Hundred Ninety (190) Working Days from that specified date, for all bid items as described in the project documents.

## **6-9 LIQUIDATED DAMAGES**

## **GC.14 COMPLETION TIME / LIQUIDATED DAMAGES**

Delete this subsection in its entirety and replace with the following:

It shall be agreed by the parties to the Agreement that time is of the essence, and in the event of delay in starting the work or the delivery of the equipment, goods, services, and personnel required for project implementation and training or equipment beyond the date set forth in the Agreement, damage will be sustained by the City and that it is or will be impracticable to determine the actual amount of the damage caused by reason of such delay. It is therefore agreed that the successful Bidder will pay to the City the sum of Six Hundred Ten dollars (\$610) for each working day's delay in completing the work, as set forth in the Agreement beyond any timeline or due date, or authorized extension.

These damages shall be deducted from any monies due, or which may thereafter become due, to the successful Bidder under the Agreement or may be recovered by the City through any lawful means.

### **6-7 TIME OF COMPLETION**

6-7.1 General (add the following paragraph)

The time within which the Contractor must complete the physical site work is fixed pursuant to the approved Work Plan schedule, starting from the first day of mobilization on site.

6-7.2 Working Days and Hours (add the following sentence)

Working day shall be limited to the hours of 7:30am to 4:30pm unless specified otherwise or approved by the City of Norwalk Director of Transportation, or his/her designee. Note: Lane closures on highways are not permitted during rush hours of 6:30am to 8:30am and 3:30pm to 6:30pm.

### **6-9 LIQUIDATED DAMAGES**

(the last sentence of the first paragraph is amended to read)

If the work or specified portions of the work are not completed within the number calendar days set forth in the approved schedule liquidated damages shall be assessed. For each consecutive calendar day in excess of the time specified, as adjusted in accordance with Subsection 6-6, for completion of the Work the Contractor shall pay to the City, or have withheld from monies due it, the sum of Six Hundred Ten dollars (\$610).

(add to the last paragraph)

Progress payments made by the City after the scheduled completion date do not constitute a waiver of liquidated damages.

## **SECTION 7 – RESPONSIBILITIES OF THE CONTRACTOR**

### **7-2 LABOR**

7-2.1 GENERAL (add the following paragraphs)

All workers working in the street shall wear a red vest and a hard hat as required by the State of California. Division of Industrial Relations Construction Safety Orders – Section 15-11. Attention is directed to Part VI of the Manual of Uniform Traffic Control Devices for Street and Highways – Traffic Controls for Street and Highway Construction and Maintenance Operations. The Contractor shall comply with all requirements therein as a minimum and as modified by the City Inspector.

Failure to comply with any safety requirements per this Section will result in immediate suspension of all work until the Contractor complies. The allowable number of working days for this contract shall not be extended due to delays caused by the Contractor's failure to comply with this Section of these Special Provisions.

### **7-2.2 Prevailing Wages:**

Add the following:

This is a Federally Funded Project. Refer also to the Notice Inviting Bids and Federal Provisions.

If there is a difference between the minimum wage rates predetermined by the general prevailing wage rates stipulated by the FTA and the general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the Contractor and subcontractors shall pay not less than the higher wage rate. The Department will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes "helper" (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determination otherwise available for use by the Contractor and subcontractors, the Contractor and subcontractors shall pay not less than the Federal minimum wage rate, which most closely approximates the duties of the employees in question.

### **7-3 LIABILITY INSURANCE**

Delete the entire section and replace with the following:

### **7-3 INSURANCE**

By signing the Bid Letter of Transmittal included in the Bid Forms, the Contractor certifies that the insurance requirements set forth in the contract documents can be obtained and will be carried without reservation or exclusion should Bidder be awarded a contract pursuant to this IFB.

Successful Bidder shall comply with this section and the language of this section shall be adopted in the agreement:

Contractor shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, with an insurance company admitted to do business in California, rated "A" or better in the most recent A.M. Best Insurance Rating Guide, and approved by City, a policy or policies of:

- (1) Broad-form commercial general liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000);
- (2) Automobile liability insurance, with minimum combined single limits of One Million Dollars (\$1,000,000); and
- (3) Workers' compensation insurance with a minimum limit of One Million Dollars (\$1,000,000) or the amount required by law, whichever is greater.

City, its officers, employees, attorneys, and designated volunteers shall be named as additional insureds on the policy(ies) as to commercial general liability and automobile liability with respect to liabilities arising out of Contractor's performance of services under this Agreement.

Each insurance policy required by this Section shall be endorsed as follows: (1) the insurer waives the right of subrogation against City and its officials, officers, employees, agents and representatives; (2) except for the workers' compensation policy, the policies are primary and non-contributing with any insurance that may be carried by City; and (3) the policies may not be canceled or materially changed except after thirty (30) calendar days' prior written notice by insurer to City, unless canceled for non-payment, then ten (10) calendar days' notice shall be given.

All insurance coverages shall be confirmed by execution of endorsements required under this Section. Contractor shall file the endorsements with City on or before the date of commencement of services pursuant to this Agreement, and thereafter maintain current endorsements on file with City. The endorsements are subject to City's approval. Contractor shall not cancel, reduce or otherwise modify the insurance policies required by this Section.

#### **7-4 WORKERS' COMPENSATION INSURANCE.**

Delete the entire section and utilize worker compensation insurance requirements stipulated in SP 7-3 above.

#### **SP 7-5 PERMITS**

Delete section and replace with the following:

Contractor shall maintain all appropriate licenses required by the State of California for the work required under the terms of this Agreement. The cost for any required licenses, permits or special taxes shall be the responsibility of the Contractor.

Contractor shall obtain necessary City of Norwalk business and other applicable licenses.

Contractor shall give all notices necessary in connection with the performance of the contract, shall secure and pay for all necessary licenses and permits to do the work and shall comply with all laws, ordinances, rules and regulations, bearing on the conduct of the work. Any work performed, or materials, or equipment furnished that does not conform to said laws, ordinances rules and regulations shall be changed to conform thereto by the Contractor at his sole expense.

#### **7-6 CONTRACTOR'S REPRESENTATIVE**

(add the following)

At the time of the pre-job conference the Contractor shall furnish a written list of his personnel who are authorized to sign work orders. There shall be at all times Contractor's personnel on the job who have the authority to sign work orders.

#### **7-7 COOPERATION AND COLLATERAL WORK**

(add the following paragraph)

During the period of construction of this project, utility companies and other agencies may work concurrently on their facilities within or near the job site of this project. Contractor shall cooperate fully with their operations to avoid conflicts and to facilitate progress of each other's work.

#### **7-8 PROJECT SITE MAINTENANCE**

7-8.1 (add the following sentence to the second paragraph)

Contractor shall, at the end of each day, clean up all debris that is generated from the Contractor's operation. If the Contractor fails to sweep the project site as specified above, the City will have the site swept and bill the Contractor at an overtime rate, minimum hour (4) hours.

(add the following paragraphs following the second paragraph)

The Contractor will be responsible for maintaining all areas within and around the job site in a safe and clean condition. Contractor's attention is directed especially to the requirement that dust caused by his operation shall be controlled by sweeping watering or other means at all time.

The Contractor shall not store materials or equipment in the public right-of-way.

The Contractor will be responsible for maintaining all driveways in a usable, clean condition. If during the paving operation the driveways are marked up with the tack coat or asphalt, it will be the responsibility of the Contractor to clean the driveways to the satisfaction of the City. All metal manhole and water valve covers shall receive a heavy



coating of parting agent such as diesel oil, or plastic covers as approved by Inspector, prior to paving operation. After the paving has been placed and compacted, the Contractor shall remove all asphaltic material attached to manhole and water valve covers.

## **7-8.2 Air Pollution Control**

Add the following

### **CALIFORNIA AIR RESOURCES BOARD**

Contracts with an effective date of December 31, 2007 or later. Contractor must comply with all federal, state, and local air pollution control laws and regulations applicable to the contractor.

## **7-8.4 Storage of Equipment and Material**

### **7-8.4.1 General.**

Add the following.

All Contractor work areas on the jobsite will be assigned by the City of Norwalk. The Contractor shall confine its operations to the areas so assigned. Should Contractor find it necessary to use any additional off-site areas for any purpose whatsoever, Contractor shall at its own expense, provide and make its own arrangements for the use of such additional off-site areas.

## **7-10 PUBLIC CONVENIENCE AND SAFETY**

### **7-10.1 Traffic and Access (add the following paragraphs)**

The Contractor shall conduct its operations to meet the following minimum requirements for control of traffic:

- One lane of traffic shall be open in each direction at all times. No lane closures to the Norwalk / Santa Fe Springs Metrolink Station are permitted between 5:00am and 9:40am and between 1:00pm and 7:00pm, unless otherwise approved by the City.
- Contractor shall submit traffic control and detour plans consistent with the traffic control requirements established by the City for controlling traffic during the various phases of construction that meet the requirements specified below for City's review and approval.
- Lane closures and maintenance of access to abutting properties shall conform to the requirements specified in Standard Specifications.
- For any lane closure on the major arterial streets, the Contractor shall provide, install and maintain flashing arrow board in conformance with the provisions of Section 12-3.03 of the State Standard Specifications.

- Contractor shall also provide and maintain all other signs, barricades, pedestals, flashers, delineators and other necessary facilities for the protection of the public, including pedestrians, within the limits of the construction area. Contractor shall also post proper signs to notify the public regarding detours and the condition of the roadway, all in accordance with the provisions of the Vehicle Code and the current Manual of Uniform Traffic Control Devices. If any traffic cones or portable delineators are damaged, displaced or are not in an upright position, from any cause, said cones or portable delineators shall immediately be replaced or restored to their original location, in an upright position, by the Contractor.
- Special emphasis shall be placed on the use of Road Work Ahead (C18) signs at the beginning, end and any access and/or intersecting streets.
- All signs, barricades and delineators shall be specified in the "Manual of Warning Signs, Lights, and Devices for Use in Performance of Work Upon Highways" issued by the State of California, Department of Transportation, and in accordance with Part VI of the Manual on Uniform Traffic Control Devices.
- The Contractor shall furnish such flagmen as are necessary to give adequate warning to traffic or to the public of any dangerous conditions to be encountered. Flagmen, while on duty and assigned to give warning to the public that the highway is under construction and of any dangerous conditions to be encountered as a result thereof, shall perform their duties and shall be provided with the necessary equipment in accordance with the current "Instructions to Flagmen" of the Department of Transportation. The equipment shall be furnished and kept clean and in good repair by the Contractor, at his expense.
- Should the Contractor appear to be neglectful or negligent in furnishing warning and protective measures as provided, the City Engineer may direct attention to the existence of a hazard and the necessary warning and protective measures shall be furnished and installed by the Contractor, at his expense. Should the Contractor fail to furnish sufficient precautionary traffic control devices within one (1) hour after notification by the City, the City shall place the necessary items or personnel and the Contractor shall be billed for said items or personnel.
- Should the City of Norwalk Director of Transportation, or his/her designee, point out the inadequacy of warning and protective measures, such action on the part of the City shall not relieve the Contractor from responsibility for public safety or abrogate his obligation to furnish and pay for these devices.
- The Contractor shall provide access through the project site for the use of emergency vehicles.
- The Contractor shall coordinate with the City or City's representative notices to all affected business and residents adjacent to work sites indicating start and end times of construction at specific site and providing contact information for the contractor.

- Contractor shall coordinate with the City or City's representative the posting of "Temporary No Parking" signs along the street areas Norwalk / Santa Fe Springs Metrolink Station areas to be worked prior to restrictions. Signs shall be promptly removed when no longer applicable.
- Contractor shall submit a text of all signs and notices to the City of Norwalk Director of Transportation, or his/her designee, for approval before installation or distribution.
- Contractor shall notify the following entities at least seventy-two (72) hours in advance of any restriction of access.

Trash Collector  
Local and Regional Transit Services

Full compensation for conforming to the requirements of this article shall be considered as included in other items of work, and no additional compensation will be allowed therefore.

7-10.2 Storage of Equipment and Materials in Public Streets (Delete the first paragraph and add the following)

No materials or equipment will be allowed to be stored or parked overnight on City streets.

## **SP 7-11 PATENT FEES OR ROYALTIES**

Add the following paragraphs:

In lieu of any other warranty by the City or the successful Bidder against patent or copyright infringement, statutory or otherwise, it is agreed that the successful Bidder shall defend at its own expense any claim or suit against the City on account of any allegation that any item furnished under this Agreement or the normal use of sale thereof arising out of the performance of this Agreement, infringes on any present existing United States letter patent or copyright and the successful Bidder shall pay all costs and damages finally awarded in any such suit or claim, provided that the successful Bidder is promptly notified in writing of the suit or claim and given authority, information and assistance at the Bidder expense of same.

However, the successful Bidder will not indemnify the City if the suit results from: (1) City's alteration of a deliverable, such that said deliverable in its altered form infringes upon any presently existing United States letters patent or copyright; or (2) the use of a deliverable in combination with other material not provided by the Bidder when such use in combination infringes upon an existing United States letters patent or copyright.

The successful Bidder shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof. The successful Bidder shall not be obligated

to indemnify the City under any settlement made without the Bidder's consent or in the event the City fails to cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at the Bidder's expense. If the use or sale of said item is enjoined as a result of such suit or claim, the Bidder, at no expense to the city, shall obtain for the City the right to use and sell said item, or shall substitute an equivalent item acceptable to the City and extend this patent and copyright indemnity thereto.

## **SECTION 8 – FACILITIES FOR AGENCY PERSONNEL**

Add the following Subsection:

### **8.1.1 Agency Personnel Project Office**

The Contractor shall provide the Agency's Construction Manager Engineer a field office, as well as meeting space for weekly progress meetings, until 100 percent of the work is accepted with furnishings, equipment and services for the exclusive use by Agency personnel in accordance with Section 8, "Facilities for Agency Personnel", of the Standard Specifications and these Special Provisions. The field office is modified from requirements in Section 8 as described herein.

#### **GENERAL**

The field office shall be provided at the site ready for the Engineer's use prior to any construction work. It is anticipated that the Agency will have 2 full time construction management staff that will be working on the site the field office. There shall be one (1) lockable private office of approximate size 12 ft. by 12ft., and one lavatory. Additionally, the Contractor shall provide conference space sufficient to accommodate 10 persons(no smaller than 500 sq. feet; approximately 12 ft. by 42 ft.). Doors are to be equipped with heavy duty metal clasps for an Agency padlocking along with stairs and windows.

The perimeter of the office area, if the office is not in a permanent building, shall be secured within a six-foot-high chain link fence. The office shall be furnished with at least 3 parking spaces within the fence. The parking area and driveway shall be graded to drain away from the office entrance, (if necessary). The Contractor shall provide a lockable gate, lock assembly, and three (3) keys if the fence is applicable. Contractor shall remain responsible for the field office's security.

If the field office is a trailer, title to the trailer and provided contents, shall remain with the Contractor. The Contractor shall provide the Engineer with a copy of written permission or agreement to place the field office on private property unless such private property is within a project construction staging area or an easement shown on the plans.

The Contractor shall provide all necessary electrical wiring, plumbing, toilet and lavatory fixtures, air conditioning and electric heating equipment, and shall furnish all

necessary electricity, light, heat, water, and janitorial services in connection with the field office for the duration of the work.

## TELEPHONE AND INTERNET SERVICE

Before any construction work begins, the Contractor shall provide one high speed internet modem with internet service and wireless router with a minimum connection speed of 15MB/s download speed and 5 MB/s upload speed. The Contractor shall pay for all service costs for the internet service and wireless router. Service shall be provided for the full duration of the contract.

## FURNISHINGS

The Contractor shall provide the following items in new condition for the conference room:

Conference table for 10 people (3' x 7' minimum)  
Ten conference chairs  
Fire Extinguisher (size and type as required by code)  
"White Board" (dry-erase type) 36" x 48" minimum with hangers  
Waste basket

The Contractor shall provide the following items in new condition for the Agency's office:

2 standard 30" x 60" desks with not less than 3 drawers capable of being locked.  
2 office chairs, standard arm rest type, adjustable, swivel, tilt-back with casters.  
1 plan rack (all metal plan-hold type) capable of holding 6 sets of plans, complete with 6 standard all metal plan-hold clamps.  
1 lateral file cabinet legal size, 2 or 3 drawers with lock, double suspension, complete with Pendaflex (or equal) suspension racks for each drawer. File cabinet shall have the capability of being locked by a key for appropriate storage and protection of sensitive labor compliance documents.  
1 tack board 36" x 42" minimum with hangers.  
1 waste baskets  
1 bookcase with a minimum of 3 ½' wide and 4' in length, 72" high.

The Contractor shall provide the following items in new condition for the lavatory:

A flush-type chemical toilet with a holding tank.  
Sink with hot and cold water. Wall-mounted mirror.  
Paper towel dispenser with paper towels. Toilet paper supply.  
Cabinet to hold supplies. Waste basket.  
Soap and hand sanitizer. First-aid kit.

The Resident Engineer's office shall be fully functional prior to any field construction work by the Contractor.

Lavatory sanitary waste materials shall be regularly pumped out and the chemicals recharged. A continuous supply of toilet paper and paper towels shall be furnished for the toilet facility.

Regular janitorial services shall be furnished during working hours twice per week. Offices shall be swept, dusted, and waste receptacles emptied. Toilet facilities shall be sanitized and cleaned. Failure to provide timely janitorial services may result in a \$250 backcharge, for any missed janitorial service.

## **SECTION 9 – MEASUREMENT AND PAYMENT**

### **9-3 PAYMENT**

#### **9-3.1 General**

Add the following:

City will pay successful Bidder in accordance with the following terms and procedures: Successful Bidder shall submit written invoices to City by the fifteenth (15th) of each month clearly detailing the services furnished by successful Bidder during the preceding month and for all other supplies and services provided by successful Bidder. City shall pay all undisputed portions of the invoice within thirty (30) calendar days after receipt of the invoice in accordance with its standard warrant procedures. Clear reference must be made to the purchase order (P.O.) number, Project Name and Number 1 the time period that the work was performed, itemization of the work and/or reference to the payment schedule and identification of the contractor's taxpayer identification number.

Delete paragraph 9 and replace with the following:

At the expiration of thirty-five (35) days from the filing and recording of the notice of completion of the work, the amount deducted from the final estimate and retained by the agency will be paid to the Contractor except such amounts as are required to be withheld by properly executed and filed notices to stop payment, or as may be authorized by the contract.

#### **9-3.2 Partial and Final Payment**

Amend as follows:

- A. Each month the Contractor and Construction Manager will make approximate measurements of the work performed during the previous month. From each progress estimate, five percent (5%) will be deducted and retained by the City. In lieu of deducting five percent (5%), the Contractor may substitute securities equivalent to the amount withheld.

Securities eligible for investment under this Section shall include those listed in Section 16430 of the Government Code or bank or savings and loan certificates of deposit.

- B. Prompt Payment for Satisfactory Performance. The prime contractor agrees to pay each sub-contractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contractor receives from the City of Norwalk. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the City of Norwalk. This clause applies to both DBE and non-DBE sub-contractors.
- C. Release of Retainage. The prime contractor agrees further to release retainage payments to each sub-contractor within thirty (30) days after the sub-contractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the City of Norwalk. This clause applies to both DBE and non-DBE subcontractors.

Add the following:

After acceptance by the City, Construction Manager will make a proposed final estimate in writing of the total amount payable to the Contractor, including therein an itemization of said amount, segregated as to contract item quantities, extra work and any other basis for payment, and shall also show therein all deductions made or to be made for prior payments and amounts to be kept or retained number the provisions of the contract. All prior estimates and payments shall be subject to correction in the proposed final estimate.

Within thirty (30) days after said proposed final estimate has been submitted to him, the Contractor shall submit to the City of Norwalk Director of Transportation, or his/her designee, his written approval of said proposed final estimate or a written statement of all claims he has arising under or by virtue of the contract. No claim will be considered that was not included in said written statement of claims, or will any claim be allowed as to which a notice or protest is required under the provisions in Section 3-4 "Changed Conditions", 6-6.4 Written Notice and Report", and 6-7.3 "Contract Time Accounting", unless the Contractor has complied with the notice or protest requirements in said sections.

On the Contractor's approval, or if the Contractor files no claim within said period of thirty (30) days, the City of Norwalk Director of Transportation, or his/her designee, will issue a final estimate in writing in accordance with the proposed final estimate submitted to the Contractor and within thirty (30) days thereafter the City will pay the entire sum so found to be due. Such final estimate and payment thereon shall be conclusive and binding against both parties to the contract on all questions relating to

the amount of work done and the compensation payable therefore. If the Contractor within said period of thirty (30) days files claims, the City of Norwalk Director of Transportation, or his/her designee, will issue a semifinal estimate in accordance with the proposed final estimate submitted to the Contractor and within thirty (30) days thereafter the City will pay the sum of found to be due. Such semifinal estimate and payment thereon shall be conclusive and binding against both parties to the contract on all questions relating to the amount of work done and the compensation payable therefore, except insofar as affected by the claims filed within the time and manner required hereunder.

The following Documentation Shall Be Included with All Payments:

- Conditional lien releases for current payment, unconditional for prior payment(s) from the prime Contractor, all 1<sup>st</sup> Tier Subcontractors and all other Tier Subcontractors / Suppliers / Vendors that have submitted 20 day Preliminary Notices
- Certified Payrolls and Fringe Benefit Statements and/or nonperformance reports, Proof of any requisite restitution from prime contractor and all subcontractors that worked within or prior to the billing period
- All labor and material backup, invoices, delivery tickets associated with any approved Extra Work included in the invoice
- Delivery tickets for all materials included in the invoice
- Confirmation that as-built records are up to date
- Documentation Required by Federal Provisions
- Schedule Updates and Look Aheads

The claims filed by the Contractor shall be sufficient detail to enable the City of Norwalk Director of Transportation, or his/her designee, to ascertain the basis and the amount of said claims. The City of Norwalk Director of Transportation, or his/her designee, will consider and determine the Contractor's claims and it will be the responsibility of the Contractor to furnish within a reasonable time such further information and details as may be required by the City of Norwalk Director of Transportation, or his/her designee, to determine the facts or contentions involved in his claims. Failure to submit such information and details will be sufficient cause for denying the claims.

The City Council will make the final determination of any claims which remain in dispute after completion of claim review by the City of Norwalk. The City of Norwalk will review such claims and make written recommendations thereon. The Contractor may meet with the City of Norwalk to make a presentation in support of such claims.

Upon final determination of the claims, the City of Norwalk Director of Transportation, or his/her designee, shall then make and issue his final estimate in writing and within thirty(30) days thereafter the City of Norwalk will pay the entire sum, if any, found due thereon. Such final estimate shall be conclusive and binding against both parties to the contract on all questions relating to the amount of work done and the compensation payable therefore.



## **SECTION 313 – MAINTENANCE OF TRAFFIC AND TRAFFIC CONTROL**

### **313-1 GENERAL REQUIREMENTS**

All work required for maintaining and controlling traffic during the construction period shall conform to the project plans, the applicable provision of Section 7-10 of the Standard Specifications and these modifications. All such work shall additionally conform to Work Area Traffic Control Handbook (WATCH) published by BNI Books, a division of Building new, Inc., latest edition. All warning signs and devices shall be approved and in place prior to working on the roadway.

Should conflict arise between the plans or the various specifications, the more restrictive provisions or standards shall apply.

The Contractor shall be responsible for the protection of vehicular and pedestrian traffic until the work called for in the Plans, the Standard Specifications, and these Special Provisions has been accepted by the City Engineer.

The Contractor shall notify local authorities of his intent to begin work at least five working days before work is begun. The Contractor shall cooperate with local authorities relative to handling traffic through the area and shall make his own arrangements relative to keeping the working area clear of parked vehicles.

The Contractor shall notify the Construction Manager of any operation that will affect two (2) way flow of traffic in excess of five (5) minutes for every half (1/2) hour of working time, at least two (2) working days in advance of such operation.

During working hours, flaggers may be required at the direction of the City Engineer at intersections for traffic control. The Contractor shall also furnish and erect all necessary traffic control signs which may be required.

Traffic control devices shall be installed and maintained at all times by a specialty sub-contractor or a qualified person(s) who shall have no duties other than traffic control and maintenance of traffic control devices.

All signs, barricades, and devices shall be new or in a near new condition, and shall not have graffiti thereon. Signs, barricades, and devices not in compliance with this specification shall be removed, replaced or remedied immediately when directed by the City Engineer.

In the event City forces are called out to correct problems with any portion of the traffic control system, such as cones, barricades, signs, etc., that are the responsibility of the contractor, the City will deduct the actual expense, including applicable overhead charges, from amounts due the contractor.

### **313-2 TRAFFIC CONTROL PLAN**

Specific traffic control plans have neither been prepared nor included in the project plans. The contractor shall be responsible for implementing traffic control in accordance with WATCH details. If conditions dictate, it may be necessary to revise the traffic control details. Based upon changes in traffic conditions or patterns, the contractor will be required to add delineators, sandblast existing striping etc. as directed by the City Engineer. All such revisions shall be approved by the City Engineer.

The Contractor shall maintain all traffic control devices on a seven day, twenty four (24) hour basis. Construction signs shall be checked for placement and visibility, and delineators shall be maintained by the Contractor in their proper location at all times.

### 313-3 ACCESS

Access to street intersections, public and private parking lots, commercial businesses, residences, and other public and private properties must be maintained at all times. At least three working days in advance of starting any work that may affect the access to private properties, the Contractor shall provide notice to such property owners. Vehicular access to and from commercial and residential driveways and parking lots shall be maintained at all times, except when performing items of work, which cannot be accomplished without access restriction. The Contractor shall provide temporary driveway approaches in full reconstruction areas as directed by the City Engineer, unless other access arrangements can be made. When access must be restricted, as determined by the City Engineer, it shall occur only for the minimal time period required to accomplish the particular item of work.

### 313-5 RESTRICTION OR CLOSURE OF TRAFFIC LANES

Not more than one lane in each direction may be closed on major highways at any time during construction hours unless indicated otherwise on the traffic control plans or specified herein. During any lane closures, Type II flashing arrow signs shall be used in accordance with the Caltrans Standard Specification and Standard Plans, and shall be maintained on a continual basis for the duration of the closure. Solar power flashing arrow signs shall be used in residential areas, adjacent apartment buildings or schools, and at night unless approved otherwise by the City Engineer.

Unless necessary, on major highways, only one lane may be closed in each direction at any one time. On residential streets, only the parking lane on one side of the street can be closed.

Arterial Highway	8:30 a.m. to 3:30 p.m.
Residential Streets	8:00 a.m. to 5:00 p.m.

## 313-4 PAYMENT

Payment for furnishing, installing, maintaining, moving, replacing, and cleaning of barricades, signs, lights, flashers, temporary pavement striping/markers, traffic control devices, and controlling traffic shall be distributed among the various Bid items for which traffic control is required and no additional compensation will be allowed

The Contractor shall furnish all labor, materials, tools, equipment, transportation, and other incidentals for doing all work involved in maintaining and controlling traffic as specified on the plans, and in the contract documents, including temporary striping and flagging. There shall be no division of cost for flagging or extra work payments to the contractor in conjunction with maintenance of traffic and traffic control.

## **SECTION 315 – OTHER CONSTRUCTION ITEMS**

### 315-1 MOBILIZATION

#### 315-1.1 General

Mobilization shall consist of preparatory work and operations including, but not limited to, those necessary for the movement of personnel, equipment, materials and incidentals to the project site necessary for work on the project and for all other work and operations which must be performed or costs incurred including bonds, insurance, and financing prior to beginning work on the various contract items on the project site.

Mobilization shall also include the cost, time and labor to move the necessary construction equipment to and from the job site, supervisory time on the job by the Contractor's personnel to keep the construction site in a safe condition and all other related work as required for all non-working days during the course of construction. Contractor is responsible for securing an adequate storage site for equipment and materials.

The Contractor shall have on the work site at all times, as its agent, a competent English speaking superintendent capable of reading and thoroughly understanding the plans, specifications, other related documents, and directions from Contractor or City.

The Contractor shall also be required to distribute notices to all residents and businesses directly affected by or adjacent to the Construction Activities noting applicable dates of construction activities. The notices shall be submitted to the Construction Manager for approval prior to distribution.

The cost for the preparation of the detailed work plan shall also be included under this work item.

No mobilization payment shall be released until the contractor has adequately posted all required federal posters at the job site and provides proof of such posting to the Engineer.

Mobilization shall be limited to ten percent (10%) of the total Bid.

#### 315-1.2 Measurement and Payment

**Payment for Mobilization** shall be per the **Lump-Sum (LS)** price Bid and shall include obtaining and paying for all permits and business licenses as required from the City of Norwalk and other related agencies. The City of Norwalk will waive its permit fee. The Contractor shall comply with the requirements specified by each license or permit. Progress payments for this item shall be paid in accordance with the completion percentage of the project to the Contractor, and shall include the costs of such mobilization and administration for the entire contract period including progress' schedules.

## **SECTION 4 - FORMS AND CERTIFICATIONS**

This section includes the following forms:

4A: BID FORMS	Forms that must be submitted with the Bid
4B: CONTRACT FORMS	Sample Documents and forms associated with the Construction Agreement that will result from this IFB, required from the successful, awarded Bidder.
4C: PROJECT FOMS	Forms required during the prosecution of the Work for Contract Compliance.

## **4A - BID FORMS**

## BID SUBMISSION CHECKLIST

This checklist must be completed and returned with submitted Bids. Failure to return this checklist may be cause for considering the Bid non-responsive.

Description	Section	Bidder shall initial here
Bid Guarantee	IB.2	
Letter of Transmittal (Including Statements certifying Contactor's ability to comply with Bonding and Insurance)	IB.3	
State of California Contractor's License	IB.10	
Proof of participation as signatory to a recognized apprenticeship and/or training program	IB.14	
Indemnification and Hold Harmless Agreement and Waiver of Subrogation and Contribution	Exhibit A	
References	Exhibit B	
Certification of Non-Collusion	Exhibit C	
Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters	Exhibit D	
Certification of Restrictions on Lobbying	Exhibit E	
List of Sub-Contractors	Exhibit F	
Subcontracting Request Form	Exhibit F-1	
Public Contract Code	Exhibit G	
Buy America Requirements	Exhibit H	
Equal Employment Opportunity Certification	Exhibit I	
Bid Form	Exhibit J	
Data Universal Numbering System Number	Exhibit K	

Company Name:	
Name and Title of Bidder initialing document (print):	
Signature:	
Date:	

## LETTER OF TRANSMITTAL

CITY OF NORWALK  
PURCHASING DIVISION  
12700 NORWALK BLVD., ROOM 6  
NORWALK, CA 90650

SUBJECT: INVITATION FOR BID (IFB) NO. 15-448 FOR THE TRANSPORTATION /  
PUBLIC SERVICES FACILITY AND METROLINK STATION  
IMPROVEMENT PROJECT - PROJECT NO. 7760

In response to the subject Invitation for Bid (IFB) and in accordance with the accompanying Instructions to Bidders, the Bidder hereby commits to the City of Norwalk to perform the work in accordance with the provisions in the Contract Documents and any addenda thereto and at the prices stated in the Price Sheet, which will be included and made a part of any subsequent Contract.

The Bidder agrees that the Bid constitutes a firm offer that cannot be withdrawn for ninety (90) calendar days from the Bid opening or until the Contract for the work is fully executed between the City and a third party, whichever is earlier.

If awarded a contract, the Bidder agrees to execute the Agreement and deliver it to the City of Norwalk within seven (7) calendar days after receiving a Letter of Award together with the necessary certificates of insurance and any applicable performance or payment bonds. The Contractor shall proceed with the work upon receipt of a Notice to Proceed.

The Bidder certifies that it has:

1. Examined and is fully familiar with all the provisions of the IFB Documents and any addenda thereto;
2. Satisfied itself as to the requirements of the Contract, the nature and location of the work, the general and local conditions to be encountered in performance of the work, and all other matters that can in any way affect the Work and/or the cost thereof.
3. Examined the experience, skill and certification requirements in Scope of Services and that the entities performing the work can fulfill the specified requirements; and
4. Carefully reviewed the accuracy of all statements and figures shown in the Bid and attachment hereto.

Therefore, the undersigned hereby agrees that the City of Norwalk will not be responsible for any errors or omissions in the Bid.

The Bidder further certifies that:

1. The only persons, firms, corporations, joint ventures/partnerships, and/or other parties interested in the Bid as principals are those listed as such in the Bid Forms and that,
2. The Bid has been prepared without collusion with any other person, firm, corporation, joint venture/partnership, and/or other party.



The undersigned acknowledges receipt, understanding and full consideration of the following addenda to the Bid Documents:

Addenda No(s)

_____ Dated _____	_____ Dated _____
_____ Dated _____	_____ Dated _____
_____ Dated _____	_____ Dated _____

*Failure to acknowledge receipt of all addenda may cause the Bid to be considered non-responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Bid/offer.*

Bidder's Name \_\_\_\_\_

Business Address \_\_\_\_\_

\_\_\_\_\_

Contact Person \_\_\_\_\_

Phone \_\_\_\_\_

Fax \_\_\_\_\_

Email Address \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

*(Joint ventures/partnerships are to provide a signed copy of their agreement with their Bid.)*

*For Bids requiring licenses the following information is required:*

Contractor's License No. \_\_\_\_\_

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

License Classification: \_\_\_\_\_

## INDEMNIFICATION AND HOLD HARMLESS AGREEMENT AND WAIVER OF SUBROGATION AND CONTRIBUTION

Contract/Agreement/License/Permit No. or description: IFB No. 15-448, Transportation/Public Services Facility and Metrolink Station Improvement Project

---

Indemnitor(s):

\_\_\_\_\_  
(list all names)

To the fullest extent permitted by law, Indemnitor hereby agrees, at its sole cost and expense, to protect, indemnify, and hold harmless the City of Norwalk and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, and assigns (collectively "Indemnitees") from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith (collectively "Liabilities"), resulting from any wrongful or negligent act, failure to act, error, or omission of Indemnitor or any of its officers, agents, servants, employees, subcontractors, material men, suppliers or their officers, agents, servants or employees, arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to the above-referenced contract, agreement, license, or permit (the "Agreement") or the performance or failure to perform any term, provision, covenant, or condition of the Agreement, including this indemnity provision. This indemnity provision is effective regardless of any prior, concurrent, or subsequent passive negligence by Indemnitees and shall operate to fully indemnify Indemnitees against any such negligence. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies which Indemnitees may have under the law. Payment is not required as a condition precedent to an Indemnitee's right to recover under this indemnity provision, and an entry of judgment against the Indemnitor shall be conclusive in favor of the Indemnitee's right to recover under this indemnity provision. Indemnitor shall pay Indemnitees for any attorneys fees and costs incurred in enforcing this indemnification provision. Notwithstanding the foregoing, nothing in this instrument shall be construed to encompass (a) Indemnitees' active negligence or willful misconduct to the limited extent that the underlying Agreement is subject to Civil Code § 2782(a), or (b) the contracting public agency's active negligence to the limited extent that the underlying Agreement is subject to Civil Code § 2782(b). This indemnity is effective without reference to the existence or applicability of any insurance coverages which may have been required under the Agreement or any additional insured endorsements which may extend to Indemnitees.

City agrees to promptly inform Indemnitor in writing of any claim that City believes to be subject to this Indemnification and Hold Harmless Agreement.

Indemnitor, on behalf of itself and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Indemnitees, while acting within the scope of their duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by or on behalf of the Indemnitor regardless of any prior, concurrent, or subsequent non-active negligence by the Indemnitees.

In the event there is more than one person or entity named in the Agreement as an Indemnitor, then all obligations, liabilities, covenants and conditions under this instrument shall be joint and several.

"Indemnitor"

Name: \_\_\_\_\_  
(Print)

Name: \_\_\_\_\_  
(Print)

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

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

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

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

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

## REFERENCES

Bidders shall furnish a minimum of three (3) references of customers for which they have been the Principal or are currently the Principal for work of a similar nature to the requirements outlined in this IFB.

Company name:	
Address:	
Phone number and Email:	
Contact Person:	
Description of work performed and, if applicable, term of contract:	

Company name:	
Address:	
Phone number and Email:	
Contact Person:	
Description of work performed and, if applicable, term of contract:	

Company name:	
Address:	
Phone number and Email:	
Contact Person:	
Description of work performed and, if applicable, term of contract:	

### CERTIFICATION OF NON-COLLUSION

By submission of this Bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint Bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief:

1. The prices in this Bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any other matter relating to such prices with any other Bidder or with any competitor.
2. Unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competition; and,
3. No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a Bid for the purposes of restricting competition.

Dated: \_\_\_\_\_

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

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

#### NOTARY

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_ My commission expires \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Type or Print Title

**CERTIFICATION OF PRIMARY PARTICIPANT  
REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**  
(applicable to contracts \$100,000 or greater)

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential Contractor for a major third party contract), certifies to the best of its knowledge and belief, that it and its principals:

Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

Have not within a three-year period preceding this application/bid had one or more public transactions (Federal, State or local) terminated for cause or default.

[If the primary participant (applicant for an FTA grant, or cooperative agreement, or potential third party Contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.]

THE PRIMARY PARTICIPANT (APPLICANT FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT), \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

\_\_\_\_\_  
Signature and Title of Authorized Official

\_\_\_\_\_  
Date

NOTE: Lower-tier Participants in this Contract (subcontractors, suppliers) are required to complete and submit identical certifications as the above to the CITY of Norwalk Transportation Department prior to award.

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

(applicable to contracts \$100,000 or greater)

I, \_\_\_\_\_, hereby certify on behalf of  
(Name and title of company official)

\_\_\_\_\_ that:  
(Name of company)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed by: \_\_\_\_\_

\_\_\_\_\_  
Type or Print Name

## LIST OF SUB-CONTRACTORS

The Bidder shall list the name and address of each sub-contractor.

The amount of work allowed being subcontracted and the substitution of sub-contractors shall be in accordance with Section 2-3 of the Standard Specifications for Public Works Construction. The bidder shall set forth the name and business address of each sub-contractor who will perform work or render service to the bidder on said contract in an amount in excess of one-half (1/2) of one (1%) percent of the total bid and the portion of the work to be done by such sub-contractor .

Sub-contractors listed in accordance with the provisions of Section IB.13 must be properly licensed under the laws of the State of California for the type of work which they are to perform, AND THEIR LICENSE NUMBERS MUST BE LISTED HEREIN. Failure to do so may result in delay of the award of contract. Do not list alternate sub-contractors for the same work.

Sub-contractors shall be considered employees of the Contractor, and the Contractor shall be responsible for their work.

Name of Sub-contractor, Supplier or Vendor	License Number	Address of Office, Mill or Shop	Specific Description of Sub-Contract Work

# SUBCONTRACTING REQUEST FORM

FRONT  
See Instructions On Back  
REQUEST NUMBER

CONTRACTOR NAME	COUNTY	ROUTE
BUSINESS ADDRESS	CONTRACTNO.	
CITY/STATE	ZIPCODE	FEDERAL AID PROJECT NO. (From Special Provisions)

SUBCONTRACTOR (Name, Business Address, Phone)	BID ITEM NUMBER(S)	% OF BID ITEM SUBBED	CHECK IF: (See Categories Below) (1) (2) (3)			DESCRIBE WORK WHEN LESS THAN 100% OF WORK IS SUBBED	\$ AMOUNT BASED ON BID \$ AMOUNT

**Categories:**                      1) Specialty                      2) Listed Under Fair Practices Act                      3) Certified DBE/MBE/WBE/DVBE

**I Certify That:**

- The Standard Provisions for labor set forth in the contract apply to the subcontracted work.
- If applicable, (Federal Aid Projects only) Section 14 (Federal Requirements) of the Special Provisions have been inserted in the subcontracts and shall be incorporated in any lower-tier subcontract. Written contracts have been executed for the above noted subcontracted work.

CONTRACTOR'S SIGNATURE	DATE
------------------------	------

**NOTE:** This section is to be completed by the Resident Engineer

1. Total of bid items.....\$ \_\_\_\_\_
2. Specialty items (previously requested).....\$ \_\_\_\_\_
3. Specialty items (this request).....\$ \_\_\_\_\_
4. Total (lines 2+3).....\$ \_\_\_\_\_
5. Contractor must perform with own forces (lines 1 minus 4) x \_\_\_\_\_ %.....\$ \_\_\_\_\_
6. Bid items previously subcontracted.....\$ \_\_\_\_\_
7. Bid items subcontracted (this request).....\$ \_\_\_\_\_
8. Total (lines 6+7).....\$ \_\_\_\_\_
9. Balance of work Contractor to perform (lines 1 minus 8).....\$ \_\_\_\_\_

<b>APPROVED</b>	
RESIDENT ENGINEER'S SIGNATURE	DATE



## INSTRUCTIONS FOR COMPLETING SUBCONTRACTING REQUEST FORM

*All First-tier subcontractors must be included on a subcontracting request.*

Submit in accordance with Section 8-1.01 of the *Caltrans Standard Specifications*. Type or print requested information. Information copy is to be retained by the contractor. Submit other copies to project's Resident Engineer. After approval, the original will be returned to the contractor.

When an entire item is subcontracted, the value to be shown is the contractor's bid price. When apportion of an item is subcontracted, describe the portion, and show the % of bid item and value.

THIS FORM IS NOT TO BE USED FOR SUBSTITUTIONS.

Prior to submittal of form involving a replacement Subcontractor, submit a separate written request for approval to substitute a listed subcontractor. Section 4107 of the Government Code covers the conditions for substitution.

Submit a separate written request for approval of any DBE/MBE/WBE/DVBE substitution. Include appropriate backup information and state what efforts were made to accomplish the same dollar value of work by other certified DBE/MBE/WBE/DVBEs.

NOTE: For contractors who will be performing work on railroad property, it is necessary for the contractor to complete and submit the Certificate of Insurance (StateFormDH-OS-A10A) naming the subcontractor as insured. *No work shall be allowed which involves encroachment on railroad property until the specified insurance has been approved.*

## **PUBLIC CONTRACT CODE**

### **Public Contract Code Section 10285.1 Statement**

In accordance with Public Contract Code Section 10285.1 (Chapter 376, State. 1985), the bidder hereby declares under penalty of perjury under the laws of the State of California that the bidder has \_\_\_\_\_, has not \_\_\_\_\_ been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term "bidder" is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

Note: The bidder must place a check mark after "has" or "has not" in one of the blank spaces provided. The above Statement is part of the Bid. Signing this Bid on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

### **Public Contract Code Section 10162 Questionnaire**

In accordance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the bidder, any officer of the bidder, or any employee of the bidder who has a proprietary interest in the bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation:

Yes\_\_\_\_ No\_\_\_\_

If the answer is yes, explain the circumstances in the following space.

### **Public Contract Code 10232 Statement**

In accordance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediate preceding two year period because of the Contractor's failure to comply with an order of federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

Note: The above Statement and Questionnaire are part of the Bid. Signing this Bid on the signature portion thereof shall also constitute signature of this Statement and Questionnaire. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

**BUY AMERICA REQUIREMENTS**  
**49 U.S.C. 5323(j)**  
**49 C.F.R. Part 661**

**Applicability to Contracts**

The Buy America requirements apply to the following types of contracts: Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$100,000).

**Flow Down**

The Buy America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance. The \$100,000 threshold applies only to the grantee contract, subcontracts under that amount are subject to Buy America.

**Mandatory Clause/Language**

The Buy America regulation, at 49 CFR 661.13, requires notification of the Buy America requirements in FTA-funded contracts, but does not specify the language to be used. The following language has been developed by FTA.

**Buy America** - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

**Certification requirement for procurement of steel, iron, or manufactured products.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

## EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The Bidder \_\_\_\_\_,  
proposed subcontractor \_\_\_\_\_, hereby  
certifies that he has\_\_\_\_\_, has not\_\_\_\_\_, participated in a previous contract or subcontract subject  
to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and  
that, where required, he has filed with the Joint Reporting Committee, the Director of the Office  
of Federal Contract Compliance, a Federal Government contracting or administering agency, or  
the former President's Committee on Equal Employment Opportunity, all reports due under the  
applicable filing requirements.

**Note:** The above certification is required by the Equal Employment Opportunity Regulations of  
the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by Bidders and  
proposed subcontractors only in connection with contracts and subcontracts, which are  
subject to the equal opportunity clause. Contracts and subcontracts which are exempt  
from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only  
contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive  
Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous  
contract or subcontract subject to the Executive Orders and have not filed the required  
reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and  
subcontracts unless such contractor submits a report covering the delinquent period or  
such other period specified by the Federal Highway Administration or by the Director,  
Office of Federal Contract Compliance, U.S. Department of Labor

# BID FORM

IFB NO. 15-448 - PROJECT NO. 7760

The undersigned hereby proposes and agrees to perform all the work, and improvements therein described, and to furnish all labor, material, equipment and incident insurance necessary therefore, in accordance with the scope of worktherefore which are incorporated into the Bid; and the undersigned agrees to perform the work therein mentioned to the satisfaction of and under the supervision of the City, and further agrees to enter into a contract therefore in the time, form and manner provided by law at the following prices with the undersigned that the time within which the aforementioned the total duration of the contract from the Notice to Proceed date to the Final Day of Acceptance shall not exceed the total duration One Hundred Ninety ( 190 ) Working Days.

ITEM	APPROX QUANTITY	ITEM WITH UNIT PRICE WRITTEN IN WORDS	UNIT PRICE	TOTAL
1.	LUMP SUM	<b>Component 2-4Mobilization:</b> Not to exceed 10% of the total combined bid amounts for Components 2-4 (Items4-6).	LS	\$ _____
2.	LUMP SUM	<b>Component 2: Passenger Station.</b> All work required to construct improvements to the passenger station and surround parking lot as identified on plan sheet T1.04 and further described in the project documents	LS	\$ _____
3.	LUMP SUM	<b>Component 3: Pedestrian Plaza.</b> All work required to construct modifications to the Pedestrian Plaza as identified on plan sheet T1.04 and further described in the project documents.	LS	\$ _____
4.	LUMP SUM	<b>Component 4: Bus Wash Station Improvements.</b> All work required to construct modifications to the Bus Wash station as identified on plan sheet T1.04 and further described in the project documents.	LS	\$ _____
<b>TOTAL CONTRACT AMOUNT IN WORDS AND FIGURES</b> (Basis of award if Alternate Bid Item A1 is NOT included)  _____ \$ _____ _____ _____ _____				
		Bid bond to be based on this amount		

**BIDDER'S AUTHORIZED SIGNATURE**

COMPANY NAME: \_\_\_\_\_

NAME AND TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

EMAIL: \_\_\_\_\_

DATE: \_\_\_\_\_

If Alternate Bid Item No. A1 is selected to be included in the contract, the selection of the lowest responsible bidder shall be based on the Total Base Contract Amount (above) **PLUS** the amount entered for the alternate bid item (below). The City reserves the right to include or reject the alternate bid per Section IB.28 – Alternate Bid Procedure of the contract documents.

**ALTERNATE BID ITEM**

<b>A1</b>	LUMP SUM	<b>Component 1: Vehicle Maintenance Building / Lobby – Tennant Improvements.</b> All work required to construct tenant improvements as identified on plan sheet T1.04 and further described in the project documents	LS	\$ _____
-----------	----------	--	----	----------

## DATA UNIVERSAL NUMBERING SYSTEM (D-U-N-S) NUMBER

Submit this form with the Executed Contract. If you fail to submit your D-U-N-S Number, the City will not approve the contract.

<b>CONTRACT NUMBER:</b>	
<b>CONTRACTOR NAME:</b>	

### BUSINESS ADDRESS (D-U-N-S Number Location):

<b>COMPANY NAME:</b>	
<b>STREET:</b>	
<b>CITY:</b>	
<b>STATE:</b>	
<b>ZIP CODE:</b>	

<b>D-U-N-S Number:</b>	
------------------------	--

Print Name: \_\_\_\_\_

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

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

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

## **4B - CONTRACT FORMS**



## **A G R E E M E N T (SAMPLE)**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the City of Norwalk, hereinafter designated as the "CITY" and \_\_\_\_\_, hereinafter designated as the "CONTRACTOR".

WITNESSETH: That the parties hereto do mutually agree as follows:

### **ARTICLE I.**

For and in consideration of the payments and agreements hereinafter mentioned to be made and performed by the CITY, the CONTRACTOR agrees with the CITY in the matter of:

#### **TRANSPORTATION/PUBLIC SERVICES FACILITY AND METROLINK STATION IMPROVEMENT PROJECT PROJECT NO. 7760**

and agrees to perform and complete in a good and workmanlike manner all the work pertaining thereto shown on the drawings and described in the Appendices therefor, except such materials as in the said specifications are stipulated to be furnished by the CITY, and to do everything required by this Agreement and the said Specifications and Appendices.

### **ARTICLE II.**

For furnishing all said materials and labor, tools, and equipment, and doing all the work contemplated and embraced in this agreement, also for all loss and damage arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the work until its acceptance by the CITY, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work; except such as in the said specifications are expressly stipulated to be borne by the CITY, and for well and faithfully completing the work and whole thereof, in the manner shown and described in the said Specifications and Appendices in accordance with the requirements of the Invitation for Bid (IFB) No. 15-448, the CITY will pay and the CONTRACTOR shall receive in full compensation therefor the prices for the several items named in the Bid Form.

### **ARTICLE III.**

The CITY hereby promises and agrees with the said CONTRACTOR to employ, and does hereby employ the said CONTRACTOR to provide the materials and to do the work according to the terms and conditions herein contained and referred to for the price aforesaid, and hereby contracts to pay the same at the time, in the manner and upon the conditions set forth in the Specifications and Appendices; and the said parties

for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants therein contained.

#### ARTICLE IV.

Any special conditions, covenants, specifications, drawings, documents, or other exhibits not hereinbefore provided and which are deemed to be necessary in order to effectuate the purposes of this Agreement, are attached hereto and by reference incorporated herein as though set forth in full, and the parties hereto consent and agree to be bound thereby.

#### ARTICLE V.

The Invitation for Bid(IFB) No. 15-448, including the Notice Inviting Sealed Bids, Instructions to Bidders, the Bid, the General Terms and Conditions, Federal Provisions, Specifications, and Forms and Certifications mentioned therein and all addenda issued by the City with respect to the foregoing before the time of opening of Bids are hereby incorporated in and made a part of this Agreement.

IN WITNESS WHEREOF:

The parties hereto have caused this Agreement to be executed the day and year first above written.

***INSERT CONTRACTOR  
BUSINESS NAME HERE***

**CITY OF NORWALK  
A Municipal Corporation**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Michel J. Egan  
City Manager

ATTEST:

By: \_\_\_\_\_  
Theresa Devoy  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Steve Dorsey  
City Attorney

## UTILITY AGREEMENT

HONORABLE MAYOR AND CITY COUNCIL  
CITY OF NORWALK, CALIFORNIA

Gentlemen:

The undersigned hereby promises and agrees that in the performance of the work specified in this contract for **PROJECT NO. 7760 TRANSPORTATION/PUBLIC SERVICES FACILITY AND METROLINK STATION IMPROVEMENT PROJECT**, (I) (we) (it) will employ and utilize only qualified persons, as hereinafter defined, to work in proximity to any electrical secondary, primary or transmission facilities. The term "Qualified person" is defined in Title 8, California Administrative code, Section 2700, as follows:

Qualified Person: A person who by reason of experience or instruction is familiar with the operation to be performed and the hazards involved."

The undersigned also promises and agrees that all such work shall be performed in accordance with all applicable electrical utility company's requirements, Public Utility Commission orders, and State of California Cal-OSHA requirements.

The undersigned further promises and agrees that all such work shall be performed in accordance with all applicable electrical utility company's requirements, Public Utility Commission orders, and State of California Cal-OSHA requirements.

The undersigned further promises and agrees that the provisions herein shall be and are binding upon any sub-contractor or sub-contractors that may be retained or employed by the undersigned, and that the undersigned shall take steps as are necessary to assure compliance by any said sub-contractor or sub-contractors with the requirements contained herein.

\_\_\_\_\_  
Contractor

By: \_\_\_\_\_  
Name

\_\_\_\_\_  
Title

## BOND FOR FAITHFUL PERFORMANCE

**KNOW ALL MEN BY THESE PRESENTS**, That we \_\_\_\_\_, as  
PRINCIPAL and \_\_\_\_\_ as **SURETY**, are jointly and  
severally bound unto the **CITY OF NORWALK** in the sum of \_\_\_\_\_

\_\_\_\_\_ lawful money of the United States of America, to be paid to the said **CITY OF NORWALK** for which payment, well and truly to be made, we bind ourselves, each of our heirs, successors, executors, administrators and assigns, jointly and severally, by these presents.

**THE CONDITION OF THIS OBLIGATION** is such that if the above principal, his or its heirs, successors, executors, administrators or assigns shall in all things stand to and abide by, and well and truly keep and faithfully perform all the covenants, conditions and agreements of that certain contract made between said principal, as contractor, and the City of Norwalk for furnishing materials in compliance with specifications and performing the following work, to-wit: All the work hereinbefore described in said contract hereto attached and referred to for a more particular description of said work, or cause the same to be faithfully kept and performed in the manner and form therein specified, then the above obligation to be void, otherwise to remain in full force and effect.

**PROJECT:** Transportation / Public Services Facility and Metrolink Station Improvements Project; City Project No. 7760

Notices, papers, and other documents required by Chapter 2 of Title 14 of Part 2 of Code of Civil Procedure, or by any other law, regulation, or requirement of the Contract may be served upon Principal at this address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

and upon Surety at this address: \_\_\_\_\_  
\_\_\_\_\_

**IN WITNESS WHEREOF**, three (3) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety herein named, under penalty of perjury, on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

Principal \_\_\_\_\_

Surety \_\_\_\_\_

By \_\_\_\_\_  
Typed or Printed Signature

By \_\_\_\_\_  
Typed or Printed Signature

## BOND FOR LABOR AND MATERIAL

**KNOW ALL MEN BY THESE PRESENTS: THAT**

**WHEREAS**, The City of Norwalk, in the County of Los Angeles, State of California, by City Council action on (Council Date Awarded) has awarded to \_\_\_\_\_

hereinafter designated as the Principal, a contract for construction to Transportation/Public Services Facility and MetroInk Station Improvement Project - Project No. 7760

together with appurtenances thereto, and

**WHEREAS**, said Principal is required to furnish a bond in connection with said contract providing that if said Principal, or any of his or its subcontractors shall fail to pay for any materials, provisions, provender, or other supplies or equipment used in, upon, or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, the Surety of this bond will pay the same to the extent hereinafter set forth;

**NOW, THEREFORE**, we \_\_\_\_\_  
as Principal, and \_\_\_\_\_

as Surety, are held and firmly bound unto the city of Norwalk, hereinafter called the Contracting Agency, in the penal sum of \_\_\_\_\_, lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH THAT** if said Principal, his or its heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, provender, rented or hired teams, implements, or machinery, or other supplies or equipment of any kind used in, upon, for or about the performance of the work contracted to be done, including, but not limited to, that part of water, gas, power, light, heat, oil, gasoline, or telephone service directly applicable to the contract, or for any work or labor thereon of any kind, or for any amounts due under the California Unemployment Insurance Code with respect to such work or labor, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of said Principal and subcontractors pursuant to Section 13020 of the California Unemployment Insurance Code with respect to such work and labor, and provided that any person, so furnishing said supplies or equipment contributing to said work to be done, or any person who performs work or labor upon the same, or any person who supplies both work and supplies or equipment therefore shall have complied with the provisions of Chapter 7 of Title 15 of Part 4 of Division 3 of the California Civil Code, as amended, or any successor thereto, then said Surety shall pay the same in or to an amount not exceeding the amount hereinabove set forth, and also shall pay in case suit is brought upon this bond, such reasonable attorney's fees as shall be fixed by the court. The bond inure to the benefit of any and all persons, companies, and corporations named in California Civil Code Section 3181, as amended, or any successor thereto, so as to give a right of action to them or their assigns in any suit brought upon this bond.

**FURTHER**, the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or modifications of the Contract Documents or of the work to be performed thereunder shall in any way affect its obligations on this bond and it does hereby waive notice of such change, extension of time, alteration, or modification of the Contract Documents or of work to be performed thereunder.

Notices, papers, and other documents required by Chapter 2 of Title 14 of Part 2 of Code of Civil Procedure, or by any other law, regulation, or requirement of the Contract may be served upon Principal at this address:

\_\_\_\_\_  
\_\_\_\_\_  
and upon Surety at this address \_\_\_\_\_

**IN WITNESS WHEREOF**, three (3) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety herein named, under penalty of perjury, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

Principal \_\_\_\_\_

Surety \_\_\_\_\_

By \_\_\_\_\_  
Typed or Printed

By \_\_\_\_\_  
Typed or Printed

## **FEDERAL PROVISION DOCUMENTS**

### **CONTRACT DOCUMENTATION REQUIRED FOR COMPLIANCE WITH FEDERAL REQUIREMENTS**

#### **DBE COMPLIANCE DOCUMENTATION**

Pursuant to Attachment E, the successful Bidder must submit, prior to Contract Award the following information:

- 1) Names and addresses of DBE firms that will participate in the contract.
- 2) A description of the work that each DBE will perform.
- 3) The dollar amount of the participation of each DBE firm's participation.
- 4) Written, signed documentation of commitment to use a DBE sub-contractor whose participation it submits to meet a contract-anticipated level of participation; and
- 5) Written and signed confirmation from the DBE that it is a participant in the contract as provided in the prime Contractor's commitment.

#### **ALCOHOL & DRUG FREE WORKPLACE PROGRAM**

Pursuant to Attachment E.

#### **COPIES OF ALL SUBCONTRACTS**

Pursuant to Attachment E, Contractor shall submit copies of any/all Subcontractors prior to mobilizing such subcontractors to the Project. All subcontracts shall include all required Federal clauses as stipulated in the Federal Provisions..

Successful Bidder shall provide the above documents on its own forms as applicable.

## **4C - PROJECT FORMS**



# AMERICAN RECOVERY AND REINVESTMENT ACT MONTHLY REPORT

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

## AMERICAN RECOVERY AND REINVESTMENT ACT MONTHLY EMPLOYMENT REPORT

CEM-1204 (REV. 10/2010)

JOB STAMP

See Instructions that follow

1. CONTRACT NUMBER	2. FEDERAL-AID PROJECT NUMBER
3. REPORT MONTH AND YEAR (mm/yyyy)	4. CONTRACTING AGENCY
5. CONTRACTOR NAME AND ADDRESS	

6. EMPLOYMENT DATA	EMPLOYEES		HOURS		PAYROLL	
	NEW HIRES	EXISTING EMPLOYEES	NEW HIRES	EXISTING EMPLOYEES	NEW HIRES	EXISTING EMPLOYEES
PRIME CONTRACTOR DIRECT, ON PROJECT JOBS						
SUBCONTRACTOR DIRECT, ON PROJECT JOBS						
SUBCONTRACTOR NAME(S):	DBE					
<input type="checkbox"/>						
<input type="checkbox"/>						
<input type="checkbox"/>						
<input type="checkbox"/>						
<input type="checkbox"/>						
<input type="checkbox"/>						
PRIME AND SUBCONTRACTOR SUBTOTALS						
PRIME AND SUBCONTRACTOR TOTALS (NEW + EXISTING)						

7. CERTIFIED BY CONTRACTOR: (Signature and Title)	DATE
TO BE COMPLETED BY STATE OR AUTHORIZED REPRESENTATIVE	
8. REVIEWED BY CONTRACT ADMINISTRATOR: (Signature and Title)	DATE

COPY DISTRIBUTION:                      Original - Project Files                      Copy - Contractor

### ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

**AMERICAN RECOVERY and REINVESTMENT ACT (ARRA)  
MONTHLY EMPLOYMENT REPORT**

CEM-1204 (REV. 10/2010)

---

**INSTRUCTIONS FOR COMPLETING MONTHLY EMPLOYMENT REPORT FORM**

---

- BOX 1. *Contract Number:* The state-assigned project number or ID; district and expenditure authorization (EA).
- BOX 2. *Federal-aid Project Number:* The state-assigned federal-aid project number.
- BOX 3. *Report Month and Year:* The month and year covered by the report. Reported as "mm/yyyy."
- BOX 4. *Contracting Agency:* The name of the contracting agency. For state projects, enter Caltrans. For non-state projects, enter the name of the contracting agency (federal agency, tribe, MPO, city, county, and so forth).
- BOX 5. *Contractor Name and Address:* The name and address of the contractor must include the firm name, street address, city, state, and zip code.
- BOX 6. *Employment Data*  
*Subcontractor Name(s):* The name of each subcontractor active on the project for the reporting month. If the subcontractor is a Disadvantaged Business Enterprise (DBE), check the box.  
*Employees:* The number of new hires and existing employees on the contractor's workforce that month, and the number of new hires and existing employees for each of the active subcontractors that month. Do not include material suppliers. Report all data as whole numbers.  
*Hours:* For the reporting month, the total time spent, including overtime hours, on the specified project by the contractor's and active subcontractors' new hires and existing employees.  
*Payroll:* The total dollar amount of the basic hourly rate paid by the contractor on the specified project for all employees for the reporting month and the total dollar amount of the basic hourly rate of pay paid by each active subcontractor that month. The basic hourly rate does not include fringe benefits such as vacation, health and welfare, pension and others. Report all data to the nearest whole dollar.
- BOX 7. *Certified by Contractor*  
*Name:* The contractor representative or person responsible for certification of the information included on the form. By completing the form, the authorized representative certifies knowledge of the hours worked and employment status for all employees. The contractor is responsible for maintaining data that supports the employment form and for making that data available to the state if it requests supporting materials.  
*Date:* The date that the contractor completed the employment form is reported as "mm/dd/yyyy."
- BOX 8. *Reviewed by Contract Administrator* (to be completed by the state or authorized representative)  
*Name:* State representative, such as the resident engineer or contract manager, or authorized project representative responsible for reviewing the submitted form.  
*Date:* The date that the state representative reviewed the form is reported as "mm/dd/yyyy."
-

## **ATTACHMENT A**

### **SUPPLEMENTAL SPECIAL PROVISIONS - PROJECT MANUAL**

## **ATTACHMENT B**

### **CONSTRUCTION DRAWINGS**

**ATTACHMENT C**

**FORM FTA MA (8) DATED OCTOBER 2001**

## **ATTACHMENT D**

### **FEDERAL PREVAILING WAGE DETERMINATION**

## **ATTACHMENT E**

### **FEDERAL CLAUSES**

## **ATTACHMENT F**

### **FEDERAL CLAUSE - ARRA**



# Federal Transit Administration Master Agreement (FTA MA-8, October 1, 2001)



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL TRANSIT ADMINISTRATION

## MASTER AGREEMENT

**For Federal Transit Administration Agreements authorized by  
49 U.S.C. §§ 5301 *et seq.*, Title 23, U.S.C. (Highways),  
the National Capital Transportation Act of 1969, as amended,  
the Transportation Equity Act for the 21<sup>st</sup> Century, 23 U.S.C. § 101 note,  
or other Federal enabling legislation**

**FTA MA(9)**

**October 1, 2002**

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## UNITED STATES DEPARTMENT OF TRANSPORTATION

## FEDERAL TRANSIT ADMINISTRATION

## MASTER AGREEMENT

This is the official Master Agreement containing standard terms and conditions governing the administration of a Project supported with Federal assistance awarded by the Federal Transit Administration (FTA) through a Grant Agreement or Cooperative Agreement with the Recipient, or supported through a loan, loan guarantee, or line of credit provided by FTA. This Master Agreement applies to Federal assistance authorized by Federal transit laws codified at 49 U.S.C. §§ 5301 *et seq.*; Title 23, United States Code (Highways); or the Transportation Equity Act for the 21<sup>st</sup> Century, Pub. L. 105-178, June 9, 1998, 23 U.S.C. § 101 note, amended by the TEA-21 Restoration Act, Pub. L., 105-206, July 22, 1998, 23 U.S.C. § 101 note, other amendments to TEA-21, or other Federal enabling legislation administered by FTA.

FTA and the Recipient understand and agree that not every provision of this Master Agreement will apply to every Recipient or every Project for which FTA provides Federal financial assistance through a Grant Agreement or Cooperative Agreement. The type of Project and the section of the statute authorizing financial assistance for the Project will determine which requirements apply. Nevertheless, the Recipient understands and agrees that it must comply with all applicable laws, regulations, and requirements. Any violation of a requirement applicable to the Recipient or its Project may result in penalties to the violating party; requirements that do not apply will not be enforced.

This Master Agreement does not have an Expiration Date. Nevertheless, the provisions of this Master Agreement may be modified or superseded by subsequent Federal requirements or Grant Agreements, Cooperative Agreements, or Master Agreements.

Thus, in consideration of the mutual covenants, promises, and representations herein, FTA and the Recipient agree as follows:

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**Section 1. Definitions.**

a. Application means the signed and dated request for Federal financial assistance, including any amendment thereto, with all explanatory, supporting, and supplementary documents filed with and accepted or approved by the FTA by or on behalf of the Recipient.

b. Approval, Authorization, Concurrence, Waiver means a conscious written statement (transmitted in typewritten hard copy or electronically) of a Federal Government official authorized to permit the Recipient to take or omit an action required by the Grant Agreement or Cooperative Agreement, which action may not be taken or omitted



without such permission. Unless clearly stated otherwise, an approval, authorization, concurrence, or waiver permitting the performance or omission of a specific action does not constitute permission to perform or omit other similar actions. Oral permissions or interpretations have no legal force or effect.

c. Approved Project Budget means the most recent statement, approved by the FTA, of the costs of the Project, the maximum amount of Federal assistance for which the Recipient is currently eligible, the specific tasks (including specified contingencies) covered, and the estimated cost of each task. As used in the "Approved Project Budget," the term "Scopes" means categories and the term "Scope Level Codes" means category codes. Although "Scopes" and "Scope Level Codes" generally indicate the type of activities encompassed by the Project, the data listed under "Scopes" and "Scope Level Codes" (for example, quantities and time periods for operating assistance) do not necessarily reflect, and are not intended to be treated as, prima facie evidence of the precise limits or boundaries of a Project, unless stated otherwise. Consequently, the data listed under "Scopes" and "Scope Level Codes" will not always constitute the precise legal parameters of the scope of the Project. FTA reserves the right to consider other information in determining the "Scope of the Project" when that term is used for legal purposes.

d. Cooperative Agreement means the instrument by which FTA awards Federal assistance to a specific Recipient to support a particular Project in which FTA takes an active role or retains substantial control, consistent with the requirements of 31 U.S.C. § 6305. The Cooperative Agreement consists of the FTA Award establishing the specific parameters of the Project, an Execution statement signed by the Recipient, and may include other Special Conditions, Requirements, or Provisions. This Master Agreement is incorporated by reference and made part of the Cooperative Agreement.

e. Federal Government means the United States of America and any executive department or agency thereof.

f. Federal Transit Administration also designates the former Urban Mass Transportation Administration. Any reference in any law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administration is deemed a reference to the Federal Transit Administration.

g. Federal Transit Administrator also designates the former Urban Mass Transportation Administrator. Any reference in any law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administrator is deemed a reference to the Federal Transit Administrator.

h. FTA is the acronym for the Federal Transit Administration, an operating administration of the U.S. Department of Transportation (U.S. DOT). "FTA" replaces the acronym "UMTA."

i. FTA Directive includes any FTA circular, notice, order, or guidance providing information about FTA's programs, application processing procedures, Project

management guidelines, or other similar matters. In addition, certain U.S. DOT directives also apply to the Project.

j. Grant Agreement means the instrument by which FTA awards Federal assistance to a specific Recipient to support a particular Project in which FTA does not take an active role or retain substantial control, consistent with the requirements of 31 U.S.C. § 6304. The Grant Agreement consists of the FTA Award establishing the specific parameters of the Project, an Execution statement signed by the Recipient, and may include other Special Conditions, Requirements, or Conditions. This Master Agreement is incorporated by reference and made part of the Grant Agreement.

k. Local Government includes a public transit authority, as well as a county, municipality, city, town, township, special district, council of governments (whether or not incorporated as a private nonprofit organization under State law), regional or interstate government entity, or any agency or instrumentality thereof.

l. Project means the activity or activities (task or tasks) listed in Project Description, the Approved Project Budget, and any modifications set forth in the Conditions of Award in the Grant Agreement or Cooperative Agreement applicable to the Project, and any other Special Conditions, Requirements, or Provisions applicable to the Project. For the urbanized area formula program at 49 U.S.C. § 5307, the elderly and persons with disabilities formula program at 49 U.S.C. § 5310, and the nonurbanized area formula program, at 49 U.S.C. § 5311, the term "Project" encompasses both "Program" and "each Project within the Program," as the context may require. For purposes of legal interpretation and other matters, FTA reserves the right to consider information apart from data listed under "Scopes" and "Scope Level Codes" of the "Approved Project Budget" to determine what constitutes the Scope of the Project. In connection with a loan, loan guarantee, or line of credit financed with Federal assistance authorized for the Transportation Infrastructure Finance and Innovation Act of 1998, as amended, 23 U.S.C. §§ 181 *et seq.*, "Project" means the transportation activities financed by that loan, loan guarantee, or line of credit.

m. Recipient means the entity that receives Federal assistance directly from FTA to support the Project. The term "Recipient" includes each FTA "Grantee" as well as each FTA Recipient of a Cooperative Agreement. Except as FTA permits otherwise, the Recipient is the entire legal entity even if only a single organization within that entity is designated the Recipient in the Grant Agreement or Cooperative Agreement. Unless stated otherwise, in the case of a Recipient that is a consortium, partnership, or other multi-party entity, each participant in, member of, or party to that consortium, partnership, or multi-party entity is treated as a "Recipient" for purposes of compliance with applicable requirements of the Grant Agreement or Cooperative Agreement.

n. Secretary means the U.S. DOT Secretary, including his or her duly authorized designee.

o. Subagreement means an agreement through which a Recipient awards financial assistance derived from FTA to the subrecipient as defined in Subsection 1.p of this

Master Agreement below. The term "subagreement" also includes the term "subgrant," but does not include the term "third party subcontract."

p. Subrecipient means any entity that receives Federal assistance awarded by a FTA Recipient, rather than FTA directly. The term "subrecipient" also includes the term "subgrantee," but does not include "third party contractor" or "third party subcontractor."

q. Third Party Contract means a contract or purchase order awarded by the Recipient or subrecipient to a vendor or contractor, financed in whole or in part with Federal assistance awarded by FTA.

r. Third Party Subcontract means a subcontract at any tier entered into by the third party contractor or third party subcontractor, financed in whole or in part with Federal assistance originally derived from FTA.

s. Transit means transportation by a conveyance, either publicly or privately owned, that provides regular and continuing general or special public transportation to the public, but does not include school bus, charter, or sightseeing transportation. The term "transit" also includes "mass transportation" and "public transportation."

t. U.S. DOT is the acronym for the United States Department of Transportation, including its operating administrations.

## **Section 2. Project Implementation.**

a. General Requirements. The Recipient agrees to carry out the Project as follows:

(1) Project Description. The "Project Description" in the FTA Award section of the Grant Agreement or Cooperative Agreement describes the Project or Projects to be funded by that Grant Agreement or Cooperative Agreement.

(2) Effective Date. Upon full Execution of the Grant Agreement, Cooperative Agreement, or any Amendment thereto by the Recipient, the effective date of that Grant Agreement, Cooperative Agreement, or Amendment is the date on which the FTA's Authorized Official signs the Award for that Grant Agreement, Cooperative Agreement, or Amendment. The Recipient agrees to commence Project work promptly after receiving notice of Project approval.

(3) Recipient's Capacity. The Recipient agrees to maintain or acquire sufficient legal, financial, technical, and managerial capacity to plan, manage, and complete the Project, and provide for the use of Project facilities and equipment, to comply with the terms of the Grant Agreement or Cooperative Agreement, the Approved Project Budget, the Project schedules, the Recipient's annual certifications and assurances to FTA, and all applicable Federal laws, executive orders, regulations, directives, and published policies governing the Project.

(4) Completion Dates. The Recipient agrees to complete the Project in a timely manner. Nevertheless, except in the case of full funding grant agreements or as otherwise specified, milestone dates and other Project completion dates (either in electronic format or typewritten hard copy) are to be treated as good faith estimates rather than precise and firm legal obligations.

b. U.S. DOT Administrative Requirements. The Recipient acknowledges that Federal administrative requirements differ based on the type of entity receiving Federal assistance:

(1) A Recipient that is a State, a local government, or an Indian tribal government agrees to comply with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 C.F.R. Part 18.

(2) A Recipient that is an institution of higher education or a nonprofit organization agrees to comply with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," 49 C.F.R. Part 19.

(3) Except as FTA specifies otherwise, a Recipient that is a private for-profit organization agrees to comply with the "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations," 49 C.F.R. Part 19.

c. Application of Federal, State, and Local Laws and Regulations.

(1) Federal Laws and Regulations. Federal law or laws authorizing Project approval (identified in the FTA Award section of the Grant Agreement or Cooperative Agreement) control Project implementation. The Recipient acknowledges that Federal laws, regulations, policies, and related administrative practices applicable to the Project on the date the authorized FTA official signs the Grant Agreement or Cooperative Agreement may be modified from time to time. In particular, new Federal laws, regulations, policies, and administrative practices may be promulgated after the date when the Recipient executes the Grant Agreement or Cooperative Agreement, and might apply to that Grant Agreement or Cooperative Agreement. The Recipient agrees that the most recent of such Federal requirements will govern the administration of the Project at any particular time, unless FTA issues a written determination otherwise. FTA's written determination may be issued as a Special Condition, Requirement, or Provision or Condition of Award within the Grant Agreement or Cooperative Agreement, a change to an FTA directive, or a letter signed by the Federal Transit Administrator, the language of which modifies or otherwise conditions the text of a specific provision of this Master Agreement. To accommodate changing Federal requirements, the Recipient agrees to include notice in each agreement with each subrecipient and each third party contractor participating in the Project that Federal requirements may change and the changed requirements will apply to the Project as required, unless the Federal Government determines otherwise. All standards or limits within this Master Agreement are minimum requirements, unless modified by FTA.

(2) State, Territorial, and Local Law. Except when a Federal statute or regulation pre-empts State, local, or territorial law, no provision of the Grant Agreement, Cooperative Agreement, or this Master Agreement shall require the Recipient to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of State, territorial, or local law. Thus if any provision or compliance with any provision of the Grant Agreement, Cooperative Agreement, or this Master Agreement violates State, territorial, or local law, or would require the Recipient to violate State, territorial, or local law, the Recipient agrees to notify FTA immediately in writing. Should this occur, FTA and the Recipient agree to make appropriate arrangements to proceed with or, if necessary, terminate the Project expeditiously.

d. Recipient's Primary Responsibility to Comply with Federal Requirements. Irrespective of participation by other parties in the Project, the Recipient continues to remain responsible to FTA for compliance with all Federal requirements imposed by Federal statute, regulations, executive orders, directives, published policies, this Master Agreement, and the Grant Agreement or Cooperative Agreement for the Project.

(1) Significant Participation by a Third Party Contractor. Although the Recipient may enter into a third party contract in which the third party contractor agrees to provide property or services in support of the Project, or even carry out Project activities normally performed by the Recipient (such as in a turnkey contract), the Recipient continues to remain responsible to FTA for compliance with Federal requirements.

(2) Significant Participation by a Subrecipient. Although the Recipient may delegate any or almost all Project responsibilities to one or more subrecipients, the Recipient continues to remain responsible to FTA for compliance with Federal requirements.

(3) Exceptions. The Recipient, however, is relieved of compliance with Federal responsibilities in the following two circumstances:

(a) When the Designated Recipient of urbanized area formula program funds authorized for 49 U.S.C. § 5307 has entered into a Supplemental Agreement with FTA and a grantee covering the Project, the Designated Recipient is not responsible to FTA for compliance with Federal requirements in connection with the Project, or

(b) When the Federal Government, through appropriate official action, relieves the Recipient of a portion of or all responsibility to the Federal Government.

e. Recipient's Responsibility to Extend Federal Requirements to Other Entities.

(1) Entities Affected. Only the entities that are signatories to the Grant Agreement or Cooperative Agreement are parties to that agreement. To achieve compliance with certain Federal laws, regulations, or directives, however, other Project participants, such as subrecipients and third party contractors, will necessarily be affected. Accordingly, the Recipient agrees to take appropriate measures necessary to ensure all Project participants comply with applicable Federal requirements affecting their performance.

(2) Documents Affected. The applicability provisions of Federal statutes, regulations, and directives establishing each Federal requirement determine the extent to which that requirement affects a Project participant. Accordingly, the Recipient agrees to include adequate provisions to ensure that Project participants comply with applicable Federal requirements. In addition, the Recipient agrees to require its third party contractors and subrecipients to include adequate provisions to ensure compliance with applicable Federal requirements in each lower tier subcontract and subagreement financed in whole or in part with financial assistance provided by FTA under the Grant Agreement or Cooperative Agreement. Additional requirements include the following:

(a) Third Party Contracts. Because Project activities performed by a third party contractor must comply with Federal requirements, the Recipient agrees to include appropriate clauses in each third party contract stating the third party contractor's responsibilities under Federal law, regulation, or directive, including any necessary provisions requiring the third party contractor to extend applicable requirements to its subcontractors to the lowest tier necessary. When the third party contract requires the third party contractor to undertake responsibilities for the Project usually performed by the Recipient, the requirements applicable to the Recipient imposed by this Master Agreement and the Grant Agreement or Cooperative Agreement for the Project must be included in that third party contract and extended throughout each tier to the extent appropriate. Additional guidance pertaining to third party contracting is contained in the FTA Best Practices Procurement Manual. FTA cautions, however, that its Best Practices Procurement Manual focuses mainly on third party procurement processes and may omit certain other Federal requirements applicable to the work to be performed.

(b) Subagreements. Because Project activities performed by a subrecipient must be carried out in accordance with Federal requirements, the Recipient agrees to include appropriate clauses in each subagreement stating the subrecipient's responsibilities under Federal law, regulation, or directive, including any necessary provisions requiring the subrecipient to impose applicable Federal requirements on entities to the lowest tier necessary. When the subagreement requires the subrecipient to undertake primary responsibilities for the Project usually performed by the Recipient, the requirements applicable to the Recipient imposed by this Master Agreement and the Grant Agreement or Cooperative Agreement for the Project must be included in that subagreement and extended throughout each tier to the extent appropriate.

f. No Federal Government Obligations to Third Parties. The Recipient agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any subrecipient, any third party contractor, or any other person not a party to the Grant Agreement or Cooperative Agreement in connection with the performance of the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, subagreement, or third party contract, the Federal Government has no obligations or liabilities to any party, including any subrecipient or any third party contractor.

g. Changes in Project Performance (i.e., Disputes, Breaches, Defaults, or Litigation). The

Recipient agrees to notify FTA immediately of any change in local law, conditions (including its legal, financial, or technical capacity), or any other event that may significantly affect the Recipient's ability to perform the Project in accordance with the terms of the Grant Agreement or Cooperative Agreement. In addition, the Recipient agrees to notify FTA immediately of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. The Recipient agrees to inform FTA before naming the Federal Government as a party to litigation for any reason, in any forum.

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### **Section 3. Ethics.**

a. Code of Ethics. The Recipient agrees to maintain a written code or standards of conduct that shall govern the performance of its officers, employees, board members, or agents engaged in the award or administration of third party contracts or subagreements supported by Federal assistance. This code or standards of conduct shall provide that the Recipient's officers, employees, board members, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from any present or potential contractor or subrecipient. The Recipient may establish minimum rules where the financial interest is not substantial, or the gift is an unsolicited item of nominal intrinsic value. This code or standards of conduct shall also prohibit the Recipient's officers, employees, board members, or agents from using their positions in a manner that constitutes a real or apparent personal or organizational conflict of interest or personal gain. As permitted by State or local law or regulations, the code or standards of conduct shall include penalties, sanctions, or other disciplinary actions for violations by the Recipient's officers, employees, board members, or their agents, or by the Recipient's contractors or subrecipients or their agents.

(1) Personal Conflicts of Interest. The Recipient's code or standards of conduct shall prohibit the Recipient's employees, officers, board members, or agents from participating in the selection, award, or administration of any third party contract or subagreement supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise an employee, officer, board member, or agent, including any member of his or her immediate family; partner; or organization that employs, or intends to employ, any of the above.

(2) Organizational Conflicts of Interest. The Recipient's code or standards of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract or subagreement may, without some restrictions on future activities, result in an unfair competitive advantage to the third party contractor or subrecipient or impair its objectivity in performing the contract work.

b. Debarment and Suspension. The Recipient agrees to comply, and assures the

compliance of each third party contractor and subrecipient at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)," within 49 C.F.R. Part 29.

c. Bonus or Commission. The Recipient affirms that it has not paid, and agrees not to pay, any bonus or commission to obtain approval of its Federal assistance application for the Project.

d. Lobbying Restrictions. The Recipient agrees to:

- (1) Refrain from using Federal assistance funds to support lobbying,
- (2) Comply, and assure the compliance of each third party contractor at any tier and each subrecipient at any tier, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352.
- (3) Comply with Federal statutory provisions to the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence Congress or a State legislature on legislation or appropriations, except through proper, official channels.

e. Employee Political Activity. To the extent applicable, the Recipient agrees to comply with the provisions of the Hatch Act, 5 U.S.C. §§ 1501 - 1508, 7324 - 7326, and U.S. Office of Personnel Management regulations, "Political Activity of State or Local Officers or Employees," 5 C.F.R. Part 151. The Hatch Act limits the political activities of State and local agencies and their officers and employees, whose principal employment activities are financed in whole or part with Federal funds including a Federal loan, grant, or cooperative agreement. Nevertheless, in accordance with 23 U.S.C. § 142(g), the Hatch Act does not apply to a nonsupervisory employee of a transit system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the Hatch Act would not otherwise apply.

f. False or Fraudulent Statements or Claims. The Recipient acknowledges and agrees that:

- (1) The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with the Project. Accordingly, by executing the Grant Agreement or Cooperative Agreement, the Recipient certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project covered by the Grant Agreement or Cooperative Agreement. In addition to other penalties that may apply, the Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Recipient to the extent the Federal Government deems appropriate.



(2) If the Recipient makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with Federal assistance authorized for 49 U.S.C. § 5307, the Government reserves the right to impose on the Recipient the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the Federal Government deems appropriate.

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#### **Section 4. Federal Financial Assistance.**

The Recipient agrees that FTA will provide Federal financial assistance for the Project equal to the smallest of the following amounts: (a) the maximum amount permitted by Federal law or regulations, (b) the "Maximum FTA Amount Approved," set forth in the Grant Agreement or Cooperative Agreement, or (c) the amount calculated in accordance with the "Maximum Percentage(s) of FTA Participation," as may be modified by applicable Special Conditions, Requirements, or Provision of the Grant Agreement or Cooperative Agreement. FTA's obligation to make Federal assistance payments is limited to the amounts listed in the Approved Project Budget for the Project. The "Estimated Total Eligible Cost" in the Grant Agreement or Cooperative Agreement is the basis upon which FTA determines the "Maximum FTA Amount Awarded."

a. "Net Project Cost". For any Project required by FTA or Federal law to be financed on the basis of its "Net Project Cost" as defined by 49 U.S.C. § 5302(a)(8), FTA intends to provide Federal assistance to the Recipient for that portion of the Project that cannot reasonably be financed from the Recipient's revenues, *i.e.*, "Net Project Cost" of the Project. Accordingly, the amount stated as the "Estimated Total Eligible Cost" is the "Estimated Net Project Cost" and forms the basis on which FTA will calculate the amount of Federal assistance to award for the Project.

b. Other Basis for FTA Participation. For any Project not required by Federal law or FTA to be financed on the basis of its "Net Project Cost" as defined by 49 U.S.C. § 5302(a)(8), FTA intends to provide assistance to the Recipient in financing all or part of the cost of the Project. Therefore, the amount stated as the "Estimated Total Eligible Cost" forms the basis on which FTA will calculate the amount of Federal assistance to award for the Project.

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#### **Section 5. Local Share.**

If FTA requires the Recipient to provide a local share for the Project financed under the Grant Agreement or Cooperative Agreement, the Recipient agrees as follows:

a. Restrictions on the Source of the Local Share. Except as permitted otherwise by Federal law, the Recipient agrees to provide sufficient funds or approved in-kind resources that, together with the Federal financial assistance awarded, will assure

payment of the actual cost of each Project activity covered by the Grant Agreement or Cooperative Agreement. The Recipient agrees that no local share funds provided will be derived from receipts from the use of Project facilities or equipment, revenues of the transit system in which such facilities or equipment are used, or other Federal funds, except as permitted by law.

b. Duty to Obtain the Local Share. Unless FTA otherwise approves, the Recipient agrees to complete all proceedings necessary to provide the local share of the Project costs at or before the time those funds are needed to meet Project expenses.

c. Calculation of the Local Share. Unless FTA expressly approves otherwise in writing, the Recipient agrees that the local share will apply to each Project activity in the Grant Agreement or Cooperative Agreement.

d. Reduction of the Local Share. Unless FTA expressly approves otherwise in writing, the Recipient agrees that no refund or reduction of the local share may be made unless, at the same time, a refund of the proportional amount of the Federal financial assistance provided is made to the Federal Government.

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## **Section 6. Approved Project Budget.**

The Recipient agrees to prepare a Project budget which, upon approval by FTA, is designated the "Approved Project Budget." Any amendment awarding additional Federal financial assistance requires a new Approved Project Budget. The Approved Project Budget may also be revised as permitted by and in conformance with applicable Federal requirements. An amendment to the Approved Project Budget requires the issuance of a formal amendment to the Grant Agreement or Cooperative Agreement, except that re-allocation of funds among budget items or fiscal years that does not increase the total amount of the Federal financial assistance awarded may be made in accordance with applicable Federal regulations and directives. The Recipient agrees to incur obligations and make disbursements of Project funds only as authorized in the latest Approved Project Budget. The latest Approved Project Budget is incorporated herein by reference and made part the Grant Agreement or Cooperative Agreement for the Project.

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## **Section 7. Accounting Records.**

a. Project Accounts. The Recipient agrees to establish and maintain for the Project either a separate set of accounts, or separate accounts within the framework of an established accounting system, that can be identified with the Project, consistent with applicable Federal regulations and other requirements that FTA may impose. The Recipient agrees that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents related in whole or in part to the Project shall be clearly identified, readily accessible and available to FTA upon its request, and, to the extent feasible, kept

separate from documents not related to the Project.

b. Funds Received or Made Available for the Project. The Recipient agrees to deposit, in a financial institution, all advance Project payments it receives from the Federal Government and record in the Project Account all amounts provided by the Federal Government in support of the Grant Agreement or Cooperative Agreement and all other funds provided for, accruing to, or otherwise received on account of the Project (Project funds) consistent with applicable Federal regulations and other requirements FTA may impose. Use of financial institutions owned at least 50 percent by minority group members is encouraged.

c. Documentation of Project Costs and Program Income. The Recipient agrees to support all costs charged to the Project, including any approved services contributed by the Recipient or others, with properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. The Recipient also agrees to maintain accurate records of all program income derived from Project implementation, except certain income determined by FTA to be exempt from the general Federal program income requirements.

d. Checks, Orders, and Vouchers. The Recipient agrees to refrain from drawing checks, drafts, or orders for goods or services to be charged against the Project Account until it has received and filed a properly signed voucher describing in proper detail the purpose for the expenditure.

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## **Section 8. Reporting, Record Retention, and Access.**

a. Types of Reports. The Recipient agrees to submit to FTA the reports required by U.S. DOT administrative regulations for grants and cooperative agreements and any other reports the Federal Government may require.

b. Format Requirements for Reports. The Recipient agrees that all reports and other documents or information intended for public availability developed in the course of the Project and required to be submitted to FTA must be prepared and submitted in electronic and or typewritten hard copy formats as FTA may require. Electronic submissions must comply with the electronic accessibility requirements of Subsections 12.g(9) and 15.s of this Master Agreement. FTA reserves the right to require records to be submitted in other formats.

c. Record Retention. The Recipient agrees to maintain intact and readily accessible all data, documents, reports, records, contracts, and supporting materials relating to the Project as the Federal Government may require during the course of the Project and for three years thereafter.

d. Access to Records of Recipients and Subrecipients. Upon request, the Recipient agrees to permit, and require its subrecipients to permit, the U.S. Secretary of

Transportation, the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Recipient and its Subrecipients pertaining to the Project.

e. Project Closeout. Project closeout does not alter the reporting and record retention requirements of this Section 8 of the Master Agreement.

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## **Section 9. Payments.**

The Recipient agrees to refrain from seeking payment from FTA for Project costs until it has executed the Grant Agreement or Cooperative Agreement for the Project.

a. Recipient's Request for Payment. To obtain a Federal assistance payment for the Project from FTA, the Recipient agrees to:

(1) Demonstrate or certify that it will provide adequate local funds that, when combined with Federal payments, will cover all costs to be incurred for the Project. Unless the Federal Government has expressly permitted the Recipient to defer provision of the local share, a Recipient required by Federal statute or the Grant Agreement or Cooperative Agreement to provide a local share agrees to refrain from:

(a) Requesting or obtaining Federal funds exceeding the amount justified by the local share previously provided, and

(b) Taking any action that would cause the proportion of Federal funds made available to the Project at any time to exceed the percentage authorized by the Grant Agreement or Cooperative Agreement,

(2) Submit to FTA all financial and progress reports required to date by this Master Agreement, and

(3) Identify the source(s) of financial assistance provided for the Project from which the payment is to be derived.

b. Payment by FTA. The Recipient agrees that FTA will make all payments through the Automated Clearing House (ACH) method of payment, regardless of the amount involved.

(1) Electronic Clearing House Operation Payments. If payment is made through the FTA Electronic Clearinghouse Operation (ECHO) using an ECHO Control Number, the Recipient agrees to comply with: FTA's ECHO requirements that implement U.S. Department of Treasury (U.S. Treasury) Circular 1075, Part 205, "Withdrawal of Cash from the Treasury for Advances Under Federal Grants and Other Programs;" Treasury Financial Manual, Vol. 1, Part 6, Chapter 2000; the ECHO System Operations Manual, "Guidelines for Disbursements" used for FTA Projects; and the requirements of this

Subsection 9.b(1). The Recipient also agrees that if it fails to comply with the following requirements of this Subsection 9.b(1), the Federal Government may revoke the unexpended portion of Federal assistance awarded for the Project.

(a) The Recipient may draw down cash only when actually needed for immediate disbursement required for Project purposes. Unless provided otherwise by Federal law or regulation, the Recipient agrees to expend all Federal funds obtained under the Project for Project purposes no later than three (3) days after receiving those funds. If the Recipient fails to expend those Federal assistance funds within three (3) days of their receipt or fails to return those funds to FTA within a reasonable period, or fails to establish procedures to minimize the time elapsing between cash advances and the disbursement, the Federal Government may revoke or temporarily suspend the Recipient's ECHO Control Number and the Recipient's access to the ECHO System. In addition, a Recipient's failure to adhere to these requirements may result in other remedies or penalties authorized by Federal law or regulation.

(b) The Recipient agrees to report its cash disbursements and balances promptly in compliance with Federal requirements.

(c) The Recipient agrees to provide for control and accountability for all Project funds consistent with Federal requirements and procedures for use of the ECHO system.

(d) The Recipient may not draw down funds for a Project in an amount exceeding the sum obligated by the Federal Government or the current available balance for that Project.

(e) The Recipient agrees to draw down funds only for eligible Project costs.

(f) The Recipient agrees to refrain from drawing down Federal assistance until needed for disbursement.

(g) The Recipient agrees to notify the appropriate Regional or Program Office when a single draw down will exceed \$50 million.

(h) The Recipient agrees to remit interest to the Federal Government on any Federal assistance prematurely drawn down, irrespective of whether that Federal assistance has been deposited in an interest-bearing account. The Recipient agrees that a debt for any premature draw down of Federal assistance funds does not qualify as a "claim" covered by the Debt Collection Act of 1982, as amended, 31 U.S.C. §§ 3701 through 3720, and that the interest provisions of this Subsection 9.b(1)(h) of this Master Agreement, rather than the interest provisions of the Debt Collection Act of 1982, as amended, will determine the amount of interest due on any debt for Federal assistance prematurely drawn down. The Recipient agrees that the amount of interest due depends on whether the Recipient is a State or State instrumentality.

1. A Recipient that is a State or State instrumentality agrees to remit interest to the Federal Government calculated as provided by U.S. Treasury regulations, "Rules and

Procedures for Funds Transfers," 31 C.F.R. Part 205 that implement section 5(b) of the Cash Management Improvement Act of 1990, as amended, 31 U.S.C. § 6503(b). Thus, a Recipient that is a State or a State instrumentality agrees that interest on any debt it may incur for Federal assistance prematurely drawn down does not qualify for the interest exemption of the Debt Collection Act of 1982, as amended, 31 U.S.C. §§ 3701 and 3717.

2. A Recipient that is neither a State nor a State instrumentality agrees to remit prejudgment common law interest on the debt for Federal assistance prematurely drawn down, as permitted by joint U.S. Treasury and U.S. Department of Justice (joint U.S. Treasury/U.S. DOJ) regulations, "Standards for the Administrative Collection of Claims," at 31 C.F.R. § 901.9(i). A Recipient that is either a local government or an instrumentality of a local government agrees that interest on any debt it may incur for Federal assistance prematurely drawn down does not qualify for the interest exemption for general local governments of the Debt Collection Act of 1982, as amended, 31 U.S.C. §§ 3701 and 3717.

(2) Requisition. If the requisition method of payment is used, the Recipient understands and agrees as follows:

(a) Recipient Responsibilities. The Recipient agrees to:

1. Complete and submit the "Payment Information Form - ECHO-ACH Payment System," Revised 10/92, to FTA's Accounting Division.
2. Complete and submit Standard Form 270, "Request for Advance or Reimbursement," to the designated FTA office.

(b) FTA Responsibilities. Upon receiving a request for payment and adequate supporting information, FTA will approve payment by direct deposit, provided that the Recipient has complied with the requirements of the Grant Agreement or Cooperative Agreement, satisfied FTA that the Federal funds requested are needed in that requisition period, and is making adequate progress toward Project completion. Upon completion of these requirements, the Federal Government may reimburse the apparent allowable costs incurred (or to be incurred in the requisition period), not to exceed the maximum amount of Federal funds payable through the Federal fiscal year of that requisition, as set forth in the Approved Project Budget for the Project.

c. Costs Reimbursed. The Recipient agrees that Project costs eligible for Federal participation must comply with all the following requirements. Thus, eligible Project costs must be:

- (1) In conformance with the Project Description, the Approved Project Budget, and all other terms of the Grant Agreement or Cooperative Agreement,
- (2) Necessary in order to accomplish the Project,

- (3) Reasonable for the goods or services purchased,
- (4) Actual net costs to the Recipient (*i.e.*, the price paid minus any refunds, rebates, or other items of value received by the Recipient that have the effect of reducing the cost actually incurred, excluding program income),
- (5) Incurred for work performed after the Effective Date of the Grant Agreement or Cooperative Agreement, unless the Federal Government has provided otherwise in writing,
- (6) Satisfactorily documented,
- (7) Treated consistently in accordance with accounting principles and procedures approved by the Federal Government for the Recipient, and with accounting principles and procedures approved by the Recipient for its contractors,
- (8) Eligible under Federal law, regulation, or guidelines for Federal participation, and
- (9) Unless permitted otherwise by Federal statute or regulation, be in compliance with the U.S. Office of Management and Budget (OMB) Circular or Federal regulation listed below that is applicable to the Recipient:
  - (a) For a Recipient that is a State, a local government, or an Indian tribal government, the provisions of OMB Circular A-87, Revised, "Cost Principles for State and Local Governments," apply;
  - (b) For a Recipient that is an institution of higher education, the provisions of OMB Circular A-21, Revised, "Cost Principles for Educational Institutions," apply;
  - (c) For a Recipient that is a private nonprofit organization, the provisions of OMB Circular A-122, Revised, "Cost Principles for Non-Profit Organizations" apply;
  - (d) For a Recipient that is a for-profit organization, the provisions of the Federal Acquisition Regulation, 48 C.F.R. Chapter I, Subpart 31.2, "Contracts with Commercial Organizations" apply.
- d. Bond Interest and Other Financing Costs. To the extent permitted in writing by FTA, bond interest and other similar financing costs are allowable. The Recipient understands and agrees that FTA's participation in Project interest costs will be limited to an amount that does not exceed the most favorable financing terms reasonably available for the Project at the time of borrowing.
- e. Excluded Costs. The Recipient understands and agrees as follows:
  - (1) In determining the amount of Federal assistance FTA will provide, FTA will exclude the following:
    - (a) Any Project cost incurred by the Recipient before the Effective Date of the Grant

Agreement or Cooperative Agreement or Amendment thereto, unless otherwise permitted by Federal law or regulation, or unless an authorized FTA official states in writing to the contrary;

(b) Any cost that is not included in the latest Approved Project Budget;

(c) Any cost for goods or services received in connection with a third party contract or other arrangement required to be, but has not been, concurred in or approved in writing by the Federal Government;

(d) Any ordinary governmental or nonproject operating cost, consistent with the prohibitions of 49 U.S.C. § 5323(h)(1); and

(e) Any cost ineligible for FTA participation as required by Federal law, regulation, or guidelines for Federal participation.

(2) The Recipient agrees that reimbursement by the Federal Government of any cost does not constitute a final decision of the Federal Government about whether that cost is eligible for reimbursement and does not constitute a waiver of any violation by the Recipient of the terms of the Grant Agreement or Cooperative Agreement. The Recipient acknowledges that the Federal Government will not make a final determination about the eligibility of any cost until an audit of the Project has been completed. If the Federal Government determines that the Recipient is not entitled to receive any portion of the Federal funds requested or provided, the Federal Government will notify the Recipient stating its reasons. The Recipient agrees that Project closeout will not alter the Recipient's obligation to return any funds due to the Federal Government as a result of later refunds, corrections, or other transactions; nor will Project close-out alter the Federal Government's right to disallow costs and recover funds on the basis of a later audit or other review. Unless prohibited by law, the Federal Government may recover any Federal assistance funds to be made available for the Project as needed to satisfy any outstanding monetary claims that the Federal Government may have against the Recipient. Exceptions pertaining to disallowed costs are contained in FTA directives or in other written Federal guidance.

f. Federal Claims, Excess Payments, Disallowed Costs, including Interest.

(1) Recipient's Obligation to Pay. Upon notification to the Recipient that specific amounts are owed to the Federal Government, whether for Federal claims for funds recovered from third parties or elsewhere, for excess payments, or for disallowed costs, the Recipient agrees to remit to the Federal Government promptly the amounts owed, including any interest due.

(2) Amount of Interest Due. The Recipient agrees that the amount of interest due depends on whether or not the principal portion of the debt is treated as a Federal claim or is treated as a debt owed to the Federal Government. Thus, Recipient agrees to pay interest calculated as follows:



(a) Federal Claims against the Recipient. The Debt Collection Act of 1982, as amended, 31 U.S.C. §§ 3701 through 3720, exempts State governments and units of general local government from the obligation to pay interest on claims pursued by the Federal Government under that Act, 31 U.S.C. §§ 3701 and 3717. Interest on claims against other parties will be calculated in accordance with the provisions of joint U.S. Treasury/U.S. DOJ regulations, "Standards for the Administrative Collection of Claims," at 31 C.F.R. § 901.9(i).

(b) Excess Payments. The Recipient agrees that a debt for any excess payment does not qualify as a "claim" for purposes of the Debt Collection Act of 1982, as amended, 31 U.S.C. §§ 3701 through 3720; thus the interest exemption for State governments and units of general local government provided by that Act will not apply to interest on the debt for excess payments. Accordingly, a Recipient that is a State government or a unit of general local government agrees that interest on any debt for excess payments does not qualify for the interest exemption for State and local governments at 31 U.S.C. §§ 3701 and 3717. Thus, irrespective of whether the Recipient is a State government, a unit of general local government, a public organization, a private nonprofit organization, an institution of higher education, an individual, or any other party, the Recipient agrees to pay common law prejudgment interest and related charges for excess payments made by the Federal Government, as permitted by joint U.S. Treasury/U.S. DOJ regulations, "Standards for the Administrative Collection of Claims," at 31 C.F.R. § 901(i).

(c) Disallowed Costs. The Recipient agrees that a debt for any disallowed cost does not qualify as a "claim" for purposes of the Debt Collection Act of 1982, as amended, 31 U.S.C. §§ 3701 through 3720; thus the interest exemption for State governments and units of general local government provided by that Act will not apply to interest on the debt for disallowed costs. Accordingly, a Recipient that is a State government or a unit of general local government agrees that interest on any debt for disallowed costs does not qualify for the interest exemption for State and local governments at 31 U.S.C. §§ 3701 and 3717. Thus, irrespective of whether the Recipient is a State government, a unit of general local government, a public organization, a private nonprofit organization, an institution of higher education, an individual, or any other party, the Recipient agrees to pay common law prejudgment interest and related charges for excess payments made by the Federal Government, as permitted by joint U.S. Treasury/U.S. DOJ regulations, "Standards for the Administrative Collection of Claims," at 31 C.F.R. § 901(i).

g. De-obligation of Funds. The Recipient agrees that the Federal Government may de-obligate unexpended Federal funds before Project closeout.

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## **Section 10. Project Completion, Audit, Settlement, and Closeout.**

a. Project Completion. Within ninety (90) days following Project completion or termination by the Federal Government, the Recipient agrees to submit a final Financial Status Report (either electronically or on Standard Form 269A), a certification of Project expenses, and third party audit reports, as applicable.

b. Audit of Recipients. The Recipient acknowledges and agrees as follows:

(1) Audit Requirements. The Recipient agrees to have performed the financial and compliance audits required by the Single Audit Act Amendments of 1996, 31 U.S.C. §§ 7501 *et seq.*, in accordance with OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," and the OMB A-133 Compliance Supplement provisions for the Department of Transportation, March, 2002, and any further revision or supplement thereto. The Recipient also agrees to obtain any other audits required by the Federal Government. Project closeout will not alter the Recipient's audit responsibilities. The Recipient agrees that audits will be conducted in accordance with U.S. General Accounting Office, "Government Auditing Standards."

(2) Audit Costs. Audit costs for Project administration and management are allowable to the extent authorized by OMB Circular A-87, Revised, OMB Circular A-21, Revised, OMB Circular A-122, Revised, or 48 C.F.R. Chapter I, Subpart 31.2, whichever is applicable.

c. Funds Due the Federal Government. The Recipient agrees to remit to the Federal Government any excess payments made to the Recipient, any costs disallowed by the Federal Government, and any amounts recovered by the Recipient from third parties or from other sources, as well as any interest required by Subsection 9.f(2) of this Master Agreement.

d. Project Closeout. Project closeout occurs when FTA notifies the Recipient that FTA has closed out the Project, and either forwards the final Federal assistance payment or acknowledges that the Recipient has remitted the proper refund. The Recipient agrees that Project closeout by FTA does not invalidate any continuing obligations imposed by the Grant Agreement or Cooperative Agreement or by the Federal Government's final notification or acknowledgment.

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## **Section 11. Right of the Federal Government to Terminate.**

Upon written notice, the Recipient agrees that the Federal Government may suspend or terminate all or part of the Federal financial assistance provided herein if the Recipient has violated the terms of the Grant Agreement or Cooperative Agreement, or if the Federal Government determines that the purposes of the statute authorizing the Project would not be adequately served by the continuation of Federal financial assistance for the Project. Any failure to make reasonable progress on the Project or other violation of the Grant Agreement or Cooperative Agreement that endangers substantial performance of the Project shall provide sufficient grounds for the Federal Government to terminate the Grant Agreement or Cooperative Agreement. Termination of any Federal financial assistance for the Project will not invalidate obligations properly incurred by the Recipient before the termination date, to the extent those obligations cannot be canceled. If, however, the Federal Government determines that the Recipient has willfully misused Federal assistance funds by failing to make adequate progress, failing to make reasonable

and appropriate use of the Project real property, facilities, or equipment, or has failed to comply with the terms of the Grant Agreement or Cooperative Agreement, the Federal Government reserves the right to require the Recipient to refund the entire amount of Federal funds provided for the Project or any lesser amount as the Federal Government may determine. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the Grant Agreement or Cooperative Agreement.

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## **Section 12. Civil Rights.**

The Recipient agrees to comply with all applicable civil rights statutes and implementing regulations including, but not limited to, the following:

a. Nondiscrimination in Federal Transit Programs. The Recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier under the Project, with the provisions of 49 U.S.C. § 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

b. Nondiscrimination -- Title VI of the Civil Rights Act. The Recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with all requirements prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21, and any implementing requirements FTA may issue.

c. Equal Employment Opportunity. The Recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with all requirements of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332 and any implementing requirements FTA may issue. Those equal employment opportunity (EEO) requirements include, but are not limited to, the following:

(1) General Requirements. The Recipient agrees as follows:

(a) The Recipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Recipient agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Recipient also agrees to comply with any implementing requirements FTA may issue.

(b) If the Recipient is required to submit and obtain Federal Government approval of its EEO program, that EEO program approved by the Federal Government is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement. Failure by the Recipient to carry out the terms of that EEO program shall be treated as a violation of the Grant Agreement or Cooperative Agreement. Upon notification to the Recipient of its failure to carry out the approved EEO program, the Federal Government may impose such remedies as it considers appropriate, including termination of Federal financial assistance in accordance with Section 11 of this Master Agreement, or other measures that may affect the Recipient's eligibility to obtain future Federal financial assistance for transportation Projects.

(2) Equal Employment Opportunity Requirements for Construction Activities. With respect to activities deemed by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the Recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with all applicable EEO requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, which implements Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000(e) note, and any Federal statutes, executive orders, regulations, and Federal policies affecting construction undertaken as part of the Project.

d. Disadvantaged Business Enterprise. The Recipient agrees to take the following measures to facilitate participation by disadvantaged business enterprises (DBE) in the Project:

(1) The Recipient agrees to comply with section 1101(b) of TEA-21, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

(2) The Recipient agrees that it shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any third party contract, or subagreement supported with Federal assistance derived from the U.S. DOT or in the administration of its DBE program or the requirements of 49 C.F.R. Part 26. The Recipient agrees to take all necessary and reasonable steps set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with Federal assistance derived from the U.S. DOT. The Recipient's DBE program, as required by 49 C.F.R. Part 26 and approved by the U.S. DOT, is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement. Implementation of this DBE program is a legal obligation, and failure to carry out its terms shall be treated as a violation of the Grant Agreement or Master Agreement. Upon notification to the Recipient of its failure to implement its approved DBE program, the U.S. DOT may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 *et*

*seq.*

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, and with any implementing directives that U.S. DOT or FTA may promulgate, which prohibit discrimination on the basis of sex.

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age.

g. Access Requirements for Persons with Disabilities. The Recipient agrees to comply with the requirements of 49 U.S.C. § 5301(d), which states the Federal policy that elderly persons and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The Recipient also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the Recipient agrees to comply with all applicable requirements of the following regulations and any subsequent amendments thereto:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

(6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

(7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

(8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

(9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; and

(10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609;

(11) Any implementing requirements FTA may issue.

h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1174 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4581 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd-3 and 290ee-3, and any subsequent amendments to these acts.

i. Access to Services for Persons with Limited English Proficiency. The Recipient agrees to comply with Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 Fed. Reg. 6733 *et seq.*, January 22, 2001.

j. Environmental Justice. The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note.

k. Other Nondiscrimination Statutes. The Recipient agrees to comply with all applicable requirements of any other nondiscrimination statute(s) that may apply to the Project.

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### **Section 13. Planning and Private Enterprise.**

a. FTA Requirements. The Recipient agrees to implement each Project financed with Federal assistance awarded for the Grant Agreement or Cooperative Agreement in a manner consistent with the plans developed in compliance with applicable planning and private enterprise provisions of 49 U.S.C. §§ 5303 through 5306, and 5323(l), and with

joint Federal Highway Administration (FHWA)/FTA regulations, "Planning Assistance and Standards," at 23 C.F.R. Part 450 and 49 C.F.R. Part 613, and with FHWA/FTA regulations, "Metropolitan and Statewide Planning," 23 C.F.R. Part 1410, and 49 C.F.R. Part 621, when promulgated; and to the extent applicable, with FTA regulations, "Major Capital Investment Projects," 49 C.F.R. Part 611.

b. Governmental and Private Nonprofit Providers of Nonemergency Transportation. In addition to providing opportunities to participate in planning described in Subsection 13.a of this Master Agreement above, to the extent feasible, the Recipient agrees to comply with the requirements of 49 U.S.C. § 5323(k), which afford governmental agencies and nonprofit organizations that receive assistance for nonemergency transportation from Federal Government sources (other than U.S. DOT) an opportunity to be included in the design, coordination, and planning of transportation services.

c. Infrastructure Investment. During the implementation of the Project, the Recipient agrees to take into consideration the recommendations of Executive Order No. 12803, "Infrastructure Privatization," 31 U.S.C. § 501 note, and Executive Order No. 12893, "Principles for Federal Infrastructure Investments," 31 U.S.C. § 501 note.

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#### **Section 14. Preference for United States Products and Services.**

To the extent applicable, the Recipient agrees to comply with the following U.S. domestic preference requirements:

a. Buy America. The Recipient agrees to comply with 49 U.S.C. § 5323(j), FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661, and implementing guidance FTA may issue.

b. Cargo Preference--Use of United States-Flag Vessels. The Recipient agrees to comply with U.S. Maritime Administration regulations, "Cargo Preference--U.S.-Flag Vessels," 46 C.F.R. Part 381, to the extent those regulations apply to the Project.

c. Fly America. The Recipient understands and agrees that the Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent service by U.S.-flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and with U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

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#### **Section 15. Procurement.**

To the extent applicable, the Recipient agrees to comply with the following third party procurement requirements:



- a. Federal Standards. The Recipient agrees to comply with FTA Circular 4220.1D, "Third Party Contracting Requirements," as amended or revised by FTA, and applicable Federal regulations or requirements. The FTA "Best Practices Procurement Manual" provides additional procurement guidance. Nevertheless, be aware that the FTA "Best Practices Procurement Manual" is focused on procurement processes and may omit certain Federal requirements applicable to the work to be performed.
- b. Project Approval/Third Party Contract Approval. Unless stated otherwise in writing, the Recipient agrees that FTA's approval of the Project does not constitute pre-approval of any non-competitive third party contract awards associated therewith.
- c. FTA Technical Review. The Recipient agrees to permit FTA to review and approve the Recipient's technical specifications and requirements, to the extent FTA believes necessary to ensure proper Project administration.
- d. Exclusionary or Discriminatory Specifications. Apart from inconsistent requirements imposed by Federal statute or regulations, the Recipient agrees to comply with the requirements of 49 U.S.C. § 5323(h)(2) by refraining from using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.
- e. Bus Seat Specifications. A State or local government recipient may use specifications conforming to the requirements of 49 U.S.C. § 5323(e) to acquire bus seats.
- f. Clean Air and Clean Water. The Recipient agrees to include in third party contracts and subgrants and subagreements exceeding \$100,000 adequate provisions to ensure that Project participants report the use of facilities placed or likely to be placed on U.S. Environmental Protection Agency (U.S. EPA) "List of Violating Facilities," refrain from using violating facilities, report violations to FTA and the Regional U.S.EPA Office, and comply with the inspection and other applicable requirements of:
- (1) Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.*; and
  - (2) Section 508 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1368, and other applicable provisions of the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.*
- g. Preference for Recycled Products. To the extent applicable, the Recipient agrees to comply with U.S. EPA regulations, "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 C.F.R. Part 247, implementing section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and otherwise provide a competitive preference for products and services that conserve natural resources and protect the environment and are energy efficient.
- h. Geographic Restrictions. The Recipient agrees to refrain from using any State or local geographic preference, except those expressly mandated or encouraged by Federal



statute, such as those set forth in Subsection 15.i of this Master Agreement below, or as permitted by FTA.

i. Architectural, Engineering, Design, or Related Services. When procuring architectural, engineering, or related services, the Recipient agrees to comply with the provisions of 49 U.S.C. § 5325(b), either by negotiating for those services in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. §§ 541 *et seq.*, or by using an equivalent qualifications-based requirement of the State. Provided that a sufficient number of qualified firms are eligible to compete for the third party contract, the contractor's geographic location may be a selection criterion. In addition, when awarding contracts for architectural, engineering, or related services, the Recipient agrees to accept undisputed audits conducted by other governmental agencies, in accordance with 23 U.S.C. § 112(b)(2) (C) through (F). To the extent the Recipient qualifies for an exception in accordance with 49 U.S.C. § 5325(b), however, this Subsection 15.i of this Master Agreement does not apply.

j. Force Account. The Recipient agrees that FTA may determine the extent to which Federal assistance may be used to participate in force account costs.

k. Award to Other than the Lowest Bidder. In accordance with 49 U.S.C. § 5325(c), a Recipient may award a third party contract to a party other than the lowest bidder, when such an award furthers objectives consistent with the purposes of 49 U.S.C. Chapter 53 and any implementing regulations, directives, circulars, manuals, or other guidance FTA may issue.

l. Rolling Stock. In acquiring rolling stock, the Recipient agrees as follows:

(1) Method of Acquisition. The Recipient may award a third party contract for rolling stock based on initial capital costs, performance, standardization, life cycle costs, and other factors, or based on a competitive procurement process, in accordance with 49 U.S.C. § 5326(c).

(2) Multi-year Options. In accordance with 49 U.S.C. § 5326(b)(1), a Recipient procuring rolling stock financed with Federal assistance appropriated for 49 U.S.C. Chapter 53 may enter into a multi-year contract with an option, not to exceed 5 years after the date of the original contract, to purchase additional rolling stock and replacement parts.

(3) Pre-Award and Post-Delivery Requirements. The Recipient agrees to comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revision thereto.

(4) Bus Testing. To the extent applicable, the Recipient agrees to comply with the requirements of 49 U.S.C. § 5323(c) and FTA regulations, "Bus Testing," 49 C.F.R. Part 665, and any revision thereto.

m. Bonding. To the extent applicable, the Recipient agrees to comply with the following bonding requirements:

(1) Construction Activities. The Recipient agrees to provide bid guarantee, contract performance, and payment bonds to the extent deemed adequate by FTA and applicable Federal regulations, and comply with any other bonding requirements FTA may issue.

(2) Other Activities. The Recipient agrees to comply with any other bonding requirements or restrictions FTA may impose.

n. Notification of Federal Participation. To the extent required by law, in the announcement of any third party contract award for goods or services (including construction services) having an aggregate value of \$500,000 or more, the Recipient agrees to specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of that Federal assistance as a percentage of the total cost of that third party contract.

o. Access to Third Party Contract Records. The Recipient agrees to require its third party contractors and third party subcontractors at as many tiers of the Project as required to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States, or their duly authorized representatives, access to all third party records as requested to conduct audits and inspections related to any third party contract that have not been awarded on the basis of competitive bidding for a capital or improvement Project, as required by 49 U.S.C. § 5325(a). The Recipient further agrees to require its third party contractors and third party subcontractors at as many tiers of the Project as required to provide sufficient access to third party procurement records as needed for compliance with Federal regulations or to assure proper Project management as determined by FTA.

p. National Intelligent Transportation Systems Architecture and Standards. The Recipient agrees to conform, to the extent applicable, to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section 5206(e) of TEA-21, 23 U.S.C. § 502 note, and comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 *et seq.*, January 8, 2001, and other Federal requirements that may be issued.

q. Federal Supply Schedules. In making federally assisted acquisitions, State, local, or nonprofit Recipients may not use Federal Supply Schedules except to the extent permitted by U.S. GSA, U.S. DOT, or FTA regulations or directives.

r. Neutrality in Labor Relations. To the extent permitted by law, the Recipient agrees to comply with Executive Order No. 13202, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," Executive Order No. 13202, as amended by Executive Order No. 13208, 41 U.S.C. § 251 note which, among other things, prohibits requirements for affiliation with a labor organization as a condition for award of any third party contract or subcontract for construction or construction management

services.

s. Electronic and Information Technology. When using Federal financial assistance to procure reports or other information that will be delivered to the Recipient and provided by the Recipient to FTA, among others, the Recipient agrees to include within the specifications a requirement that such reports or information will be prepared using electronic or information technology capable of assuring that the reports or information delivered will meet the applicable accessibility standards of section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194.

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## **Section 16. Leases.**

- a. Capital Leases. To the extent applicable, the Recipient agrees to comply with FTA regulations, "Capital Leases," 49 C.F.R. Part 639, and any revision thereto.
- b. Leases Involving Certificates of Participation. The Recipient agrees to obtain FTA concurrence before entering into a leasing arrangement involving the issuance of certificates of participation in connection with the acquisition of any capital asset.
- c. Cross-Border Leases. To the extent applicable, the Recipient agrees to comply with FTA Circular 7020.1, "Cross-Border Leasing Guidelines," April 26, 1990, and any amendment thereto, in connection with the acquisition of capital assets involving a cross-border lease.

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## **Section 17. Patent Rights.**

- a. General. If any invention, improvement, or discovery of the Recipient or any of its third party contractors or subrecipients at any tier of the Project is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Recipient agrees to notify FTA immediately and provide a detailed report.
- b. Federal Rights. The Recipient agrees that its rights and responsibilities, and those of each third party contractor and each subrecipient at any tier of the Project, pertaining to that invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, including any waiver thereof. Absent a determination in writing to the contrary by the Federal Government, the Recipient agrees to transmit to FTA those rights due the Federal Government in any invention, improvement, or discovery resulting from that third party contract or subcontract as specified in U.S. Department of Commerce regulations, "Rights to Inventions Made by

Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401 (implementing the Presidential Memorandum [Statement] on Government Patent Policy to the Heads of Executive Departments and Agencies, dated February 18, 1983, 19 Weekly Comp. Pres. Doc. 252-253, Feb. 28, 1983), irrespective of the status of the Recipient, subrecipient, or third party contractor at any tier of the Project (*i.e.*, a large business, small business, State government or State instrumentality, local government, nonprofit organization, institution of higher education, individual, *etc.*)

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## **Section 18. Rights in Data and Copyrights.**

a. Definition. The term "subject data" used in this section means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Grant Agreement or Cooperative Agreement. Examples include, but are not limited to: computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information. "Subject data" does not include financial reports, cost analyses, or similar information used for Project administration.

b. Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Grant Agreement or Cooperative Agreement:

(1) Except for its own internal use, the Recipient may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Recipient authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public.

(2) The restriction on publication of Subsection 18.b(1) of this Master Agreement, however, does not apply to an Agreement with an institution of higher learning.

c. Federal Rights in Data and Copyrights. The Recipient agrees to provide to the Federal Government a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes the "subject data" described in Subsections 18.c(1) and 18.c(2) of this Master Agreement. As used herein, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not provide or otherwise extend to other parties the Federal Government's license to:

(1) Any subject data developed under the Grant Agreement or Cooperative Agreement, or under a third party contract or subagreement financed by the Grant Agreement or Cooperative Agreement, whether or not a copyright has been obtained; and

(2) Any rights of copyright to which a Recipient, subrecipient, or a third party contractor

purchases ownership with Federal assistance.

d. Special Federal Rights in Data for Research, Development, Demonstration, and Special Studies (Planning) Projects. FTA's purpose in providing financial assistance for a special studies (planning), research, development, or demonstration Project, is to increase transportation knowledge, rather than limit the benefits of the Project to participants in the Project. Therefore, unless FTA determines otherwise, the Recipient of FTA financial assistance to support a research, development, demonstration, or a special studies (planning) Project agrees that, in addition to the rights in data and copyrights of Subsection 18.c of this Master Agreement, FTA may make available to any FTA recipient, subrecipient, third party contractor, or third party subcontractor, either FTA's license in the copyright to the subject data or a copy of the subject data. If the Project is not completed for any reason whatsoever, all data developed under that Project shall become subject data as defined in Subsection 18.a of this Master Agreement and shall be delivered as the Federal Government may direct. This Subsection 18.d of this Master Agreement, however, does not apply to adaptations of automatic data processing equipment or programs for the Recipient's use whose costs are financed with Federal funds for capital Projects.

e. Hold Harmless. Except as prohibited or otherwise limited by State law, upon request by the Federal Government, the Recipient agrees to indemnify, save, and hold harmless the Federal Government and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Recipient of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The Recipient shall not be required to indemnify the Federal Government for any such liability caused by the wrongful acts of Federal employees or agents.

f. Restrictions on Access to Patent Rights. Nothing in this Section 18 pertaining to rights in data shall imply a license to the Federal Government under any patent or be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.

g. Data Developed Without Federal Funding or Support. In connection with the Project, the Recipient may find it necessary to provide data developed without any Federal funding or support to the Federal Government. The requirements of Subsections 18.b, 18.c, and 18.d of this Master Agreement do not apply to data developed without Federal funding or support, even though that data may have been used in connection with the Project. Nevertheless, the Recipient understands and agrees that the Federal Government will not be able to protect any data from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential."

h. Statutory Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to make available data and information submitted to the Federal Government for dissemination under the Freedom of

Information Act, or other Federal statute(s) in accordance with implementation instructions contained in U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," at 49 C.F.R. § 19.36, revised March, 2000, to the extent applicable, and any subsequent applicable Federal requirements that may be promulgated.

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## **Section 19. Use of Real Property, Equipment, and Supplies.**

The Recipient understands and agrees that the Federal Government retains a Federal interest in any real property, equipment, and supplies financed with Federal assistance until, and to the extent, that the Federal Government relinquishes its Federal interest that property. Unless otherwise approved by FTA, the Recipient agrees to comply with the following requirements with respect to real property, equipment, and supplies financed by the Grant Agreement or Cooperative Agreement:

a. Use of Property. The Recipient agrees to use Project real property, equipment, and supplies for appropriate Project purposes (which may include joint development purposes that generate program income, both during and after the award period used to support transit activities) for the duration of the useful life of that property, as required by FTA. Should the Recipient unreasonably delay or fail to use Project property during the useful life of that property, the Recipient agrees that it may be required to return the entire amount of the Federal assistance expended on that property. The Recipient further agrees to notify FTA immediately when any Project property is withdrawn from Project use or when Project property is used in a manner substantially different from the representations the Recipient has made in its Application or the Project Description for the Grant Agreement or Cooperative Agreement for the Project.

b. General Federal Requirements. A Recipient that is a State, a local government, or an Indian tribal government agrees to comply with property management standards of 49 C.F.R. §§ 18.31 through 18.34, including any amendments thereto, and other applicable guidelines or regulations the Federal Government may issue. A Recipient that is an institution of higher education, or a private nonprofit organization, agrees to comply with 49 C.F.R. §§ 19.30 through 19.37, including any amendments thereto, and other applicable guidelines or regulations the Federal Government may issue. Any exception to the requirements of 49 C.F.R. §§ 18.31 through 18.34, and to 49 C.F.R. §§ 19.30 through 19.37, requires the express approval of the Federal Government. A Recipient that is a for-profit organization agrees to comply with property management standards satisfactory to FTA. In addition, the Recipient consents to FTA's established reimbursement requirements for premature dispositions of certain Project equipment (*i.e.*, when Project equipment is withdrawn from appropriate use before the expiration of the equipment's useful life established by FTA), as explained in Subsection 19.g of this Master Agreement.

c. Maintenance. The Recipient agrees to maintain Project real property and equipment in

good operating order, in compliance with any guidelines, directives, or regulations FTA may issue.

d. Records. The Recipient agrees to keep satisfactory records regarding the use of Project real property, equipment, and supplies, and submit to the FTA upon request such information as may be required to assure compliance with Section 19 of this Master Agreement.

e. Encumbrance of Project Property. The Recipient agrees to maintain satisfactory continuing control of Project real property or equipment. Thus, absent written authorization by FTA permitting otherwise:

(1) Written Transactions. The Recipient agrees to refrain from executing any transfer of title, lease, lien, pledge, mortgage, encumbrance, third party contract, grant anticipation note, alienation, or any other obligation that in any way would affect the Federal interest in any Project real property or equipment.

(2) Oral Transactions. The Recipient agrees to refrain from obligating itself in any manner to any third party with respect to Project real property or equipment.

(3) Other Actions. The Recipient agrees to refrain from taking any action that would either adversely affect the Federal interest or impair the Recipient's continuing control of the use of Project real property or equipment.

f. Transfer of Project Property. The Recipient understands and agrees as follows:

(1) Recipient Request. The Recipient may transfer assets financed with Federal assistance authorized for 49 U.S.C. Chapter 53 to a public body to be used for any public purpose with no further obligation to the Federal Government, provided the transfer is approved by the Federal Transit Administrator and conforms with the requirements of 49 U.S.C. §§ 5334(g)(1) and (2).

(2) Federal Government Direction. The Recipient agrees that the Federal Government may direct the disposition of, and even require the Recipient to transfer title to, any real property, equipment, or supplies financed with Federal assistance made available for the Grant Agreement or Cooperative Agreement.

(3) Leasing Project Property to Another Party. If the Recipient leases any Project asset to another party, the Recipient agrees to retain ownership of the leased asset, and assure that the lessee will use the Project asset appropriately, either through a "Lease and Supervisory Agreement" between the Recipient and lessee, or another similar document, unless the Federal Government determines otherwise in writing. Upon request by FTA, the Recipient agrees to provide a copy of any relevant documents.

g. Disposition of Project Property. With prior FTA approval, the Recipient may sell, transfer, or lease Project property and use the proceeds to reduce the gross project cost of other eligible capital transit projects to the extent permitted by 49 U.S.C. § 5334(g)

(4). Nevertheless, the Recipient agrees that FTA may establish the useful life of Project property, and that the Recipient will use Project property continuously and appropriately throughout that useful life.

(1) Project Property Whose Useful Life Has Expired. When the useful life of Project Property has expired, the Recipient agrees to comply with FTA's disposition requirements.

(2) Project Property Prematurely Withdrawn from Use. For property withdrawn from appropriate use before its useful life has expired, the Recipient agrees as follows:

(a) Notification Requirement. The Recipient agrees to notify FTA immediately when any Project real property, equipment, or supplies are prematurely withdrawn from appropriate use, whether by planned withdrawal, misuse, or casualty loss.

(b) Calculating the Fair Market Value of Prematurely Withdrawn Project Property. The Recipient agrees that the Federal Government retains a Federal interest in the fair market value of Project property prematurely withdrawn from mass transportation use. The amount of the Federal interest in the property shall be determined on the basis of the ratio of the Federal assistance awarded by the Federal Government for the property to the actual cost of the Property. The Recipient agrees that the fair market value of property prematurely withdrawn from use will be calculated as follows:

1. Equipment and Supplies. Unless otherwise determined in writing by FTA, the Recipient agrees that fair market value shall be calculated by straight-line depreciation of the equipment or supplies, based on the useful life of the equipment or supplies established or approved by FTA. In addition, the fair market value of equipment and supplies shall be the value immediately before the occurrence prompting the withdrawal of that property from use. In the case of equipment or supplies lost or damaged by fire, casualty, or natural disaster, the fair market value shall be calculated on the basis of the condition of that property immediately before the fire, casualty, or natural disaster, irrespective of the extent of insurance coverage. As authorized by 49 C.F.R. § 18.32(b), a State may use its own disposition procedures, provided that those procedures comply with the State's laws.

2. Real Property. The Recipient agrees that the fair market value of real property shall be determined either by competent appraisal based on an appropriate date approved by the Federal Government, as provided by 49 C.F.R. Part 24, or by straight line depreciation, whichever is greater.

3. Exceptional Circumstances. The Recipient agrees that the Federal Government may require the use of another method of determining the fair market value of property. In unusual circumstances, the Recipient may request that another reasonable valuation method be used including, but not limited to, accelerated depreciation, comparable sales, or established market values. In determining whether to approve such a request, the Federal Government may consider any action taken, omission made, or unfortunate occurrence suffered by the Recipient with respect to the preservation or conservation of



Project property withdrawn from appropriate use.

(c) Obligations to the Federal Government. Unless otherwise approved in writing by the Federal Government, the Recipient agrees to remit to the Federal Government the Federal interest in the fair market value of Project real property, equipment, or supplies prematurely withdrawn from appropriate use. In the case of fire, casualty, or natural disaster, the Recipient may fulfill its responsibilities with respect to the Federal interest remaining in the damaged equipment or supplies by either:

1. Investing an amount equal to the remaining Federal interest in like-kind equipment or supplies that are eligible for assistance within the scope of the Project that provided financial assistance for the damaged equipment or supplies; or
2. Returning to the Federal Government an amount equal to the remaining Federal interest in the damaged property.

h. Insurance Proceeds. If the Recipient receives insurance proceeds as a result of damage or destruction to the Project property, the Recipient agrees to:

- (1) Apply those insurance proceeds to the cost of replacing the damaged or destroyed Project property taken out of service, or
- (2) Return to the Federal Government an amount equal to the remaining Federal interest in the damaged or destroyed property.

i. Transportation - Hazardous Materials. The requirements of U.S. Research and Special Programs Administration regulations, "Shippers - General Requirements for Shipments and Packagings," 49 C.F.R. Part 173, apply to the transportation of hazardous materials.

j. Misused or Damaged Project Property. If any damage to Project real property, equipment, or supplies results from abuse or misuse of that property occurring with the Recipient's knowledge and consent, the Recipient agrees to restore that real property or equipment to its original condition or refund the value of the Federal interest in the damaged property, as the Federal Government may require.

k. Obligations After Project Closeout. A Recipient that is a State, local government, or Indian tribal government agrees that Project closeout will not alter its property management obligations of Section 19 of this Master Agreement and applicable Federal regulations and other FTA requirements or directives.

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## **Section 20. Insurance.**

In addition to any other insurance requirements that may apply in connection with the Project, the Recipient agrees as follows:

a. Minimum Requirements. At a minimum, the Recipient agrees to comply with the

insurance requirements normally imposed by the laws, regulations, and ordinances of its State and local governments.

b. Flood Hazards. To the extent applicable, the Recipient agrees to comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a(a), with respect to any Project activity involving construction or an acquisition having an insurable cost of \$10,000 or more.

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## **Section 21. Relocation.**

When relocation of individuals or businesses is required, the Recipient agrees to comply with the following requirements:

a. Relocation Protections. The Recipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §§ 4601 *et seq.*; and U.S. DOT regulations, "Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs," 49 C.F.R. Part 24, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally assisted programs. These requirements apply to all interests in real property acquired for Project purposes regardless of Federal participation in their purchase.

b. Nondiscrimination in Housing. The Recipient agrees to comply with Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. §§ 3601 *et seq.* and Executive Order No. 12892, "Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing," 42 U.S.C. § 3608 note, when carrying out its responsibilities to provide housing used to meet Federal relocation requirements.

c. Prohibition Against Use of Lead-Based Paint. In undertaking construction or rehabilitation of residence structures on behalf of individuals affected by land acquisition in connection with the Project, the Recipient agrees to refrain from using lead-based paint in accordance with Section 401(b) of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. § 4831(b).

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## **Section 22. Real Property.**

For Projects involving real property, the Recipient agrees as follows:

a. Land Acquisition. The Recipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §§ 4601 *et seq.*; and U.S. DOT regulations, "Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs," 49 C.F.R. Part 24. These requirements apply to all interests in real property acquired for Project purposes regardless of Federal participation in their purchase.

- b. Covenant Assuring Nondiscrimination. The Recipient agrees to include a covenant in the title of the real property to assure nondiscrimination during the useful life of the Project.
- c. Recording Title to Real Property. To the extent required by FTA, the Recipient agrees to record the Federal interest in the title of real property.
- d. FTA Approval of Changes in Real Property Ownership. The Recipient agrees that it will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from FTA.

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## **Section 23. Construction.**

For activities involving construction, the Recipient agrees as follows:

- a. Drafting, Review, and Approval of Construction Plans and Specifications. To the extent required by FTA, the Recipient agrees to comply with FTA requests pertaining to the drafting, review, and approval of construction plans and specifications.
- b. Supervision of Construction. The Recipient agrees to provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms to the approved plans and specifications.
- c. Construction Reports. The Recipient agrees to provide progress reports and such other information as may be required by FTA or the State.
- d. Project Management for Major Capital Projects. To the extent applicable, the Recipient agrees to comply with FTA regulations, "Project Management Oversight," 49 C.F.R. Part 633, and any revision thereto.
- e. Seismic Safety. The Recipient agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. §§ 7701 *et seq.*, with Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction," 42 U.S.C. § 7704 note, and with U.S. DOT regulations, "Seismic Safety," 49 C.F.R. Part 41 (specifically, 49 C.F.R. § 41.117).

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## **Section 24. Employee Protections.**

- a. Construction Activities. The Recipient agrees to comply, and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with the following employee protection requirements for construction employees:
  - (1) Davis-Bacon Act, as amended, 40 U.S.C. §§ 276a - 276a(7), FTA's enabling legislation requiring compliance with the Davis-Bacon Act, at 49 U.S.C. § 5333(a), and

U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5;

(2) Contract Work Hours and Safety Standards Act, as amended, particularly with the requirements of section 102 of that Act, 40 U.S.C. §§ 327 - 332; and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5; and with section 107 of that Act, 40 U.S.C. § 333, and U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. Part 1926; and

(3) Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874 and 40 U.S.C. § 276c, and U.S. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States," 29 C.F.R. Part 3.

b. Activities Not Involving Construction. The Recipient agrees to comply and assures the compliance of each third party contractor and each subrecipient at any tier of the Project, with employee protection requirements for nonconstruction employees of section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 327 - 332, and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5.

c. Activities Involving Commerce. The Recipient agrees that the provisions of the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*, applies to employees performing Project work involving commerce.

d. Transit Employee Protective Arrangements. If the Grant Agreement or Cooperative Agreement indicates that transit employee protective arrangements required by U.S. DOL apply to transit operations performed in connection with the Project, the Recipient agrees to comply with the applicable requirements for its Project as follows:

(1) Standard Transit Employee Protective Arrangements. To the extent that the Project involves transit operations, the Recipient agrees to implement the Project in compliance with the terms and conditions that the U.S. Secretary of Labor has determined to be fair and equitable to protect the interests of any employees affected by the Project and that meet the requirements of 49 U.S.C. § 5333(b), and of the U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215 and any amendments thereto. These terms and conditions are identified in U.S. DOL's certification of transit employee protective arrangements to FTA, the date of which certification appears in the Grant Agreement or Cooperative Agreement, and the Recipient agrees to implement the Project in compliance with the conditions stated in that U.S. DOL certification. That U.S.

DOL certification and any documents that may be cited therein are incorporated by reference and made part of the Grant Agreement or Cooperative Agreement. The requirements of this Subsection 24.d(1) of this Master Agreement do not apply to Projects for elderly persons or persons with disabilities that are authorized by 49 U.S.C. § 5310(a)(2) or to Projects for nonurbanized areas that are authorized by 49 U.S.C. § 5311; separate requirements for those Projects are contained in Subsections 24.d(2) and 24.d(3), respectively, of this Master Agreement.

(2) Transit Employee Protective Arrangements for Projects for Elderly and Persons with Disabilities Authorized by 49 U.S.C. § 5310(a)(2). To the extent that the U.S. Secretary of Transportation has determined or determines in the future that employee protective arrangements required by 49 U.S.C. § 5333(b) are necessary or appropriate for a public body subrecipient under the Project, the Recipient agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor as necessary to meet the requirements of 49 U.S.C. § 5333(b), and the U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in U.S. DOL's certification of transit employee protective arrangements to FTA, the date of which appears in the Grant Agreement. The Recipient agrees to implement the Project in compliance with the conditions stated in that U.S. DOL certification. That U.S. DOL certification and any documents that may be cited therein are incorporated by reference and made part of the Grant Agreement.

(3) Transit Employee Protective Arrangements for Projects in Nonurbanized Areas Authorized by 49 U.S.C. § 5311. The Recipient agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, U.S. DOL implementing procedures, and any revisions thereto.

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## **Section 25. Environmental Requirements.**

The Recipient recognizes that many Federal and State laws imposing environmental and resource conservation requirements may apply to the Project. Some, but not all, of the major Federal laws that may affect the Project include: the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 *et seq.*; the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* and scattered sections of 29 U.S.C.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.*; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 *et seq.*; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 *et seq.* The Recipient also recognizes that U.S. EPA, FHWA and other Federal agencies have issued, and in the future are expected to issue, regulations, guidelines, standards, orders, directives, or other requirements that may affect the Project. Thus, the Recipient agrees to comply, and assures the compliance of each subrecipient and each third party contractor, with any such Federal requirements as the

Federal Government may now or in the future promulgate. Listed below are requirements of particular concern to FTA and the Recipient. The Recipient agrees that those laws and regulations do not constitute the Recipient's entire obligation to meet all Federal environmental and resource conservation requirements.

a. Environmental Protection. The Recipient agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 *et seq.*, Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5324(b); U.S. Council on Environmental Quality regulations pertaining to compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 *et seq.*; joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622, and, when promulgated, joint FHWA/FTA regulations, "NEPA and Related Procedures for Transportation Decisionmaking, Protection of Public Parks, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. Part 1420 and 49 C.F.R. Part 623.

b. Air Quality. The Recipient agrees to comply with all applicable regulations, standards, orders, and requirements implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* In addition :

(1) The Recipient agrees to comply with the applicable requirements of the U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93. To support the requisite air quality conformity finding for the Project, the Recipient agrees to implement each air quality mitigation or control measure incorporated in the Project. The Recipient further agrees that any Project identified in an applicable State Implementation Plan as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the State Implementation Plan.

(2) U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, that may apply to transit operators, particularly operators of large transit bus fleets. Accordingly, the Recipient agrees to comply with the following U.S. EPA regulations to the extent they are applicable to the Project: "Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines," 40 C.F.R. Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures," 40 C.F.R. Part 86; and "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600.

(3) The Recipient agrees to comply with the notification of violating facility requirements of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

c. Clean Water. The Recipient agrees to comply with all applicable standards, orders, or

regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.* In addition:

(1) The Recipient agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f *et seq.*

(2) The Recipient agrees to comply with the notification of violating facility requirements of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

d. Use of Public Lands. The Recipient agrees to refrain from using in its Project any publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, and also refrain from using in its Project any land from a historic site of national, State, or local significance unless the Federal Government makes the specific findings as required by 49 U.S.C. § 303.

e. Wild and Scenic Rivers. The Recipient agrees to comply with the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 *et seq.* relating to protecting components of the national wild and scenic rivers system.

f. Coastal Zone Management. The Recipient agrees to assure Project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 *et seq.*

g. Wetlands. The Recipient agrees to comply with the protections for wetlands in accordance with Executive Order No. 11990, as amended, "Protection of Wetlands," 42 U.S.C. § 4321 note.

h. Floodplains. The Recipient agrees to comply with the flood hazards protections in floodplains in accordance with Executive Order No. 11988, as amended, "Floodplain Management" 42 U.S.C. § 4321 note.

i. Endangered Species. The Recipient agrees to comply with the protections for endangered species of the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 *et seq.*

j. Historic Preservation. The Recipient agrees to facilitate compliance with the Federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. § 470f; of Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment," 16 U.S.C. § 470 note; and of the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. §§ 469a *et seq.* by taking the following actions:

(1) In accordance with U. S. Advisory Council on Historic Preservation regulations,



"Protection of Historic and Cultural Properties," 36 C.F.R. Part 800, the Recipient agrees to consult with the State Historic Preservation Officer concerning investigations to identify properties and resources included in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, and agrees to notify FTA of any affected properties.

(2) The Recipient agrees to comply with all Federal requirements to avoid or mitigate adverse effects on those historic properties.

k. Environmental Justice. The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note.

l. Mitigation of Adverse Environmental Effects. Should the Proposed project cause or result in adverse environmental effects, the Recipient agrees to take all reasonable measures to minimize those adverse effects, as required by 49 U.S.C. § 5324(b), and other applicable Federal laws and regulations, including joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622 and, when promulgated, with new FHWA/FTA regulations, "NEPA and Related Procedures for Transportation Decisionmaking, Protection of Public Parks, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. Part 1420, and 49 C.F.R. Part 623. The Recipient agrees to comply with all environmental mitigation measures identified as commitments in applicable environmental documents (*i.e.*, environmental assessments, environmental impact statements, memoranda of agreement, and documents required by 49 U.S.C. § 303) and with any conditions imposed by the Federal Government in a finding of no significant impact or a record of decision. The Recipient agrees that those mitigation measures are incorporated by reference and made part of the Grant Agreement or Cooperative Agreement. The Recipient agrees that deferred mitigation measures will be incorporated by reference and made part of the Grant Agreement or Cooperative Agreement as soon as agreement with the Federal Government is reached and understands that those mitigation measures agreed upon may not be modified or withdrawn without the express written approval of the Federal Government.

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## **Section 26. Energy Conservation.**

The Recipient agrees to comply with the mandatory energy efficiency standards and policies within the applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*

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## **Section 27. State Management and Monitoring Systems.**

The Recipient agrees to comply with applicable requirements of joint FHWA/FTA



regulations, "Management and Monitoring Systems," 23 C.F.R. Parts 500 and 49 C.F.R. Part 614, to the extent applicable.

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## **Section 28. Charter Service Operations.**

The Recipient agrees that neither it nor any transit operator performing work in connection with the Project will engage in charter service operations, except as permitted by 49 U.S.C. § 5323(d), FTA regulations, "Charter Service," 49 C.F.R. Part 604, and any amendments thereto, that may be issued. Any charter service agreement required by these regulations is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement.

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## **Section 29. School Transportation Operations.**

The Recipient agrees that neither it nor any transit operator performing work in connection with the Project will engage in school transportation operations for the transportation of students or school personnel exclusively in competition with private school transportation operators, except as permitted by 49 U.S.C. § 5323(f) and FTA regulations, "School Bus Operations," 49 C.F.R. Part 605, and any amendments thereto that may be issued. Any school transportation agreement required by these regulations is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement.

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## **Section 30. Metric System.**

As required by U.S. DOT or FTA, the Recipient agrees to use the metric system of measurement in its Project activities, in accordance with the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. §§ 205a *et seq.*; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. § 205a note; and any U.S. DOT or FTA regulations, guidelines, and policies. To the extent practicable and feasible, the Recipient agrees to accept products and services with dimensions expressed in the metric system of measurement.

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## **Section 31. Substance Abuse.**

The Recipient agrees to comply with the following Federal substance abuse regulations:

- a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 29, Subpart F, as modified by 41 U.S.C. §§ 702 *et seq.*

b. Alcohol Misuse and Prohibited Drug Use. FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, to the extent applicable.

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### **Section 32. State Safety Oversight of Rail Fixed Guideway Public Systems.**

To the extent applicable, the Recipient agrees to comply with 49 U.S.C. § 5330, and FTA regulations, "Rail Fixed Guideway Systems; State Safety Oversight," 49 C.F.R. Part 659, and any guidance that FTA or U.S. DOT may issue to implement 49 U.S.C. § 5330.

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### **Section 33. Seat Belt Use.**

In accordance with Executive Order No. 13043, "Increasing Seat Belt Use in the United States," 23 U. S. C. § 402 note, the Recipient is encouraged to adopt on-the-job seat belt use policies and programs for its employees that operate company-owned, rented, or personally-operated vehicles and include this provision in third party contracts and subcontracts, and subagreements under the Project.

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### **Section 34. Protection of Sensitive Security Information.**

To the extent applicable, the Recipient agrees to comply with section 101(e) of the Aviation and Transportation Security Act, 49 U.S.C. § 40119(b), with U.S. Transportation Security Administration regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 1520, and with any implementing regulations, requirements, or guidelines that the Federal Government may issue.

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### **Section 35. Special Requirements for Urbanized Area Formula Projects.**

The following requirements apply to all Projects financed with Federal assistance authorized for 49 U.S.C. § 5307:

a. Fares and Services. Before increasing fares or instituting a major reduction of service, the Recipient agrees to use its established administrative process to solicit and consider public comment.

b. Audit Requirements. The Recipient agrees that the Federal Government may conduct, or may require the Recipient to engage an independent entity to conduct, annual or more frequent reviews and audits as required by 49 U.S.C. § 5307(i) and any applicable regulations or guidelines that the Federal Government may issue. The Recipient agrees

that such audits will be conducted in accordance with the U.S. General Accounting Office, "Government Auditing Standards."

c. Half-Fare Requirements. The Recipient agrees that the fares or rates it charges the elderly and persons with disabilities during nonpeak hours for transportation using or involving Project facilities and equipment will not exceed one-half of the rates that generally apply to other persons at peak hours, irrespective of whether the operation of such facilities and equipment is by the Recipient or another entity through lease or otherwise. In addition, the Recipient agrees to give the rate required herein to any person presenting a Medicare card duly issued to that individual pursuant to Title II or Title XVIII of the Social Security Act, 42 U.S.C. §§ 401 *et seq.*, and 42 U.S.C. §§ 1395 *et seq.*

d. Procurement of an Associated Capital Maintenance Product. In accordance with the terms of 49 U.S.C. § 5326(d), the Recipient may, without prior Federal approval, procure an eligible associated capital maintenance product by contract directly with the original supplier or manufacturer of the item to be replaced, provided that the Recipient: (1) first certifies in writing that such manufacturer or supplier is the only source of that item and the price of that item is no higher than the price paid for that item by like customers, and (2) complies with applicable Buy America statutory and regulatory requirements.

e. Transit Security. Each fiscal year, the Recipient agrees to spend at least one (1) percent of its funds authorized by 49 U.S.C. § 5307 for transit security Projects, unless the Recipient has certified to FTA that such expenditures are not necessary.

f. Restrictions on the Use of Formula Assistance for Operations. A Recipient permitted to use Federal assistance authorized for 49 U.S.C. § 5307 to support operations agrees as follows:

(1) The Recipient will comply with the restrictions of 49 U.S.C. §§ 5307(b)(1) and 5307(f) in using urbanized area formula funds for operating assistance, unless permitted otherwise by FTA.

(2) Financial assistance authorized by 49 U.S.C. § 5307 may be applied to the Net Project Cost of the Recipient's operating expenses incurred during the Project time period set forth in the Approved Project Budget and, with FTA approval, may be extended to a later date to the extent permitted by law, provided that the applicable operating assistance limitation is not exceeded.

g. Reporting Requirements. For each fiscal year, the Recipient agrees to conform, and assures that any transit operator to which the Recipient provides funds authorized by 49 U.S.C. § 5307 will conform, to the reporting system and the uniform system of accounts and records required by 49 U.S.C. § 5335(a) for FTA's national transit database and FTA regulations, "Uniform System of Accounts and Records and Reporting System," 49 C.F.R. Part 630.

h. Criminal Sanctions. The Federal criminal sanctions of 49 U.S.C. § 1001 apply to any submission or certification provided in connection with the Urbanized Area Formula Program authorized by 49 U.S.C. § 5307.

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### **Section 36. Special Requirements for Elderly and Persons with Disabilities Formula Projects.**

The Recipient agrees to comply with following requirements in administering Projects financed with Federal assistance authorized for 49 U.S.C. § 5310:

a. Eligible Subrecipients. If Federal assistance authorized for 49 U.S.C. § 5310 and awarded for the Grant Agreement has been designated for Projects to be undertaken by entities eligible for assistance in accordance with 49 U.S.C. § 5310(a)(2), the Recipient will provide assistance only to subrecipients that qualify as: (1) a private nonprofit corporation or association meeting the special needs of the elderly and persons with disabilities for whom transit services are unavailable, insufficient, or inappropriate; (2) a public body approved by the State to coordinate services for the elderly and persons with disabilities; or (3) a public body that certifies to the Governor that there are no nonprofit corporations or associations readily available in its area able to provide service to meet the special needs of the elderly and persons with disabilities.

b. State Procedures. The Recipient agrees to administer each Project financed with Federal assistance authorized for 49 U.S.C. § 5310 in accordance with FTA Circular 9070.1E, "Elderly and Persons with Disabilities Program Guidance and Application Instructions" or any revision thereto, other applicable FTA guidance, and applicable Federal statutes and regulations. To the extent, however, that any existing or subsequent Federal statute or regulation conflicts with the provisions of FTA Circular 9070.1E or any revision thereto, the Federal statute or regulation will apply.

c. Eligible Project Activities. Federal assistance awarded for the Project may be used for eligible capital Projects specified under 49 U.S.C. § 5310 and may include meal delivery service to the extent permitted by 49 U.S.C. § 5310(h).

d. Transfer of Assets. In addition to the statutory authority of 49 U.S.C. § 5334(g) permitting the transfer of Project assets, the Recipient may also transfer facilities and equipment acquired with Federal assistance authorized for 49 U.S.C. § 5311 to any entity eligible to receive assistance under 49 U.S.C. chapter 53, provided that the subrecipient currently in possession of these facilities or equipment consents to the transfer and the facilities or equipment will continue to be used in accordance with the requirements of 49 U.S.C. § 5311.

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### **Section 37. Special Requirements for Nonurbanized Area Formula Projects.**

The Recipient agrees to comply with following requirements in administering Projects financed with Federal assistance authorized for 49 U.S.C. § 5311:

- a. State Procedures. The Recipient agrees to administer each Project financed with Federal assistance authorized for 49 U.S.C. § 5311 in accordance with FTA Circular 9040.1E, "Nonurbanized Area Formula Program Guidance and Grant Application Instructions" or any revision thereto, or other applicable FTA guidance, and applicable Federal statutes and regulations. To the extent, however, that any existing or subsequent Federal statute or regulation conflicts with the provisions of FTA Circular 9040.1E or any revision thereto, the Federal statute or regulation will apply.
- b. Eligible Project Activities. Federal assistance provided for the Grant Agreement and subagreements may be used for transit Projects in areas other than urbanized areas. These Projects must be eligible for Federal assistance authorized for 49 U.S.C. § 5311, and may include purchase of service agreements with private providers of transit service and meal delivery service, to the extent permitted by 49 U.S.C. § 5311.
- c. Transfer of Assets. In addition to the statutory authority of 49 U.S.C. § 5334(g) permitting the transfer of Project assets, the Recipient may also transfer facilities and equipment acquired with Federal assistance authorized for 49 U.S.C. § 5311 to any entity eligible to receive assistance under 49 U.S.C. chapter 53, provided that the subrecipient currently in possession of these facilities or equipment consents to the transfer and the facilities or equipment will continue to be used in accordance with the requirements of 49 U.S.C. § 5311.
- d. Restrictions on the Use of Formula Assistance for Operations. Formula assistance authorized for 49 U.S.C. § 5311 and provided for operating assistance may be applied to the Net Project Cost of the subrecipient's operating expenses incurred during the Project time period specified for the Project, and, with FTA approval, may be extended to a later date to the extent permitted by law.
- e. Intercity Transportation. The Recipient agrees to spend at least fifteen (15) percent of its funds authorized for 49 U.S.C. § 5311 each fiscal year for intercity transportation Projects, unless the State's chief executive officer or his or her duly authorized designee has certified to FTA that the State's intercity bus service needs are being adequately met.

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### **Section 38. Special Requirements for Clean Fuels Formula Projects.**

The Recipient agrees to comply with following requirements in administering Projects financed with Federal assistance authorized for 49 U.S.C. § 5308:

- a. General Requirements. The Recipient agrees to comply with FTA regulations, "Clean Fuels Formula Grant Program," 49 C.F.R. Part 624, and other implementing Federal requirements or guidance that may be issued.

b. Requirements to Use Clean Fuels. The Recipient agrees to use only clean fuels in any vehicle acquired with Federal transit assistance funds authorized by 49 U.S.C. § 5308.

c. Limitations on the Use of Funds. The Recipient agrees to use funds authorized by 49 U.S.C. § 5308 only for Projects approved by FTA, and obtain FTA concurrence before using those funds for other purposes.

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### **Section 39. Special Requirements for Research, Development, Demonstration, and Special Studies (Planning) Projects.**

The Recipient agrees to comply with following requirements:

a. Project Report. The Recipient agrees to:

(1) Prepare and make available a comprehensive report on the results of the Project, the conclusions reached, and the methods used.

(2) Include in each report appropriate notice that the report is being disseminated under the sponsorship of the U.S. Department of Transportation, Federal Transit Administration to foster information exchange, and that: (a) the U.S. Government assumes no liability for the contents or use of the report, (b) the U.S. Government is not endorsing manufacturers or products cited in the report, and (c) any trade name appearing within the report has been included only because it is essential to the content of the report.

b. Project Identification. The Recipient agrees that each tangible product developed in the course of or resulting from Project activities shall be include an appropriate sign, designation, or notification stating that the Project has been financed with Federal assistance provided by the U.S. Department of Transportation, Federal Transit Administration. Unless waived by FTA, this requirement applies to all equipment, hardware, construction, reports, data, or any similar items produced under the Grant Agreement or Cooperative Agreement.

c. Protection of Human Subjects. The Recipient agrees to comply with the requirements of the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. §§ 289 *et seq.* and U.S. DOT regulations, "Protection of Human Subjects," 49 C.F.R. Part 11 pertaining to protections for human subjects participating in or involved in research, development, and related activities in connection with the Project.

d. Protection of Animals. The Recipient agrees to comply with the requirements of the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. §§ 2131 *et seq.* and U.S. Department of Agriculture regulations, "Animal Welfare," 9 C.F.R. Subchapter A, Parts 1, 2, 3, and 4 pertaining to the care, handling, and treatment of warm blooded animals involved in research, development, and related activities involved in the Project.

e. Export Control. The Recipient understands and agrees that any technical information

developed under this Agreement may be subject to export control regulations promulgated by the Bureau of Export Administration of the U.S. Department of Commerce and by other agencies of the Federal Government, including the U.S. Department of State, U.S. Department of the Treasury, or U.S. Department of Defense. Accordingly, for any technical information regulated by U.S. export control regulations, the Recipient agrees that it will not export that technical information, or the direct product thereof, directly or indirectly, to any countries or foreign persons without first obtaining the necessary license(s) and/or other complying with any such export control regulations.

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#### **Section 40. Special Requirements for Job Access and Reverse Commute Grant Projects.**

The Recipient agrees to comply with following requirements in administering Projects financed with Federal assistance authorized for section 3037 of TEA-21, 49 U.S.C. § 5309 note:

- a. General Requirements. The Recipient agrees to comply with all applicable Federal requirements or guidance that may be issued to implement the Job Access and Reverse Commute Grant Program, authorized by section 3037 of TEA 21, 49 U.S.C. § 5309 note.
- b. Restrictions on the Use of Grant Funds. The Recipient agrees that it will not use any grant funds awarded for Section 3037 Projects to support the costs of planning or coordination activities, as restricted by section 3037(e) of TEA-21, 49 U.S.C. § 5309 note.

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#### **Section 41. Special Requirements for Over-the-Road Bus Accessibility Projects.**

The Recipient agrees to comply with following requirements in administering Projects financed with Federal assistance authorized for section 3038 of TEA-21, 49 U.S.C. § 5310 note:

- a. General Requirements. The Recipient agrees to comply with any applicable Federal requirements or guidance that may be issued to implement the Over-the-Road Bus Accessibility Program authorized by section 3038 of TEA-21, 49 U.S.C. § 5310 note.
- b. Special Requirements. The Recipient agrees to comply with U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37, Subpart H, "Over-the-Road Buses," and joint U.S. ATBCB/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38.
- c. FTA Notice. The provisions of FTA Notice, "Over-the-Road Bus Accessibility Program Grants," 67 Fed. Reg. 16,799 – 16,810 (April 8, 2002) and any subsequent



revision thereto, supersede conflicting provisions of this Master Agreement.

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## **Section 42. Special Requirements for State Infrastructure Bank Projects.**

The Recipient agrees as follows:

a. General Requirements. The Recipient agrees to administer the Project in accordance with the applicable requirements of: (1) section 350 of the National Highway System Designation Act of 1995, as amended, (NHS Act), 23 U.S.C. § 101 note, and any amendments thereto or subsequent legislation, (2) section 1511 of TEA-21, 23 U.S.C. § 181 note, and any amendments thereto or subsequent legislation, (3) any other applicable Federal guidance that may be issued, (4) the terms and conditions of U.S. Department of Labor Certification(s) of Transit Employee Protective Arrangements required by Federal law or regulations, (5) the Cooperative Agreement establishing the State Infrastructure (SIB) program within the State (entered into by the Federal Highway Administrator, Federal Transit Administrator, and authorized State official), and (6) the FTA Grant Agreement providing Federal assistance for the SIB Project; except, however, any provision of this Master Agreement conflicting with applicable Federal SIB Guidelines, the Cooperative Agreement establishing the SIB program within the State, or this Grant Agreement will not apply to the Grant Agreement or the Project to the extent the SIB program is involved.

b. Limitations on Accessing Federal Assistance in the Transit Account. The Recipient understands that the total amount of Federal assistance awarded for a Grant Agreement may not be available for immediate draw down. Thus, the State agrees to limit the amount of Federal assistance drawn down for deposit in the SIB to amounts not exceeding the limitations specified in its Grant Agreement or the Approved Project Budget for that Grant Agreement to the extent the SIB program is involved.

c. Latest Requirements Apply. The Recipient agrees to comply with, and assures the compliance of the SIB and any subrecipient receiving Federal funding thereunder, with the applicable requirements for the SIB program and amendments thereto, except as FTA determines otherwise.

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## **Section 43. Special Requirements for TIFIA Projects.**

To the extent applicable, the Recipient agrees to administer each Project financed with Federal assistance authorized for the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) program, in accordance with the requirements of: (1) 23 U.S.C. §§ 181 *et seq.*, including any amendments that may be enacted, (2) 49 U.S.C. §§ 5323(o), 5307, and 5309, and (3) the joint U.S. DOT/FTA regulations, "Credit Assistance for Surface Transportation Projects," 49 C.F.R. Part 80 and 49 C.F.R. Part 640. Nevertheless, any provision of this Master Agreement that conflicts with 23 U.S.C.



§§ 181 *et seq.*, 49 U.S.C. §§ 5323(o), 5307, or 5309, or the joint U.S. DOT/FTA regulations, "Credit Assistance for Surface Transportation Projects," 49 C.F.R. Part 80 and 49 C.F.R. Part 640 will not apply to the TIFIA Loan or Loan Guarantee for the Project thereunder. FTA reserves the right to declare the Recipient in violation of the Master Agreement if the Recipient has defaulted on a TIFIA Loan or Loan Guarantee and such default has not been cured within 90 days.

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#### **Section 44. Disputes, Breaches, Defaults, or Other Litigation.**

The Recipient agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

- a. Notification to FTA. The Recipient agrees to notify FTA of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. If the Recipient seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Recipient agrees to inform FTA before doing so.
- b. Federal Interest in Recovery. The Federal Government retains the right to a proportionate share, based on the percentage of the Federal share awarded for the Project, of proceeds derived from any third party recovery, except that the Recipient may return any liquidated damages recovered to its Project Account in lieu of returning the Federal share to the Federal Government.
- c. Enforcement. The Recipient agrees to pursue all legal rights provided within any third party contract.
- d. FTA Concurrence. FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the Recipient.
- e. Alternative Dispute Resolution. FTA encourages the Recipient to use alternative dispute resolution procedures, as may be appropriate.

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#### **Section 45. Amendments to the Project.**

The Recipient agrees that a change in Project conditions causing an inconsistency with the terms of the Grant Agreement or Cooperative Agreement will require an amendment to the Grant Agreement or Cooperative Agreement signed by the original signatories.

The Recipient agrees that a change in the fundamental information submitted in its Application will also require an Amendment to its Application or the Grant Agreement or Cooperative Agreement.

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**Section 46. FTA's Electronic Award and Management System.**

Except as otherwise permitted by FTA, the Recipient agrees to use FTA's electronic award and management system to submit information and reports to FTA. FTA, however, reserves the right to determine the extent to which the Recipient may use FTA's electronic award and management system to execute legal documents pertaining to FTA Projects.

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**Section 47. Information Obtained Through Internet Links.**

This Master Agreement may include electronic links to Federal statutes, regulations, directives, guidance, and other documents. FTA does not guarantee the accuracy of information accessed through such links. Accordingly, the Recipient agrees that information obtained through any electronic link within this Master Agreement does not represent an official version of a Federal statute, regulation, requirement, guidance, or document, and might be inaccurate. Thus, information obtained through such links is neither incorporated by reference nor made part of this Master Agreement. The Federal Register and the Code of Federal Regulations are the official sources for regulatory information pertaining to the Federal Government.

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**Section 48. Severability.**

If any provision of the Grant Agreement or Cooperative Agreement is held invalid, the remainder of the Agreement shall not be affected if that remainder would continue to conform to the requirements of applicable law.

General Decision Number: CA150033 02/20/2015 CA33

Superseded General Decision Number: CA20140033

State: California

Construction Types: Building, Heavy (Heavy and Dredging) and Highway

County: Los Angeles County in California.

BUILDING CONSTRUCTION PROJECTS; DREDGING PROJECTS (does not include hopper dredge work); HEAVY CONSTRUCTION PROJECTS (does not include water well drilling); HIGHWAY CONSTRUCTION PROJECTS

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/02/2015
1	01/16/2015
2	01/23/2015
3	02/13/2015
4	02/20/2015

ASBE0005-002 06/30/2014

	Rates	Fringes
Asbestos Workers/Insulator (Includes the application of all insulating materials, protective coverings, coatings, and finishes to all types of mechanical systems).....	\$ 35.44	19.36
Fire Stop Technician (Application of Firestopping Materials for wall openings and penetrations in walls, floors, ceilings and curtain walls).....	\$ 24.34	16.09

ASBE0005-004 06/24/2013

Rates	Fringes
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Asbestos Removal  
worker/hazardous material  
handler (Includes  
preparation, wetting,  
stripping, removal,  
scrapping, vacuuming, bagging  
and disposing of all  
insulation materials from  
mechanical systems, whether  
they contain asbestos or not)....\$ 16.95 10.23

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BOIL0092-003 10/01/2012

	Rates	Fringes
BOILERMAKER.....	\$ 41.17	28.27

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\* BRCA0004-007 05/01/2014

	Rates	Fringes
BRICKLAYER; MARBLE SETTER.....	\$ 37.74	13.85

\*The wage scale for prevailing wage projects performed in  
Blythe, China lake, Death Valley, Fort Irwin, Twenty-Nine  
Palms, Needles and 1-15 corridor (Barstow to the Nevada  
State Line) will be Three Dollars (\$3.00) above the  
standard San Bernardino/Riverside County hourly wage rate

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BRCA0018-004 06/01/2014

	Rates	Fringes
MARBLE FINISHER.....	\$ 28.45	11.38
TILE FINISHER.....	\$ 23.78	9.84
TILE LAYER.....	\$ 35.14	14.33

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BRCA0018-010 09/01/2013

	Rates	Fringes
TERRAZZO FINISHER.....	\$ 26.59	10.34
TERRAZZO WORKER/SETTER.....	\$ 33.63	11.13

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CARP0409-001 07/01/2010

	Rates	Fringes
CARPENTER		
(1) Carpenter, Cabinet Installer, Insulation Installer, Hardwood Floor Worker and acoustical installer.....	\$ 37.35	11.08
(2) Millwright.....	\$ 37.85	11.08

(3) Piledrivermen/Derrick Bargeman, Bridge or Dock Carpenter, Heavy Framer, Rock Bargeman or Scowman, Rockslinger, Shingler (Commercial).....	\$ 37.48	11.08
(4) Pneumatic Nailer, Power Stapler.....	\$ 37.60	11.08
(5) Sawfiler.....	\$ 37.44	11.08
(6) Scaffold Builder.....	\$ 28.55	11.08
(7) Table Power Saw Operator.....	\$ 37.45	11.08

FOOTNOTE: Work of forming in the construction of open cut sewers or storm drains, on operations in which horizontal lagging is used in conjunction with steel H-Beams driven or placed in pre- drilled holes, for that portion of a lagged trench against which concrete is poured, namely, as a substitute for back forms (which work is performed by piledrivers): \$0.13 per hour additional.

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CARP0409-002 07/01/2008

	Rates	Fringes
Diver		
(1) Wet.....	\$ 663.68	9.82
(2) Standby.....	\$ 331.84	9.82
(3) Tender.....	\$ 323.84	9.82
(4) Assistant Tender.....	\$ 299.84	9.82

Amounts in "Rates" column are per day

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CARP0409-005 07/01/2010

	Rates	Fringes
Drywall		
DRYWALL INSTALLER/LATHER....	\$ 37.35	11.08
STOCKER/SCRAPPER.....	\$ 10.00	6.67

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CARP0409-008 08/01/2010

	Rates	Fringes
Modular Furniture Installer.....	\$ 17.00	7.41

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ELEC0011-004 01/26/2015

	Rates	Fringes
ELECTRICIAN (INSIDE ELECTRICAL WORK)		
Journeyman Electrician.....	\$ 40.00	26.37
ELECTRICIAN (INTELLIGENT TRANSPORTATION SYSTEMS Street		

Lighting, Traffic Signals,  
CCTV, and Underground Systems)

Journeyman Transportation

Electrician.....\$ 40.00 26.37

Technician.....\$ 30.00 26.07

FOOT NOTE:

CABLE SPLICER & INSTRUMENT PERSON: Recieve 5% additional per  
hour above Journeyman Electrician basic hourly rate.

TUNNEL WORK: 10% additional per hour.

SCOPE OF WORK - TRANSPORTATION SYSTEMS

ELECTRICIAN:

Installation of street lights and traffic signals, including  
electrical circuitry, programmable controllers,  
pedestal-mounted electrical meter enclosures and laying of  
pre-assembled multi-conductor cable in ducts, layout of  
electrical systems and communication installation,  
including proper position of trench depths and radius at  
duct banks, location for man  
holes, pull boxes, street lights and traffic signals.  
Installation of underground ducts for electrical, telephone,  
cable television and communication systems.  
Pulling, termination and  
splicing of traffic signal and street lighting conductors and  
electrical systems including interconnect, detector loop,  
fiber optic cable and video/cable.

TECHNICIAN:

Distribution of material at job site, manual excavation and  
backfill, installation of system conduits and raceways for  
electrical, telephone, cable television and communication  
systems. Pulling, terminating and splicing of traffic signal  
and street lighting conductors and electrical systems  
including interconnect, detector loop, fiber optic cable  
and video/data.

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\* ELEC0011-005 05/26/2014

COMMUNICATIONS & SYSTEMS WORK (excludes any work on Intelligent  
Transportation Systems or CCTV highway systems)

	Rates	Fringes
Communications System		
Installer.....	\$ 28.30	12.43
Technician.....	\$ 30.10	12.48

SCOPE OF WORK The work covered shall include the  
installation, testing, service and maintenance, of the  
following systems that utilize the transmission and/or  
transference of voice, sound, vision and digital for  
commercial, education, security and entertainment purposes  
for TV monitoring and surveillance, background foreground

music, intercom and telephone interconnect, inventory control systems, microwave transmission, multi-media, multiplex, nurse call system, radio page, school intercom and sound, burglar alarms and low voltage master clock systems.

A. Communication systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems SCADA (Supervisory control/data acquisition PCM (Pulse code modulation) Inventory control systems Digital data systems Broadband & baseband and carriers Point of sale systems VSAT data systems Data communication systems RF and remote control systems Fiber optic data systems

B. Sound and Voice Transmission/Transference Systems Background-Foreground Music Intercom and Telephone Interconnect Systems Sound and Musical Entertainment Systems Nurse Call Systems Radio Page Systems School Intercom and Sound Systems Burglar Alarm Systems Low-Voltage Master Clock Systems Multi-Media/Multiplex Systems Telephone Systems RF Systems and Antennas and Wave Guide

C. \*Fire Alarm Systems-installation, wire pulling and testing.

D. Television and Video Systems Television Monitoring and Surveillance Systems Video Security Systems Video Entertainment Systems Video Educational Systems CATV and CCTV

E. Security Systems, Perimeter Security Systems, Vibration Sensor Systems Sonar/Infrared Monitoring Equipment, Access Control Systems, Card Access Systems

\*Fire Alarm Systems

1. Fire Alarms-In Raceways: Wire and cable pulling in raceways performed at the current electrician wage rate and fringe benefits.
2. Fire Alarms-Open Wire Systems: installed by the Technician.

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ELEC1245-001 06/01/2013

	Rates	Fringes
LINE CONSTRUCTION		
(1) Lineman; Cable splicer..\$	50.30	15.00
(2) Equipment specialist		
(operates crawler		
tractors, commercial motor		
vehicles, backhoes,		
trenchers, cranes (50 tons		
and below), overhead &		
underground distribution		

line	equipment).....	\$ 40.17	14.56
(3)	Groundman.....	\$ 30.73	13.48
(4)	Powderman.....	\$ 44.91	13.48

HOLIDAYS: New Year's Day, M.L. King Day, Memorial Day,  
Independence Day, Labor Day, Veterans Day, Thanksgiving Day  
and day after Thanksgiving, Christmas Day

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ELEV0018-001 01/01/2014

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 49.03	26.785

FOOTNOTE:

PAID VACATION: Employer contributes 8% of regular hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for 6 months to 5 years of service.  
PAID HOLIDAYS: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

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ENGI0012-003 07/07/2014

	Rates	Fringes
OPERATOR: Power Equipment		
(All Other Work)		
GROUP 1.....	\$ 39.05	22.25
GROUP 2.....	\$ 39.83	22.25
GROUP 3.....	\$ 40.12	22.25
GROUP 4.....	\$ 41.61	22.25
GROUP 5.....	\$ 41.86	22.25
GROUP 6.....	\$ 41.83	22.25
GROUP 8.....	\$ 41.94	22.25
GROUP 9.....	\$ 42.19	22.25
GROUP 10.....	\$ 42.06	22.25
GROUP 11.....	\$ 42.31	22.25
GROUP 12.....	\$ 42.23	22.25
GROUP 13.....	\$ 42.33	22.25
GROUP 14.....	\$ 42.36	22.25
GROUP 15.....	\$ 42.44	22.25
GROUP 16.....	\$ 42.56	22.25
GROUP 17.....	\$ 42.73	22.25
GROUP 18.....	\$ 42.83	22.25
GROUP 19.....	\$ 42.94	22.25
GROUP 20.....	\$ 43.06	22.25
GROUP 21.....	\$ 43.23	22.25
GROUP 22.....	\$ 43.33	22.25
GROUP 23.....	\$ 43.44	22.25
GROUP 24.....	\$ 43.56	22.25
GROUP 25.....	\$ 43.73	22.25

OPERATOR: Power Equipment  
(Cranes, Piledriving &  
Hoisting)



GROUP 1.....	\$ 40.40	22.25
GROUP 2.....	\$ 41.18	22.25
GROUP 3.....	\$ 41.47	22.25
GROUP 4.....	\$ 41.61	22.25
GROUP 5.....	\$ 41.83	22.25
GROUP 6.....	\$ 41.94	22.25
GROUP 7.....	\$ 42.06	22.25
GROUP 8.....	\$ 42.23	22.25
GROUP 9.....	\$ 42.40	22.25
GROUP 10.....	\$ 43.40	22.25
GROUP 11.....	\$ 44.40	22.25
GROUP 12.....	\$ 45.40	22.25
GROUP 13.....	\$ 46.40	22.25

OPERATOR: Power Equipment  
(Tunnel Work)

GROUP 1.....	\$ 40.90	22.25
GROUP 2.....	\$ 41.68	22.25
GROUP 3.....	\$ 41.97	22.25
GROUP 4.....	\$ 42.11	22.25
GROUP 5.....	\$ 42.33	22.25
GROUP 6.....	\$ 42.44	22.25
GROUP 7.....	\$ 42.56	22.25

#### PREMIUM PAY:

\$3.75 per hour shall be paid on all Power Equipment Operator work on the following Military Bases: China Lake Naval Reserve, Vandenberg AFB, Point Arguello, Seely Naval Base, Fort Irwin, Nebo Annex Marine Base, Marine Corp Logistics Base Yermo, Edwards AFB, 29 Palms Marine Base and Camp Pendleton

Workers required to suit up and work in a hazardous material environment: \$2.00 per hour additional. Combination mixer and compressor operator on gunite work shall be classified as a concrete mobile mixer operator.

SEE ZONE DEFINITIONS AFTER CLASSIFICATIONS

#### POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Bargeman; Brakeman; Compressor operator; Ditch Witch, with seat or similar type equipment; Elevator operator-inside; Engineer Oiler; Forklift operator (includes loed, lull or similar types under 5 tons; Generator operator; Generator, pump or compressor plant operator; Pump operator; Signalman; Switchman

GROUP 2: Asphalt-rubber plant operator (nurse tank operator); Concrete mixer operator-skip type; Conveyor operator; Fireman; Forklift operator (includes loed, lull or similar types over 5 tons; Hydrostatic pump operator; oiler crusher (asphalt or concrete plant); Petromat laydown machine; PJU side dum jack; Screening and conveyor machine operator (or similar types); Skiploader (wheel type up to 3/4 yd. without attachment); Tar pot fireman; Temporary heating plant operator; Trenching machine oiler

GROUP 3: Asphalt-rubber blend operator; Bobcat or similar type (Skid steer); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Stationary pipe wrapping and cleaning machine operator

GROUP 4: Asphalt plant fireman; Backhoe operator (mini-max or similar type); Boring machine operator; Boxman or mixerman (asphalt or concrete); Chip spreading machine operator; Concrete cleaning decontamination machine operator; Concrete Pump Operator (small portable); Drilling machine operator, small auger types (Texoma super economatic or similar types - Hughes 100 or 200 or similar types - drilling depth of 30' maximum); Equipment greaser (grease truck); Guard rail post driver operator; Highline cableway signalman; Hydra-hammer-aero stomper; Micro Tunneling (above ground tunnel); Power concrete curing machine operator; Power concrete saw operator; Power-driven jumbo form setter operator; Power sweeper operator; Rock Wheel Saw/Trencher; Roller operator (compacting); Screed operator (asphalt or concrete); Trenching machine operator (up to 6 ft.); Vacuum or much truck

GROUP 5: Equipment Greaser (Grease Truck/Multi Shift).

GROUP 6: Articulating material hauler; Asphalt plant engineer; Batch plant operator; Bit sharpener; Concrete joint machine operator (canal and similar type); Concrete planer operator; Dandy digger; Deck engine operator; Derrickman (oilfield type); Drilling machine operator, bucket or auger types (Calweld 100 bucket or similar types - Watson 1000 auger or similar types - Texoma 330, 500 or 600 auger or similar types - drilling depth of 45' maximum); Drilling machine operator; Hydrographic seeder machine operator (straw, pulp or seed), Jackson track maintainer, or similar type; Kalamazoo Switch tamper, or similar type; Machine tool operator; Maginnis internal full slab vibrator, Mechanical berm, curb or gutter (concrete or asphalt); Mechanical finisher operator (concrete, Clary-Johnson-Bidwell or similar); Micro tunnel system (below ground); Pavement breaker operator (truck mounted); Road oil mixing machine operator; Roller operator (asphalt or finish), rubber-tired earth moving equipment (single engine, up to and including 25 yds. struck); Self-propelled tar pipelining machine operator; Skiploader operator (crawler and wheel type, over 3/4 yd. and up to and including 1-1/2 yds.); Slip form pump operator (power driven hydraulic lifting device for concrete forms); Tractor operator-bulldozer, tamper-scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D-5 and similar types); Tugger hoist operator (1 drum); Ultra high pressure waterjet cutting tool system operator; Vacuum blasting machine operator

GROUP 8: Asphalt or concrete spreading operator (tamping or finishing); Asphalt paving machine operator (Barber Greene or similar type); Asphalt-rubber distribution operator; Backhoe operator (up to and including 3/4 yd.), small ford,

Case or similar; Cast-in-place pipe laying machine operator; Combination mixer and compressor operator (gunite work); Compactor operator (self-propelled); Concrete mixer operator (paving); Crushing plant operator; Drill Doctor; Drilling machine operator, Bucket or auger types (Calweld 150 bucket or similar types - Watson 1500, 2000 2500 auger or similar types - Texoma 700, 800 auger or similar types - drilling depth of 60' maximum); Elevating grader operator; Grade checker; Gradall operator; Grouting machine operator; Heavy-duty repairman; Heavy equipment robotics operator; Kalamazoo balliste regulator or similar type; Kolman belt loader and similar type; Le Tourneau blob compactor or similar type; Loader operator (Athey, Euclid, Sierra and similar types); Mobark Chipper or similar; Ozzie padder or similar types; P.C. slot saw; Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pumpcrete gun operator; Rock Drill or similar types; Rotary drill operator (excluding caisson type); Rubber-tired earth-moving equipment operator (single engine, caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator (multiple engine up to and including 25 yds. struck); Rubber-tired scraper operator (self-loading paddle wheel type-John Deere, 1040 and similar single unit); Self-propelled curb and gutter machine operator; Shuttle buggy; Skiploader operator (crawler and wheel type over 1-1/2 yds. up to and including 6-1/2 yds.); Soil remediation plant operator; Surface heaters and planer operator; Tractor compressor drill combination operator; Tractor operator (any type larger than D-5 - 100 flywheel h.p. and over, or similar-bulldozer, tamper, scraper and push tractor single engine); Tractor operator (boom attachments), Traveling pipe wrapping, cleaning and bending machine operator; Trenching machine operator (over 6 ft. depth capacity, manufacturer's rating); trenching Machine with Road Miner attachment (over 6 ft depth capacity): Ultra high pressure waterjet cutting tool system mechanic; Water pull (compaction) operator

#### GROUP 9: Heavy Duty Repairman

GROUP 10: Drilling machine operator, Bucket or auger types (Calweld 200 B bucket or similar types-Watson 3000 or 5000 auger or similar types-Texoma 900 auger or similar types-drilling depth of 105' maximum); Dual drum mixer, dynamic compactor LDC350 (or similar types); Monorail locomotive operator (diesel, gas or electric); Motor patrol-blade operator (single engine); Multiple engine tractor operator (Euclid and similar type-except Quad 9 cat.); Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Pneumatic pipe ramming tool and similar types; Prestressed wrapping machine operator; Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Rubber tired earth moving equipment operator (multiple engine, Euclid, caterpillar and similar over 25 yds. and up to 50 yds. struck), Tower

crane repairman; Tractor loader operator (crawler and wheel type over 6-1/2 yds.); Woods mixer operator (and similar Pugmill equipment)

GROUP 11: Heavy Duty Repairman - Welder Combination, Welder - Certified.

GROUP 12: Auto grader operator; Automatic slip form operator; Drilling machine operator, bucket or auger types (Calweld, auger 200 CA or similar types - Watson, auger 6000 or similar types - Hughes Super Duty, auger 200 or similar types - drilling depth of 175' maximum); Hoe ram or similar with compressor; Mass excavator operator less than 750 cu. yards; Mechanical finishing machine operator; Mobile form traveler operator; Motor patrol operator (multi-engine); Pipe mobile machine operator; Rubber-tired earth-moving equipment operator (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck); Rubber-tired self-loading scraper operator (paddle-wheel-auger type self-loading - two (2) or more units)

GROUP 13: Rubber-tired earth-moving equipment operator operating equipment with push-pull system (single engine, up to and including 25 yds. struck)

GROUP 14: Canal liner operator; Canal trimmer operator; Remote-control earth-moving equipment operator (operating a second piece of equipment: \$1.00 per hour additional); Wheel excavator operator (over 750 cu. yds.)

GROUP 15: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine-up to and including 25 yds. struck)

GROUP 16: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 17: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 50 cu. yds. struck); Tandem tractor operator (operating crawler type tractors in tandem - Quad 9 and similar type)

GROUP 18: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, up to and including 25 yds. struck)

GROUP 19: Rotex concrete belt operator (or similar types);

Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, up to and including 25 yds. struck)

GROUP 20: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 21: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

GROUP 22: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, up to and including 25 yds. struck)

GROUP 23: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating with the tandem push-pull system (multiple engine, up to and including 25 yds. struck)

GROUP 24: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 25: Concrete pump operator-truck mounted; Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

#### CRANES, PILEDRIVING AND HOISTING EQUIPMENT CLASSIFICATIONS

GROUP 1: Engineer oiler; Fork lift operator (includes loed, lull or similar types)

GROUP 2: Truck crane oiler

GROUP 3: A-frame or winch truck operator; Ross carrier operator (jobsite)

GROUP 4: Bridge-type unloader and turntable operator; Helicopter hoist operator

GROUP 5: Hydraulic boom truck; Stinger crane (Austin-Western or similar type); Tugger hoist operator (1 drum)

GROUP 6: Bridge crane operator; Cretor crane operator; Hoist operator (Chicago boom and similar type); Lift mobile operator; Lift slab machine operator (Vagtborg and similar types); Material hoist and/or manlift operator; Polar gantry crane operator; Self Climbing scaffold (or similar type); Shovel, backhoe, dragline, clamshell operator (over 3/4 yd. and up to 5 cu. yds. mrc); Tugger hoist operator

GROUP 7: Pedestal crane operator; Shovel, backhoe, dragline, clamshell operator (over 5 cu. yds. mrc); Tower crane repair; Tugger hoist operator (3 drum)

GROUP 8: Crane operator (up to and including 25 ton capacity); Crawler transporter operator; Derrick barge operator (up to and including 25 ton capacity); Hoist operator, stiff legs, Guy derrick or similar type (up to and including 25 ton capacity); Shovel, backhoe, dragline, clamshell operator (over 7 cu. yds., M.R.C.)

GROUP 9: Crane operator (over 25 tons and up to and including 50 tons mrc); Derrick barge operator (over 25 tons up to and including 50 tons mrc); Highline cableway operator; Hoist operator, stiff legs, Guy derrick or similar type (over 25 tons up to and including 50 tons mrc); K-crane operator; Polar crane operator; Self erecting tower crane operator maximum lifting capacity ten tons

GROUP 10: Crane operator (over 50 tons and up to and including 100 tons mrc); Derrick barge operator (over 50 tons up to and including 100 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 50 tons up to and including 100 tons mrc), Mobile tower crane operator (over 50 tons, up to and including 100 tons M.R.C.); Tower crane operator and tower gantry

GROUP 11: Crane operator (over 100 tons and up to and including 200 tons mrc); Derrick barge operator (over 100 tons up to and including 200 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 100 tons up to and including 200 tons mrc); Mobile tower crane operator (over 100 tons up to and including 200 tons mrc)

GROUP 12: Crane operator (over 200 tons up to and including 300 tons mrc); Derrick barge operator (over 200 tons up to and including 300 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 200 tons, up to and

including 300 tons mrc); Mobile tower crane operator (over 200 tons, up to and including 300 tons mrc)

GROUP 13: Crane operator (over 300 tons); Derrick barge operator (over 300 tons); Helicopter pilot; Hoist operator, stiff legs, Guy derrick or similar type (over 300 tons); Mobile tower crane operator (over 300 tons)

#### TUNNEL CLASSIFICATIONS

GROUP 1: Skiploader (wheel type up to 3/4 yd. without attachment)

GROUP 2: Power-driven jumbo form setter operator

GROUP 3: Dinkey locomotive or motorperson (up to and including 10 tons)

GROUP 4: Bit sharpener; Equipment greaser (grease truck); Slip form pump operator (power-driven hydraulic lifting device for concrete forms); Tugger hoist operator (1 drum); Tunnel locomotive operator (over 10 and up to and including 30 tons)

GROUP 5: Backhoe operator (up to and including 3/4 yd.); Small Ford, Case or similar; Drill doctor; Grouting machine operator; Heading shield operator; Heavy-duty repairperson; Loader operator (Athey, Euclid, Sierra and similar types); Mucking machine operator (1/4 yd., rubber-tired, rail or track type); Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pneumatic heading shield (tunnel); Pumpcrete gun operator; Tractor compressor drill combination operator; Tugger hoist operator (2 drum); Tunnel locomotive operator (over 30 tons)

GROUP 6: Heavy Duty Repairman

GROUP 7: Tunnel mole boring machine operator

#### ENGINEERS ZONES

\$1.00 additional per hour for all of IMPERIAL County and the portions of KERN, RIVERSIDE & SAN BERNARDINO Counties as defined below:

That area within the following Boundary: Begin in San Bernardino County, approximately 3 miles NE of the intersection of I-15 and the California State line at that point which is the NW corner of Section 1, T17N, m R14E, San Bernardino Meridian. Continue W in a straight line to that point which is the SW corner of the northwest quarter of Section 6, T27S, R42E, Mt. Diablo Meridian. Continue North to the intersection with the Inyo County Boundary at that point which is the NE corner of the western half of the northern quarter of Section 6, T25S, R42E, MDM. Continue W along the Inyo and San Bernardino County boundary until the intersection with Kern County, as that point which is the SE corner of Section 34,

T24S, R40E, MDM. Continue W along the Inyo and Kern County boundary until the intersection with Tulare County, at that point which is the SW corner of the SE quarter of Section 32, T24S, R37E, MDM. Continue W along the Kern and Tulare County boundary, until that point which is the NW corner of T25S, R32E, MDM. Continue S following R32E lines to the NW corner of T31S, R32E, MDM. Continue W to the NW corner of T31S, R31E, MDM. Continue S to the SW corner of T32S, R31E, MDM. Continue W to SW corner of SE quarter of Section 34, T32S, R30E, MDM. Continue S to SW corner of T11N, R17W, SBM. Continue E along south boundary of T11N, SBM to SW corner of T11N, R7W, SBM. Continue S to SW corner of T9N, R7W, SBM. Continue E along south boundary of T9N, SBM to SW corner of T9N, R1E, SBM. Continue S along west boundary of R1E, SMB to Riverside County line at the SW corner of T1S, R1E, SBM. Continue E along south boundary of T1S, SBM (Riverside County Line) to SW corner of T1S, R10E, SBM. Continue S along west boundary of R10E, SBM to Imperial County line at the SW corner of T8S, R10E, SBM. Continue W along Imperial and Riverside county line to NW corner of T9S, R9E, SBM. Continue S along the boundary between Imperial and San Diego Counties, along the west edge of R9E, SBM to the south boundary of Imperial County/California state line. Follow the California state line west to Arizona state line, then north to Nevada state line, then continuing NW back to start at the point which is the NW corner of Section 1, T17N, R14E, SBM

\$1.00 additional per hour for portions of SAN LUIS OBISPO, KERN, SANTA BARBARA & VENTURA as defined below:

That area within the following Boundary: Begin approximately 5 miles north of the community of Cholame, on the Monterey County and San Luis Obispo County boundary at the NW corner of T25S, R16E, Mt. Diablo Meridian. Continue south along the west side of R16E to the SW corner of T30S, R16E, MDM. Continue E to SW corner of T30S, R17E, MDM. Continue S to SW corner of T31S, R17E, MDM. Continue E to SW corner of T31S, R18E, MDM. Continue S along West side of R18E, MDM as it crosses into San Bernardino Meridian numbering area and becomes R30W. Follow the west side of R30W, SBM to the SW corner of T9N, R30W, SBM. Continue E along the south edge of T9N, SBM to the Santa Barbara County and Ventura County boundary at that point which is the SW corner of Section 34. T9N, R24W, SBM, continue S along the Ventura County line to that point which is the SW corner of the SE quarter of Section 32, T7N, R24W, SBM. Continue E along the south edge of T7N, SBM to the SE corner to T7N, R21W, SBM. Continue N along East side of R21W, SBM to Ventura County and Kern County boundary at the NE corner of T8N, R21W. Continue W along the Ventura County and Kern County boundary to the SE corner of T9N, R21W. Continue North along the East edge of R21W, SBM to the NE corner of T12N, R21W, SBM. Continue West along the north edge of T12N, SBM to the SE corner of T32S, R21E, MDM. [T12N SBM is a think strip between T11N SBM and T32S MDM]. Continue North along the East side of R21E, MDM to the Kings County and Kern County border at the NE corner of T25S, R21E, MDM, continue West along the Kings County and Kern County Boundary until the intersection of San Luis Obispo



County. Continue west along the Kings County and San Luis Obispo County boundary until the intersection with Monterey County. Continue West along the Monterey County and San Luis Obispo County boundary to the beginning point at the NW corner of T25S, R16E, MDM.

\$2.00 additional per hour for INYO and MONO Counties and the Northern portion of SAN BERNARDINO County as defined below:

That area within the following Boundary: Begin at the intersection of the northern boundary of Mono County and the California state line at the point which is the center of Section 17, T10N, R22E, Mt. Diablo Meridian. Continue S then SE along the entire western boundary of Mono County, until it reaches Inyo County at the point which is the NE corner of the Western half of the NW quarter of Section 2, T8S, R29E, MDM. Continue SSE along the entire western boundary of Inyo County, until the intersection with Kern County at the point which is the SW corner of the SE 1/4 of Section 32, T24S, R37E, MDM. Continue E along the Inyo and Kern County boundary until the intersection with San Bernardino County at that point which is the SE corner of section 34, T24S, R40E, MDM. Continue E along the Inyo and San Bernardino County boundary until the point which is the NE corner of the Western half of the NW quarter of Section 6, T25S, R42E, MDM. Continue S to that point which is the SW corner of the NW quarter of Section 6, T27S, R42E, MDM. Continue E in a straight line to the California and Nevada state border at the point which is the NW corner of Section 1, T17N, R14E, San Bernardino Meridian. Then continue NW along the state line to the starting point, which is the center of Section 18, T10N, R22E, MDM.

REMAINING AREA NOT DEFINED ABOVE RECIEVES BASE RATE

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ENGI0012-004 08/01/2014

	Rates	Fringes
OPERATOR: Power Equipment		
(DREDGING)		
(1) Leverman.....	\$ 48.60	22.40
(2) Dredge dozer.....	\$ 42.63	22.40
(3) Deckmate.....	\$ 42.52	22.40
(4) Winch operator (stern		
winch on dredge).....	\$ 41.97	22.40
(5) Fireman-Oiler,		
Deckhand, Bargeman,		
Leveehand.....	\$ 41.43	22.40
(6) Barge Mate.....	\$ 42.04	22.40

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IRON0377-002 01/01/2015

Rates	Fringes
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## Ironworkers:

Fence Erector.....	\$ 27.08	18.24
Ornamental, Reinforcing and Structural.....	\$ 33.50	28.20

## PREMIUM PAY:

\$6.00 additional per hour at the following locations:

China Lake Naval Test Station, Chocolate Mountains Naval Reserve-Niland,  
Edwards AFB, Fort Irwin Military Station, Fort Irwin Training Center-Goldstone, San Clemente Island, San Nicholas Island, Susanville Federal Prison, 29 Palms - Marine Corps, U.S. Marine Base - Barstow, U.S. Naval Air Facility - Sealey, Vandenberg AFB

\$4.00 additional per hour at the following locations:

Army Defense Language Institute - Monterey, Fallon Air Base, Naval Post Graduate School - Monterey, Yermo Marine Corps Logistics Center

\$2.00 additional per hour at the following locations:

Port Hueneme, Port Mugu, U.S. Coast Guard Station - Two Rock

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LABO0300-001 07/01/2014

	Rates	Fringes
Brick Tender.....	\$ 29.12	15.78

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LABO0300-003 07/01/2014

	Rates	Fringes
LABORER (TUNNEL)		
GROUP 1.....	\$ 35.74	16.48
GROUP 2.....	\$ 36.06	16.48
GROUP 3.....	\$ 36.52	16.48
GROUP 4.....	\$ 37.21	16.48
LABORER		
GROUP 1.....	\$ 30.19	16.48
GROUP 2.....	\$ 30.74	16.48
GROUP 3.....	\$ 31.29	16.48
GROUP 4.....	\$ 32.84	16.48
GROUP 5.....	\$ 33.19	16.48

## LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader,

piller and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete; Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asphalt shoveler; Cement dumper (on 1 yd. or larger mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curbs, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer(lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellow

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Asphalt raker, lute person, ironer, asphalt dump person, and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring

old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt- rubber distributor boot person; Laser beam in connection with laborers' work; Oversize concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all other types of mechanical drills without regard to the form of motive power; Toxic waste removal

#### TUNNEL LABORER CLASSIFICATIONS

GROUP 1: Batch plant laborer; Changehouse person; Dump person; Dump person (outside); Swamper (brake person and switch person on tunnel work); Tunnel materials handling person; Nipper; Pot tender, using mastic or other materials (for example, but not by way of limitation, shotcrete, etc.)

GROUP 2: Chucktender, cabletender; Loading and unloading agitator cars;; Vibrator person, jack hammer, pneumatic tools (except driller); Bull gang mucker, track person; Concrete crew, including rodder and spreader

GROUP 3: Blaster, driller, powder person; Chemical grout jet person; Cherry picker person; Grout gun person; Grout mixer person; Grout pump person; Jackleg miner; Jumbo person; Kemper and other pneumatic concrete placer operator; Miner, tunnel (hand or machine); Nozzle person; Operating of troweling and/or grouting machines; Powder person (primer house); Primer person; Sandblaster; Shotcrete person; Steel form raiser and setter; Timber person, retimber person, wood or steel; Tunnel Concrete finisher

GROUP 4: Diamond driller; Sandblaster; Shaft and raise work

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LABO0300-005 01/01/2014

	Rates	Fringes
Asbestos Removal Laborer.....	\$ 28.00	15.25

SCOPE OF WORK: Includes site mobilization, initial site cleanup, site preparation, removal of asbestos-containing material and toxic waste, encapsulation, enclosure and disposal of asbestos- containing materials and toxic waste by hand or with equipment or machinery; scaffolding, fabrication of temporary wooden barriers and assembly of decontamination stations.

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LABO0345-001 07/01/2014

	Rates	Fringes
LABORER (GUNITE)		
GROUP 1.....	\$ 34.79	17.92
GROUP 2.....	\$ 33.84	17.92
GROUP 3.....	\$ 30.30	17.92

FOOTNOTE: GUNITE PREMIUM PAY: Workers working from a Bosn'n's Chair or suspended from a rope or cable shall receive 40 cents per hour above the foregoing applicable classification rates. Workers doing gunite and/or shotcrete work in a tunnel shall receive 35 cents per hour above the foregoing applicable classification rates, paid on a portal-to-portal basis. Any work performed on, in or above any smoke stack, silo, storage elevator or similar type of structure, when such structure is in excess of 75'-0" above base level and which work must be performed in whole or in part more than 75'-0" above base level, that work performed above the 75'-0" level shall be compensated for at 35 cents per hour above the applicable classification wage rate.

#### GUNITE LABORER CLASSIFICATIONS

GROUP 1: Rodmen, Nozzlemen

GROUP 2: Gunmen

GROUP 3: Reboundmen

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LABO1184-001 07/01/2014

	Rates	Fringes
Laborers: (HORIZONTAL		
DIRECTIONAL DRILLING)		
(1) Drilling Crew Laborer...	\$ 31.65	13.33
(2) Vehicle Operator/Hauler.	\$ 31.82	13.33
(3) Horizontal Directional		
Drill Operator.....	\$ 33.67	13.33
(4) Electronic Tracking		
Locator.....	\$ 35.67	13.33
Laborers: (STRIPING/SLURRY		
SEAL)		
GROUP 1.....	\$ 32.56	16.28

GROUP 2.....	\$ 33.86	16.28
GROUP 3.....	\$ 35.87	16.28
GROUP 4.....	\$ 37.61	16.28

# LABORERS - STRIPING CLASSIFICATIONS

GROUP 1: Protective coating, pavement sealing, including repair and filling of cracks by any method on any surface in parking lots, game courts and playgrounds; carstops; operation of all related machinery and equipment; equipment repair technician

GROUP 2: Traffic surface abrasive blaster; pot tender - removal of all traffic lines and markings by any method (sandblasting, waterblasting, grinding, etc.) and preparation of surface for coatings. Traffic control person: controlling and directing traffic through both conventional and moving lane closures; operation of all related machinery and equipment

GROUP 3: Traffic delineating device applicator: Layout and application of pavement markers, delineating signs, rumble and traffic bars, adhesives, guide markers, other traffic delineating devices including traffic control. This category includes all traffic related surface preparation (sandblasting, waterblasting, grinding) as part of the application process. Traffic protective delineating system installer: removes, relocates, installs, permanently affixed roadside and parking delineation barricades, fencing, cable anchor, guard rail, reference signs, monument markers; operation of all related machinery and equipment; power broom sweeper

GROUP 4: Striper: layout and application of traffic stripes and markings; hot thermo plastic; tape traffic stripes and markings, including traffic control; operation of all related machinery and equipment

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LAB01414-001 08/07/2013

	Rates	Fringes
LABORER		
PLASTER CLEAN-UP LABORER....	\$ 27.45	16.36
PLASTER TENDER.....	\$ 30.00	16.36

Work on a swing stage scaffold: \$1.00 per hour additional.  
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PAIN0036-001 07/01/2014

	Rates	Fringes
Painters: (Including Lead		
Abatement)		
(1) Repaint (excludes San		
Diego County).....	\$ 26.89	12.28

(2) All Other Work.....\$ 30.27 12.28

REPAINT of any previously painted structure. Exceptions:  
work involving the aerospace industry, breweries,  
commercial recreational facilities, hotels which operate  
commercial establishments as part of hotel service, and  
sports facilities.

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PAIN0036-006 10/01/2014

	Rates	Fringes
DRYWALL FINISHER/TAPER		
Antelope Valley North of		
the following Boundary:		
Kern County Line to Hwy.		
#5, South on Hwy. #5 to		
Hwy. N2, East on N2 to		
Palmdale Blvd., to Hwy.		
#14, South to Hwy. #18,		
East to Hwy. #395.....\$ 32.11		15.91
Remainder of Los Angeles		
County.....\$ 35.18		15.91

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PAIN0036-015 06/01/2014

	Rates	Fringes
GLAZIER.....\$ 37.95		22.69

FOOTNOTE: Additional \$1.25 per hour for work in a condor,  
from the third (3rd) floor and up Additional \$1.25 per  
hour for work on the outside of the building from a swing  
stage or any suspended contrivance, from the ground up

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\* PAIN1247-002 01/01/2015

	Rates	Fringes
SOFT FLOOR LAYER.....\$ 29.85		13.56

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PLAS0200-009 08/06/2014

	Rates	Fringes
PLASTERER.....\$ 37.43		13.28

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PLAS0500-002 07/07/2014

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...\$ 31.85		19.55

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PLUM0016-001 07/01/2014

## Rates

## Fringes

## PLUMBER/PIPEFITTER

Plumber and Pipefitter

All other work except  
work on new additions and  
remodeling of bars,restaurant, stores and  
commercial buildings not

to exceed 5,000 sq. ft.

of floor space and work

on strip malls, light

commercial, tenant

improvement and remodel

work.....\$ 44.71

20.36

Work ONLY on new additions

and remodeling of bars,

restaurant, stores and

commercial buildings not

to exceed 5,000 sq. ft. of

floor space.....\$ 43.33

19.38

Work ONLY on strip malls,

light commercial, tenant

improvement and remodel

work.....\$ 34.59

17.71

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PLUM0345-001 07/01/2014

## Rates

## Fringes

## PLUMBER

Landscape/Irrigation Fitter.\$ 29.27

19.75

Sewer &amp; Storm Drain Work....\$ 33.24

17.13

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ROOF0036-002 08/01/2014

## Rates

## Fringes

ROOFER.....\$ 35.02

13.57

FOOTNOTE: Pitch premium: Work on which employees are exposed to pitch fumes or required to handle pitch, pitch base or pitch impregnated products, or any material containing coal tar pitch, the entire roofing crew shall receive \$1.75 per hour "pitch premium" pay.

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SFCA0669-013 07/01/2013

DOES NOT INCLUDE THE CITY OF POMONA, CATALINA ISLAND, AND THAT PART OF LOS ANGELES COUNTY WITHIN 25 MILES OF THE CITY LIMITS OF LOS ANGELES:

## Rates

## Fringes

SPRINKLER FITTER.....\$ 34.19

19.37



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 \* SFCA0709-005 01/01/2015

THE CITY OF POMOMA, CATALINA ISLAND, AND THAT PART OF LOS ANGELES COUNTY WITHIN 25 MILES OF THE CITY LIMITS OF LOS ANGELES:

	Rates	Fringes
SPRINKLER FITTER (Fire).....	\$ 40.46	24.17

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SHEE0105-002 01/01/2015

LOS ANGELES (South of a straight line between Gorman and Big Pines including Catalina Island)

	Rates	Fringes
SHEET METAL WORKER		
(1) Light Commercial: Work on general sheet metal and heating and AC up to 4000 sq ft.....	\$ 24.47	9.32
(2) Modernization : Excluding New Construction - Under 5000 sq. ft. Does not include modification, upgrades, energy management, or conservation improvements of central heating and AC equipment.....	\$ 40.79	23.75

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SHEE0105-003 01/01/2015

LOS ANGELES (South of a straight line drawn between Gorman and Big Pines) and Catalina Island, INYO, KERN (Northeast part, East of Hwy 395), MONO ORANGE, RIVERSIDE, AND SAN BERNARDINO COUNTIES

	Rates	Fringes
SHEET METAL WORKER		
(1) Commercial - New Construction and Remodel work.....	\$ 40.79	23.75
(2) Industrial work including air pollution control systems, noise abatement, hand rails, guard rails, excluding architectural sheet metal work, excluding A-C, heating, ventilating systems for human comfort....	\$ 40.79	23.75

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SHEE0105-004 01/01/2015

KERN (Excluding portion East of Hwy 395) & LOS ANGELES (North of a straight line drawn between Gorman and Big Pines including Cities of Lancaster and Palmdale) COUNTIES

	Rates	Fringes
SHEET METAL WORKER.....	\$ 30.91	23.71

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TEAM0011-002 07/01/2014

	Rates	Fringes
TRUCK DRIVER		
GROUP 1.....	\$ 27.99	24.14
GROUP 2.....	\$ 28.14	24.14
GROUP 3.....	\$ 28.27	24.14
GROUP 4.....	\$ 28.46	24.14
GROUP 5.....	\$ 28.49	24.14
GROUP 6.....	\$ 28.52	24.14
GROUP 7.....	\$ 28.77	24.14
GROUP 8.....	\$ 29.02	24.14
GROUP 9.....	\$ 29.22	24.14
GROUP 10.....	\$ 29.52	24.14
GROUP 11.....	\$ 30.02	24.14
GROUP 12.....	\$ 30.45	24.14

WORK ON ALL MILITARY BASES:

PREMIUM PAY: \$3.00 per hour additional.

[29 palms Marine Base, Camp Roberts, China Lake, Edwards AFB, El Centro Naval Facility, Fort Irwin, Marine Corps Logistics Base at Nebo & Yermo, Mountain Warfare Training Center, Bridgeport, Point Arguello, Point Conception, Vandenberg AFB]

#### TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Truck driver

GROUP 2: Driver of vehicle or combination of vehicles - 2 axles; Traffic control pilot car excluding moving heavy equipment permit load; Truck mounted broom

GROUP 3: Driver of vehicle or combination of vehicles - 3 axles; Boot person; Cement mason distribution truck; Fuel truck driver; Water truck - 2 axle; Dump truck, less than 16 yds. water level; Erosion control driver

GROUP 4: Driver of transit mix truck, under 3 yds.; Dumpcrete truck, less than 6-1/2 yds. water level

GROUP 5: Water truck, 3 or more axles; Truck greaser and tire

person (\$0.50 additional for tire person); Pipeline and utility working truck driver, including winch truck and plastic fusion, limited to pipeline and utility work; Slurry truck driver

GROUP 6: Transit mix truck, 3 yds. or more; Dumpcrete truck, 6-1/2 yds. water level and over; Vehicle or combination of vehicles - 4 or more axles; Oil spreader truck; Dump truck, 16 yds. to 25 yds. water level

GROUP 7: A Frame, Swedish crane or similar; Forklift driver; Ross carrier driver

GROUP 8: Dump truck, 25 yds. to 49 yds. water level; Truck repair person; Water pull - single engine; Welder

GROUP 9: Truck repair person/welder; Low bed driver, 9 axles or over

GROUP 10: Dump truck - 50 yds. or more water level; Water pull - single engine with attachment

GROUP 11: Water pull - twin engine; Water pull - twin engine with attachments; Winch truck driver - \$1.25 additional when operating winch or similar special attachments

GROUP 12: Boom Truck 17K and above

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed

in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

## WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

## **Federal Clauses**

## **Fly America Requirements**

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

## **Buy America Certification (Steel and Manufactured Products)**

Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$100,000)

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, as amended by MAP-21 stating that Federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the US for 15 passenger vans and 15 passenger wagons produced by Chrysler Corp., software, microcomputer equipment and small purchases (currently less than \$100,000) made with capital, operating or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 60% domestic content. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

## **Cargo Preference**

Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor shall: a. use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, material or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for US flag commercial vessels; b. furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading.); c. include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material or commodities by ocean vessel.

## **Seismic Safety**

Construction of new buildings or additions to existing buildings. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.



## **Energy Conservation**

All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

## **Clean Water**

All Contracts and Subcontracts over \$100,000

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

## **Lobbying**

Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

## **Access to Records and Reports**

Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the

purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of 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 contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

### **Federal Changes**

All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

### **Bonding Requirements**

Applicability – For those construction or facility improvement contracts or subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

b. A performance bond on the part to the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from Contractors are as follows:

- (1) 50% of the contract price if the contract price is not more than \$1 million;
- (2) 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- (3) \$2.5 million if the contract price is more than \$5 million.

d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of

performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

#### Bid Bond Requirements (Construction)

(a) Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

(b) Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

#### Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

##### (a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).

2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

##### (b) Payment bonds

1. The penal amount of the payment bonds shall equal:

- (i) Fifty percent of the contract price if the contract price is not more than \$1 million.
- (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- (iii) Two and one half million if the contract price is more than \$5 million.

2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

#### Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

(a) The following situations may warrant a performance bond:

1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
3. Substantial progress payments are made before delivery of end items starts.
4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.  
The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:
  - (i) Fifty percent of the contract price if the contract price is not more than \$1 million;
  - (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
  - (iii) Two and one half million if the contract price is increased.

#### Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

#### Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

#### Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

### **Clean Air**

1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

2) Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

### **Recycled Products**

All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds. The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

### **Davis-Bacon and Copeland Anti-Kickback Acts**

Applicability -Construction contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, over \$2,000

(1) Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination

(including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met: (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits,

where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding - The recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the grantee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the recipient for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete; (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable

wage determination incorporated into the contract. (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code. (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll



at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of Eligibility - (i) By entering into this contract, contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in 18 USC 1001.

## **Contract Work Hours & Safety Standards Act**

Applicability – Contracts over \$100,000

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated

damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section.

(4) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

### **No Government Obligation to Third Parties**

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **Program Fraud and False or Fraudulent Statements or Related Acts**

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## Termination

Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$100,000

a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the

services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. the recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work.

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

### **Government Wide Debarment and Suspension (Non Procurement)**

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel,

### **Contracts Involving Federal Privacy Act Requirements**

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

## **Civil Rights Requirements**

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute): (1) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, or (g) Age, and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and

2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10

Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer".

(3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and

(5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of “employer,” (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37, (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27, (c) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35, (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36, (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,

h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,

i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Persons,” 70 Fed. Reg. 74087, December 14, 2005,

j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.

k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

## **Breaches and Dispute Resolution**



All contracts over \$100,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

### **Disadvantaged Business Enterprise**

Contracts over \$3,000 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the

recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

### **Prompt payment**

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

### **Incorporation of Federal Transit Administration (FTA) Terms**

All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

### **Other Federal Requirements**

The following requirements are not federal clauses.

### **Full and Open Competition**

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

### **Prohibition Against Exclusionary or Discriminatory Specifications**

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

### **Conformance with ITS National Architecture**

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

### **Access Requirements for Persons with Disabilities**

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

### **Notification of Federal Participation**

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

### **Interest of Members or Delegates to Congress**

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

### **Ineligible Contractors and Subcontractors**

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

### **Other Contract Requirements**

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

### **Compliance with Federal Regulations**

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **Real Property**

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by MAP-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

## **Access to Services for Persons with Limited English Proficiency**

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

## **Environmental Justice**

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1)

Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

## **Environmental Protections**

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

## **Geographic Information and Related Spatial Data**

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

## **Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only**

Non Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, Audits of States, Local Governments, and Non Profit Organizations. Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in '3052.215(a), but records must be available for review or audit by appropriate officials of the Federal and State agencies.

## **Catalog of Federal Domestic Assistance (CFDA) Identification Number**

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

## **CFDA number for the Federal Transportation Administration**

A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data

Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

**AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)**

The American Recovery and Reinvestment Act, 2009 (ARRA) [Pub. L. 111-5] was signed into law by President Barack Obama on February 17, 2009. ARRA includes appropriations and tax law changes totaling approximately \$787 billion to support government wide efforts to stimulate the economy.

Grantees receiving ARRA funds will be required to report on grant activities on a routine basis. FTA grantees will be responsible for reporting up-to-date and accurate information in the milestone status report and financial status report on a quarterly basis, as well as additional data elements that are required to be reported in [www.recovery.gov](http://www.recovery.gov). Additionally, special certifications and grant conditions also will be required of ARRA grant recipients.

Successful Bidder shall comply with the reporting and requirements mandated by the FTA in the Federal Register, Volume 74, No. 42, March 5, 2009, Notices, on ARRA Reporting Requirements, pages 9664 & 9665. Sample requirements:

- 1) OIG ARRA Poster: *The American Recovery and Reinvestment Act of 2009 (ARRA) requires that every contractor that receives ARRA funds must post a notice of rights and remedies available to whistleblowers. (Title XV, Subtitle A, Section 1553(e)). Contact the Department of Transportation Office of Inspector General's office (OIG) if you have questions, <http://www.oig.dot.gov/contact.jsp>.*
- 2) D-U-N-S Number: A D&B® D-U-N-S number is a unique nine digit sequence for identifying and tracking organizations. It is a Federal requirement to receive ARRA funds to have and provide a D-U-N-S number. City of Norwalk will not enter into a contract with any eligible Bidder without a D-U-N-S number. Additional information can be found at: [http://www.dnb.com/US/duns\\_update/](http://www.dnb.com/US/duns_update/).