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REQUEST FOR PROPOSAL

Solicitation of Passenger Amenities and Installation Services

RFP# 22-0916

PROPOSAL DUE DATE:	Friday, September 16, 2022 @ 3:00 p.m. ET
PROPOSAL SUBMITTAL LOCATION:	John Andoh, Interim Transit Manager, City of Burlington, Department of Transportation, Link Transit Division to jandoh@burlingtonnc.gov
PURCHASING MANAGER:	Sonjia Cross, CLGPO, Purchasing Manager City of Burlington, Department of Finance and Risk Management, Purchasing Division
TELEPHONE NUMBER:	Sonjia Cross, CLGPO, Purchasing Manager (336) 222-5006 scross@burlingtonnc.gov

Competitive proposals for the specified service shall be received by the Purchasing Division, 237 W. Maple Avenue, Burlington, NC 27215, until the date and time cited. Please submit your proposal to the City of Burlington Purchasing Division, Attention: Sonjia Cross, CLGPO at one of the following locations:

Mail:
P.O. Box 1358
Burlington NC, 27216

Hand Deliver:
237 W. Maple Ave.
Burlington, NC 27215

Proposals must be in the actual possession of the Purchasing Division at the location indicated, on or prior to the exact date and time indicated above. Late proposals shall not be considered. The prevailing clock shall be the City of Burlington Purchasing Division clock in the Eastern Standard Time (ET).

REQUEST FOR PROPOSAL

Solicitation of Passenger Amenities and Installation Services

The City of Burlington on behalf of Link Transit is seeking proposals from qualified proposers for the manufacture and installation of passenger amenities throughout the Link Transit service area which presently comprises of the City of Burlington, Town of Gibsonville and portions of unincorporated Alamance County. The City of Burlington intends to award a Contract covering a three (3) year term with the option to extend for two (2) one 1-year periods. The initial need is for 25 bus shelters and/or associated passenger amenities in year one (1) with additional purchases to be made over the life of the Contract. Nothing in this request shall imply any set number of shelters will be purchased.

Proposers wishing to be considered shall be submitted in writing no later than **Friday, September 16, 2022 at 3:00 P.M.**, Eastern Standard Time (ET). Vendors mailing proposals should allow delivery time to ensure timely receipt of their proposal. The responsibility for getting the proposal to the City of Burlington Purchasing Department on or before the specified date and time is solely and strictly the responsibility of the proposing vendor. The City will in no way be responsible for delays caused by any occurrence.

To obtain a copy of the RFP, Proposers may download the request for proposals at www.burlingtonnc.gov, www.linktransit.org, contact the City of Burlington by e-mail at jandoh@burlingtonnc.gov or by telephone at (336) 222-7351.

Any Proposer appearing on the Comptroller General's list of ineligible contractors is not eligible to participate.

The City of Burlington reserves the right to reject any and all proposals, to waive any informalities therein, and to readvertise for proposals.

I. INSTRUCTIONS TO PROPOSERS

GENERAL: All proposals are subject to the provisions of the attached General Contract Terms and Conditions. All proposal responses will be controlled by the General Contract Terms and Conditions included by the City of Burlington. Proposer terms and conditions included as a part of published price lists, catalogs, and/or other documents submitted as a part of the proposal response are waived and will have no effect either on the proposal, or any Contract which may be awarded as a result of this proposal. **The attachment of any other terms and conditions may be grounds for rejection.**

Pursuant to North Carolina General Statutes (G.S.) 143-48 and Executive Order No. 77, the State of North Carolina, as well as the Federal Transit Administration (FTA) and the United States Department of Transportation (USDOT) invites and encourages participation in this procurement by a business owned by minorities, women, and the handicapped. This program is known as the disadvantaged business enterprise (DBE) and small business enterprise (SBE) program.

WARRANTY: Proposer guarantees equipment offered to be free from any and all defects in material and workmanship and warrants same for a period of one (1) year unless otherwise stated in the specifications. Such warranty to cover the cost of all service, parts, labor and travel to and from points of service.

SPECIFICATIONS: Manufacturer's name and catalog numbers used in this proposal are used as examples and product equivalents are acceptable.

PROPOSAL EVALUATION: The City of Burlington reserves the right to reject any proposal on the basis of the function, compatibility with user requirements, as well as cost. The City of Burlington reserves the right to award this Contract to a single overall Proposer on all items, or to make award on the basis of individual items or groups of items, whichever shall be considered by the City of Burlington to be most advantageous or to constitute its best interest. Proposers should show unit prices but are requested to offer a lump sum price. The City of Burlington will not be bound by oral discussions during evaluation process. Responsible purchasing agent should approve all contact regarding this award.

CANCELLATION: The City of Burlington may terminate/cancel this Contract at any time by providing written notice to the Proposer at least thirty (30) days before the effective date of termination/cancellation.

SERVICE: Adequate and satisfactory availability of repair parts and supplies, and ability to meet warranty and service requirements are necessary. The City of Burlington reserves the right to satisfy itself by inquiry or otherwise as to Proposer's capability in this regard.

****THE CITY OF BURLINGTON WILL NOT BE BOUND BY ORAL DISCUSSION REGARDING THIS REQUEST FOR PROPOSALS.****

QUESTIONS: Questions regarding the specifications on this proposal should be referred to John Andoh, Interim Transit Manager at 336.222.7351 or email jandoh@burlingtonnc.gov.

II. GENERAL TERMS AND CONDITIONS

1. **ACCEPTANCE AND REJECTION**: The City of Burlington reserves the right to reject any and all proposals, to waive any informality in proposals, and unless otherwise specified by the Proposer, to accept any item in the proposal. If either a unit price or extended price is obviously in error or the other is obviously correct, the incorrect price will be disregarded.

2. **TIME FOR CONSIDERATION**: Unless otherwise indicated on the first page of this document, the offer shall be valid for 90 days from the date of proposal opening.

3. **TAXES**: No taxes shall be included in any proposal prices.

a. **FEDERAL**: Generally, states and political subdivisions are exempt from such taxes, as excise and transportation. Exemption is claimed under Registry No. 56-70-0047K as provided by Chapter 32 of the Internal Revenue Code.

b. **OTHER**: Proposal prices are not to include any sales, import, or personal property taxes. To the extent applicable, they are to be invoiced as a separate item(s).

4. **PRICE ADJUSTMENTS**: Any price changes, downward or upward, which might be permitted during the Contract period must be general, either by reason of market change or on the part of the Proposer to other customers.

a. **NOTIFICATION**: Must be given to the City of Burlington Purchasing Division and the Link Transit Division, in writing, concerning any proposed price adjustments. Such notification shall be accompanied by copy of manufacturers' official notice or other evidence that the change is general in nature.

b. **DECREASES**: The City of Burlington shall receive full proportionate benefit immediately at any time during the Contract period.

c. **INCREASES**: All prices offered herein shall be firm against any increase for 180 days from effective date of the proposed Contract. After this period, a request for increase may be submitted with the City of Burlington reserving the right to accept or reject the increase or cancel the Contract. Such action by the City of Burlington shall occur not later than 15 days after receipt and review by the City of Burlington of a properly documented request for price increase. Any increases accepted shall become effective on a date to be determined by the City of Burlington which:

1) Shall not be later than 30 days after the expiration of the original 15 days reserved by the City of Burlington to evaluate the request for increase.

d. **INVOICES**: It is understood and agreed that orders will be shipped at the established Contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the Contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item.

5. **PAYMENT TERMS**: Payment terms are Net, 30 business days after receipt of correct invoice or acceptance of goods, whichever is later. The City of Burlington is responsible for all payments under the Contract.

6. **AFFIRMATIVE ACTION:** The successful Proposer will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of those with disabilities, and concerning the treatment of all employees, without discrimination by reason of race, color, religion, sex, national origin, or disability.

7. **CONDITION AND PACKAGING:** Unless otherwise indicated in the proposal, it is understood and agreed that any item offered or shipped on this proposal shall be new and in first class condition, that all containers shall be new and suitable for storage or shipment, and that prices include standard commercial packaging.

8. **PERFORMANCE BOND AND DEFAULT:** The City of Burlington reserves the right to require performance bonds from successful Proposer, as provided by law, without expense to the City. Otherwise, in case of default by the Proposer, the City may procure the articles or services from other sources and hold the Proposer responsible for any excess cost occasioned thereby. Default shall occur if the Proposer fails to perform any obligation under the Contract and schedule and such failure remains uncured for more than thirty (30) days after receipt of written notice thereof from the City of Burlington.

9. **SAMPLES:** Samples of items, if provided, shall be free of expense, and can be returned at the Proposer's expense. Request for the return of samples must be made within 10 days following opening of proposals. Otherwise, the samples will become City of Burlington property. Each individual sample must be labeled with Proposer's name and item number. Samples, on which an award is made, will be retained for the Contract period. These will be returned, if requested, ten days prior to expiration of the Contract.

10. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and successful Proposer will be held responsible, therefore. Deviations must be explained in detail on an attached sheet(s). Equivalent products and materials are acceptable.

11. **SAFETY STANDARDS:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization, such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters' Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type(s) of devices offered and furnished. Further, all items furnished by the successful Proposer shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

All Proposers must comply with *North Carolina Occupational Safety and Health Standards for General Industry, 29CFR 1910*. Construction Proposers must comply with *North Carolina Occupational Safety and Health Standards for the Construction Industry, 29CFR 1926*. In addition, Proposers shall comply with all applicable occupational health and safety and environmental rules and regulations. Proposers shall effectively manage their safety and health responsibilities including:

1. **Accident Prevention**

Prevent injuries and illnesses to their employees and others on or near their job site. Proposer managers and supervisors shall ensure employer's personnel safety by strict adherence to established safety rules and procedures.

2. Environmental Protection

Protect the environment on, near, and around their work site by compliance with all applicable environmental regulations.

3. Employee Education and Training

Provide education and training to all Proposers employees before they are exposed to potential workplace or other hazards as required by specific OSHA Standards.

12. **INFORMATION AND DESCRIPTIVE LITERATURE**: Proposers are to furnish all information requested and, in the spaces, provided on the proposal form. Further, as may be specified elsewhere, each Proposer must submit with his proposal: cuts, sketches, descriptive literature and/or complete specifications covering the products offered. Proposals, which do not comply with these requirements, will be subject to rejection.

13. **PROMPT PAYMENT DISCOUNTS**: Proposers are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the Contract except as a factor to aid in resolving cases of identical prices.

14. **AWARD OF CONTRACT**: As directed by statute, qualified proposals will be evaluated and acceptance made of the lowest and best proposal most advantageous to the City of Burlington as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the Proposers; the substantial conformity with the specifications and other conditions set forth in the proposal; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by the City to be pertinent or peculiar to the purchase in question. Unless otherwise specified by the City or the Proposer, the City reserves the right to accept any items or groups of items on a multi-item proposal.

The City reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by the City of Burlington to be pertinent or peculiar to the purchase in question.

15. **GOVERNMENTAL RESTRICTIONS**: In the event any governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship or performance of the items offered on this proposal prior to their delivery, it shall be the responsibility of the successful Proposer to notify the City of Burlington Purchasing Division and the Link Transit Division at once, indicating in his letter the specific regulation which required such alterations. The City of Burlington reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.

16. **INSURANCE:**

Liability Insurance Requirements

The successful Proposer shall be responsible for obtaining and maintaining adequate liability insurance to completely and fully protect the City of Burlington against all claims and actions arising out of any and all property damages or personal injury or death as shown in table below. The Proposer shall furnish proof of this liability insurance to be attached to the executed copies of the Contract.

	EACH OCCURRENCE	AGGREGATE
<u>GENERAL LIABILITY</u>		
Bodily Injury & Property Damage Combined Single Limit	\$1,000,000	\$3,000,000
<u>AUTOMOBILE LIABILITY</u>		
Bodily Injury & Property Damage Combined Single Limit	\$1,000,000	
<u>OWNERS PROTECTIVE LIABILITY OR PROJECT SPECIFIC AGGREGATE</u>		
Bodily Injury & Property Damage Combined Single Limit	\$1,000,000	\$3,000,000
<u>EXCESS LIABILITY</u>	\$5,000,000	\$5,000,000

*This is a special additional policy written for this project alone which specifically indemnifies the City of Burlington as the owner of this project.

THE CITY OF BURLINGTON MUST BE NAMED AS AN ADDITIONAL NAMED INSURED ON THE PROPOSER'S POLICY.

A Blanket Waiver of Subrogation shall apply in favor of the City of Burlington and all additional insureds as required by the Contract for Workers Compensation and General Liability.

<u>WORKERS COMPENSATION</u>	Statutory limits, as required by law. \$500,000 Employers Liability Limit
<u>SPECIAL HAZARD</u>	<ul style="list-style-type: none"> • Blasting (as required) • Explosion & Collapse • Underground Hazard • Contractual • Broad Form Property Damage • Personal Injury • Products/Completed Operations

17. **PATENTS AND COPYRIGHTS**: The Proposer shall hold and save the City of Burlington, its officers, agents, and employees, harmless from liability of any kind, including costs and expenses on account of any patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Contract, including use by the government.

Any and all copy, art, designs, negatives, photographs, or other tangible items created pursuant to Proposer's performance of this project shall be the property of City of Burlington and shall be delivered to City upon completion of the project. Such property shall be transferred to City in excellent, reusable condition.

In addition, the copyright in and to any copyrightable work, including, but not limited to, copy, art, negatives, photographs, designs, text, software, or documentation created as part of the Proposer's performance of this project shall vest in the City, and the Proposer agrees to assign all rights therein to the City. Proposer further agrees to provide the City with any and all reasonable assistance, which the City may require to obtain copyright registrations or to perfect its title in any such work, including the execution of any documents submitted by the City.

18. **PATENT AND COPYRIGHT INDEMNITY**: Proposer will defend or settle, at its own expense, any action brought against City of Burlington to the extent that it is based on a claim that the product(s) provided pursuant to this Contract infringe any U.S. copyright or patent; and will pay those costs, damages and attorney's fees finally awarded against Customers in any such action attributable to any such claim, but such defense, settlements and payments are conditioned on the following (1) that Proposer shall be notified promptly in writing by City of Burlington of any such claim; (2) that Proposer shall have sole control of the defense of any action on such claim and of all negotiations for its settlement or compromise; (3) that City of Burlington shall cooperate with Proposer in a reasonable way to facilitate the settlement of defense of such claim; (4) that such claim does not arise from City of Burlington modifications not authorized by the Proposer or from the use of combination of products provided by the Proposer with products provided by the City of Burlington or by others; and (5) should such product(s) become, or in the Proposer's opinion likely to become, the subject of such claim of infringement, then City of Burlington shall permit Proposer, at Proposer's option and expense, either to procure for City of Burlington the right to continue using the product(s), or replace or modify the same so that it becomes non-infringing and performs in a substantially similar manner to the original product; or (c) upon failure of (a) or (b) despite the reasonable efforts of the Proposer for a sold product or licensed software, return the price paid for the licensed software and any product dependent thereon.

19. **ADVERTISING**: Proposer agrees not to use the existence of this Contract or the name of the City of Burlington as a part of any commercial advertising without prior approval of the City of Burlington.

20. **EXCEPTIONS**: All proposals are subject to the terms and conditions outlined herein. All responses will be controlled by such terms and conditions and the submission of other terms and conditions, price catalogs, and other documents as part of a Proposer's response will be waived and have no effect on this Request for Proposal or any other Contract that may be awarded resulting from this solicitation. The submission of any other terms and conditions by a Proposer may be grounds for rejection of the Proposer's proposal. The Proposer specifically agrees to the conditions set forth in the above paragraph by affixing his name on the signatory page contained herein.

21. **CONFIDENTIAL INFORMATION**: As provided by statute and rule, the City of Burlington will consider keeping trade secrets which the Proposer does not wish DISCLOSED confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the Proposer. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.

22. **ASSIGNMENT**: No assignment of the Proposer's obligations nor the Proposer's right to receive payment hereunder shall be permitted. However, upon written request approved by the City of Burlington, solely as a convenience to the Proposer, the City of Burlington may:

- a. Forward the Proposer's payment check directly to any person or entity designated by the Proposer, and.
- b. Include any person or entity designated by Proposer as a joint payee on the Proposer's payment check.

In no event shall such approval and action obligate the City of Burlington to anyone other than the Proposer and the Proposer shall remain responsible for fulfillment of all Contract obligations.

23. **ACCESS TO PERSONS AND RECORDS**: The City Auditor shall have access to persons and records as a result of all contracts or grants entered into by the City in accordance with G.S. 147-64.7.

24. **INSPECTION AT PROPOSER'S SITE**: The City of Burlington reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective Proposer prior to Contract award, and during the Contract term as necessary for the City of Burlington's determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.

25. **AVAILABILITY OF FUNDS**: Any and all payments of compensation of this specific transaction, it's continuing, or any renewal or extension are dependent upon and subject to the allocation of appropriation of funds to the City of Burlington for the purpose set forth in this Contract.

26. **GOVERNING LAWS**: All contracts, transactions, agreements, etc., are made under and shall be governed by and construed in accordance with the laws of the State of North Carolina.

27. **ADMINISTRATIVE CODE**: Proposals, proposals, and awards are subject to applicable provisions of the North Carolina Administrative Code.

28. **EXECUTION**: Failure to sign under EXECUTION section will render proposal invalid.

29. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this proposal, the order of precedence shall be (1) special terms and conditions specific to this proposal, (2) specifications and this Request for Proposals, (3) City of Burlington General Contract Terms and Conditions, and (4) Proposer's Proposal.

30. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the City of Burlington named on the cover sheet of this document. Any and all revisions to this document shall be made only by written addendum from the City of Burlington Purchasing Division. The Proposer is cautioned that the requirements of this proposal can be altered only by written addendum and that verbal communications from whatever source is of no effect.

31. **SITUS:** The place of all contracts, transactions, agreements, their situs and forum, shall be North Carolina, where all matters, whether sounding in Contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

32. **LIQUIDATED DAMAGES AND INCENTIVES:** Since bus stop amenities are important to the City of Burlington, liquidated damages, will apply to this Contract. Based on the proposal submitted, liquidated damages will be assessed for any delivery more than three (3) days later than the schedule listed at 5% of the cost of the item per day with a maximum of 50% of the item cost. Site verification must be done within two (2) business days to identify any issues or challenges at site not identified in the engineers drawing once the permit issued. The occupant next to the bus stop should be notified at this time of upcoming construction. The email from the Project Manager will serve as notification that the permit has been issued and reply by the Proposer will serve as notification of completion. If there are any issues found, the response from the Proposer should include concerns and pictures if applicable. Liquidated damages of \$50.00 per day will be assessed.

Amenity construction should be done within thirty (30) calendar days of the site verification being complete. A completed amenity will include all concrete and amenities on the engineer drawing that was submitted with the permit request. Liquidated damages of \$150.00 per day will be assessed. Since the goal of this Contract is to have amenities installed correctly and quickly, there are incentives as well. If an amenity is completed in less than seven (7) calendar days, there is a \$1,000.00 incentive payment. If an amenity is completed in eight (8) to fifteen (15) calendar days, there is a \$500.00 incentive payment.

Site verification must be done within two (2) business days to identify any issues or challenges at site not identified in the engineers drawing once the permit issued. The occupant next to the bus stop should be notified at this time of upcoming construction. The email from the Project Manager will serve as notification that the permit has been issued and reply by the Bidder will serve as notification of completion. If there are any issues found, the response from the Bidder should include concerns and pictures if applicable. Liquidated damages of \$50.00 per day will be assessed.

Amenity construction should be done within thirty (30) calendar days of the site verification being complete. A completed amenity will include all concrete and amenities on the engineer drawing that was submitted with the permit request. Liquidated damages of \$100.00 per day will be assessed. Since the goal of this Contract is to have amenities installed correctly and quickly, there are incentives as well. If an amenity is completed in less than seven (7) calendar days, there is a \$1,000.00 incentive payment. If an amenity is completed in eight (8) to fifteen (15) calendar days, there is a \$500.00 incentive payment.

Since this is a construction project, Davis Bacon Act requirements will need to be met. Details available here: <https://www.dol.gov/whd/govcontracts/dbra.htm>. Weekly certified payrolls, posters, employee

interviews and site observations are part of that requirement. If a schedule is not provided to the Project Manager in advance and the Davis Bacon Act verifications cannot be done, liquidated damages of \$250.00 will be assessed per location. Missing or incomplete weekly certified payrolls will be assessed \$100.00 per occurrence. Additional details are available in Section IV.

III. FEDERAL REQUIREMENTS AND SPECIAL CONDITIONS

This procurement is subject to the terms and conditions of FTA due to the purchase of these bus shelters being funded by FTA. As a result, Proposers are required to sign the associated Federal certifications and clauses in Appendixes A and B and include as part of the proposal submission and to be aware of all procurement requirements as defined in the FTA Master Agreement or the Circular 4220 1.F as amended Details available here: <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements> and <https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Third%20Party%20Contracting%20Guidance%20%28Circular%204220.1F%29.pdf>.

1. SYSTEM FOR AWARD MANAGEMENT (SAM): All Proposers shall be registered with System for Awards Management (SAM) by the time a Contract is awarded. The Proposer must have not been debarred or suspended from participating in Federally funded procurements. A copy of the Proposer's SAM registration must be provided prior to issuance of a purchase order with Proposer. Proposers can register with SAM at www.sam.gov.

2. DBE REQUIREMENTS: This solicitation and resultant Contract is financed in whole or in part with federal funds and therefore subject to Title 49, Code of Federal Regulations, Part 26 (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." In compliance with 49 CFR 26, the City of Burlington has set an overall annual DBE goal comprising both race neutral and race conscious elements. To ensure equal participation for DBE groups specified in 49 CFR 26.5, the City of Burlington has specified a contract goal for DBE participation. The required goal for DBE participation in this solicitation is 0.11%.

To ensure applicable participation of the specified DBEs as defined in 49 CFR 26.5, this solicitation's goal applies to all certified DBEs. Only certified DBE participation will count toward the Contract goal for this solicitation. DBE participation will count towards the City of Burlington's federally mandated overall annual DBE goal. In order to ascertain whether its overall annual DBE goal is being achieved, the City of Burlington tracks DBE participation on all federal-aid contracts.

It is the Proposer's responsibility to verify that the DBE Proposer is certified as a DBE by the specified bid submittal due date and time. For a list of DBEs certified by the NCDOT United Certification Program (UCP), go to: www.ncdot.gov.

The Proposer shall complete and submit Appendix B for detailed information and the required forms. Required forms will be made a part of the Contract. The requirement to advertise for the purpose of identifying potential DBEs is waived.

In an effort to meet the City of Burlington's DBE Program objectives and the City of Burlington's federal DBE goal, this optional item provides opportunities for certified DBE Proposers to Contract with or perform as a subcontractor and to provide goods and services to the City of Burlington. DBEs must be currently certified under the North Carolina Department of Transportation's DBE Program in order to satisfy the City of Burlington's program objectives and federal DBE goal. Certified DBEs, including minority-owned and women-owned businesses, are encouraged to respond to this solicitation directly or to partner with other Proposers.

To obtain a listing of certified DBE Proposers or information about the North Carolina Department of Transportation's DBE Certification Program visit: <https://connect.ncdot.gov/business/SmallBusiness/Pages/UCP%20Certification%20Process%20for%20DBE%20firms.aspx>

Proposers submitting proposals are advised that the participation of certified DBE Proposers as contractors, joint venture partners or subcontractors is encouraged for consideration with regard to the work described in this solicitation. Proposers electing to form a joint venture or to subcontract work in response to this solicitation shall make affirmative efforts to involve certified DBEs and shall provide documentation of the results of those efforts. Proposers electing to form a joint venture or to subcontract work in response to this solicitation, but which are unable to utilize certified DBEs, shall document their good-faith efforts to involve certified DBEs as joint venture partners or subcontractors, and the reasons why such involvement was not attainable.

3. PROTEST PROCEDURES: Filing Procedure Protests dealing with restrictive specifications or alleged improprieties in solicitation must be filed no later than ten (10) business days prior to Request for Proposal opening or closing date for receipt of proposals. Any other protest must be filed no later than three (3) business days after: 1. Notification of Intent to Award is issued for award of Contract if the Contract award is approved by City Council per staff recommendation; or 2. Notification of Award is issued if the City Council has delegated award authority to the Purchasing Manager or City Council does not award the Contract according to the Notification of Intent to Award.

Protests shall be in writing and addressed to the Purchasing Manager. The protest shall identify the protestor, contain a statement officially declaring a protest and describing the reasons for the protest, and provide any supporting documentation. Additional materials in support of the initial protest will only be considered if filed within the time limit specified above. The protest shall indicate the ruling or relief desired from City of Burlington.

Confidentiality materials submitted by a protester will not be withheld from any interested party, except to the extent that the withholding of information is permitted or required by law or regulation. If the protest contains proprietary material, a statement advising of this fact may be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears.

Withholding of Award: When a protest is filed before opening of RFPs or closing date of proposals, the RFPs will not be opened prior to resolution of the protest, and when the protest is filed before award, the award will not be made prior to resolution of the protest, unless the Awarding Authority determines that:

- Items to be procured are urgently needed, or delivery or performance will be unduly delayed by failure to make award promptly; or
- Failure to make award will cause undue harm to City of Burlington. In the event an award is to be made while a protest is pending, the Federal Transit Administration shall be notified if Federal funding is involved.
- The Purchasing Manager shall respond to the protestor within five (5) business days of receiving the protest. A conference on the merits of the protest may be held with the protestor.
- Any additional information required by City of Burlington from the protester shall be submitted as expeditiously as possible, but no later than three (3) days after receipt of such request.

Notification: The Purchasing Manager shall notify the protester of a decision regarding the protest no later than ten (10) days following receipt of all relevant information.

Appeal: If a protester is not satisfied with the decision made by the Purchasing Manager the protester may appeal the decision to the Awarding Authority (City Council) by way of a letter to the Purchasing Manager no later than three (3) business days after notification of denial of the protest by the Purchasing Manager. If the Purchasing Manager is the Awarding Authority the protester will be deemed to have exhausted its appeals to City of Burlington upon receipt of the initial rejection of the protest by the Purchasing Manager. If Federal funds are involved, the protester may file protest with the FTA appealing the final decision of the Awarding Authority. Under limited circumstances, and after the protester has exhausted all administrative protest remedies made available to him at the agency level, an interested party may protest to the FTA the award of a Contract pursuant to an FTA grant. Review by FTA will be limited to:

- Violation of Federal law or regulations.
- Violation of City of Burlington's protest procedures described herein, or failure by City of Burlington to review protest.

Protests must be filed with FTA (with a concurrent copy to City of Burlington) within five (5) days after the Awarding Authority renders a final decision, or five (5) days after the protester knows, or has reason to know, that the Awarding Authority failed to render a final decision. After five (5) days, City of Burlington will confirm with FTA that FTA has not received protest on the Contract in question. Circular 4220.1F, the FTA's Third Party Contracting Guidance, is available for review at City of Burlington Department of Transportation, Link Transit Division office, or online at www.transit.dot.gov/regulations-and-guidance/ftacirculars/third-party-contracting-guidance.

A copy may also be obtained from the FTA at the following address: Federal Transit Administration Federal Building Region 4 230 Peachtree NW, Suite 1400, Atlanta, GA 30303.

City of Burlington shall not be responsible for any protests not filed in a timely manner with FTA. In the event an award is to be made while a protest is pending, the FTA shall be notified if Federal funding is involved. FTA Determinations to Decline Protest Reviews FTA's determination to decline jurisdiction over a protest does not mean that FTA approves of or agrees with the grantee's decision or that FTA has determined the Contract is eligible for Federal participation. FTA's determination means only that FTA does not consider the issues presented to be sufficiently important to FTA's overall program that FTA considers a review to be required.

IV. REQUIRED FORMS

REQUEST FOR PROPOSALS ACKNOWLEDGEMENT FORM

The Service Provider hereby certifies receipt of the Request for Proposals package for the City of Burlington, North Carolina, "Solicitation of Passenger Amenities and Installation Services". This form should be completed upon receipt of the City's Request for Proposals package and email or mail to the City. Please email the completed Request for Proposals Acknowledgement Form to the attention of:

Sonjia Cross
City of Burlington Purchasing Division
237 W Maple Avenue, P.O. Box 1358
Burlington, NC 27216
Email: scross@burlingtonnc.gov

Date: _____

Authorized Signature: _____

Title: _____

Proposer Name: _____

Please check the appropriate space provided below and provide the requested information:

We plan to submit a Proposal in response to "Solicitation of Passenger Amenities and Installation Services"

Primary Contact Name: _____

Contact E-mail address: _____

Contact telephone: _____ Fax number: _____

Secondary Contact Name: _____

Contact E-mail address: _____

Contact telephone: _____ Fax number: _____

We do not plan to submit a Proposal in response to "Solicitation of Passenger Amenities and Installation Services."

Reason: _____

ADDENDA RECEIPT CONFIRMATION FORM

Solicitation of Passenger Amenities and Installation Services

ADDENDUM #:

DATE:

I certify that this proposal complies with the General and Specific Specifications and Conditions issued by the City of Burlington except as clearly marked in the attached copy of all addenda for this RFP. It is the responsibility of the Proposer to be sure they have reviewed all the addenda associated with this RFP.

(Please Print Name)

Date

Authorized Signature

Title

Proposer Name

PROPOSAL SUBMISSION FORM

Solicitation of Passenger Amenities and Installation Services

This Proposal is submitted by:

Proposer: _____

Signed: _____

Name: (Typed) _____

Address: _____

City/State/Zip: _____

Telephone: _____

(Area Code) Telephone Number

Facsimile: _____

(Area Code) Telephone Number

It is understood by the Service Provider that the City of Burlington reserves the right to reject any and all proposals, to make awards on all items or on any items according to what is in the best interest of the City of Burlington, to waive formalities, technicalities, to recover and rebid this RFP. Proposals will be considered valid for one-hundred and eighty (180) calendar days from the date of proposal submission.

Service Provider

Date

Name (Please type or print name)

Authorized Signature

SERVICE PROVIDER AND INSURANCE AGENT STATEMENT FORM

Solicitation of Passenger Amenities and Installation Services

We, the Proposer's insurance provider, understand the insurance requirements of these specifications. Evidence of the insurability of the Service Provider shall be provided to the City of Burlington prior to Contract execution. If our client is awarded this Contract, we agree to provide the City of Burlington with a thirty (30) day written notice of any intent to amend, terminate, or non-review coverage by the insuring company.

Service Provider

Insurance Service Provider

Signature of Service Provider

Signature of Insurance Service Provider

Agent: _____

Agent's Errors and Omissions

Policy: _____

Signature of N.C. Resident

Agent: _____

Amount of Coverage

Number

Date

Name and Location of Agency

Address of Agency

(Area Code) Telephone Number

Price Proposal

Solicitation of Passenger Amenities and Installation Services

The undersigned hereby proposes to furnish and pay for all necessary labor, equipment, materials, supplies (unless otherwise noted), appurtenances and all other expenses connected thereto to provide prefabricated bus stop amenities and installation for the City of Burlington, covering a three (3) year term with the option to extend for two (2) one 1-year periods. The initial need is for 25 bus shelters and associated passenger amenities in year one (1) with additional purchases to be made over the life of the Contract. Nothing in this request shall imply any set amount of bus stop amenities will be purchased.

Materials

Number	Item	Style 1 [Name]	
		Per Unit Cost	Delivery Date (Days)
Item 1	Shelter, 6-foot Class		
Item 2	Shelter, 12-foot Class		
Item 3	Shelter, small footprint (fit on an existing sidewalk that is 8 foot wide)		
Item 4	Shelter Part: panel		
Item 5	Shelter Part: column		
Item 6	Bench		
Item 7	Bench with Advertising Back		
Item 8	Sign Mount Seats		
Item 9	Sign Mount Trash Can		
Item 10	1 Loop Bike Rack		
Item 11	Standalone Trash Can		
Item 12	Shelter Map Box (48" x 60")		
Item 13	Solar Lighting		
Item 14	Info Panel for Pole (8.5' wide x 14' tall)		

Installation or Removal

Item Number	Item	Type of Work	Unit	Price
Item 15	10 x 5 foot Shelter Pad	Build form, pour concrete	Each	
Item 16	6 Foot Shelter	Installation or removal	Each	
Item 17	18x5 Foot Shelter Pad	Build form, pour concrete	Each	
Item 18	12 Foot Shelter	Installation or removal	Each	
Item 19	9x3 Bench Pad	Build form, pour concrete	Each	
Item 20	5x8 ADA Pad	Build form, pour concrete	Each	
Item 21	Bench	Installation or removal	Each	
Item 22	Trees	Installation or removal	Each	
Item 23	Other Concrete	Build form, pour concrete	<i>Per Inch</i>	
Item 24	Standalone Trash Can	Installation or removal	Each	
Item 25	Bicycle Rack	Installation or removal	Each	
Item 26	Bus Stop Sign, Trash Can Pole & Infocase	Installation or removal	Each	
Item 27	Other items Described in the Scope of Work	Installation or removal	Each	
Item 28	Other Construction Related Items	Installation or removal	Each	
Item 29	Civil Engineer Services		Hourly	
Item 30	Performance Bond			

Comments related to pricing: _____

It is understood by the Service Provider that the City of Burlington reserves the right to reject any and all proposals, to make awards on all items or on any items according to what is in the best interest of the City of Burlington, to waive formalities, technicalities, to recover and rebid this RFP. Proposals will be considered valid for one-hundred and eighty (180) calendar days from the date of proposal submission.

 Service Provider

 Date

 Name (Please type or print name)

 Authorized Signature

V. SCOPE OF WORK / TECHNICAL REQUIREMENTS

Link Transit is seeking proposals from qualified manufacturers of street furniture including transit shelters, benches, and other equipment for a suite of products that will provide comfort and an attractive waiting environment for transit users throughout the Link Transit service area which is the City of Burlington, Town of Gibsonville and portions of Alamance County. It is the desire of MTA to purchase upwards of 25 shelters and benches, plus associated equipment in year one (1) and on an as needed basis thereafter.

As the largest and most visible type of street furniture proposals should be structured around the transit shelter, which the design that the City of Burlington is looking for is below. Proposers shall submit costs and delivery timelines including manufacture and shipment. Images, whether photographs or computer-rendered, should be provided for each item where the City of Burlington does not provide a specific design for. Bidders should consider the following in their proposals:

Purpose – The Link Transit service area, is a hot and humid climate in the summer and can be cold and chilly in the winter, including snow being a factor and the main functions of a transit shelter are (1) protection from the sun and (2) protection from rain and snow. Air movement is important, thus perforated metal is a preferable material to glass for paneling.

Attractiveness – Link Transit has an attractive, trademarked brand. The appearance of the structure is very important to the City of Burlington. The winning product should support our brand, including space for showing our “Link Transit” logo (shown below).



Standardization – The City of Burlington wants 6’ and 12’ shelters but these should be considered “classes.” If Bidder has a shelter different shelter size, that may be proposed as an exception for consideration by the City of Burlington as long as the shelter size is 25% greater than or 25% less than.

Complementary Amenities – While City of Burlington wants attractive-and-standardized products, we also seek amenities that will match the shelters. For example, a sleek, modern shelter should not be paired with a Victorian-styled bench.

Color Customizable – While City of Burlington wants a standard product, we also have a need for color options for certain parts of the service area.

1. MENU OF STREET FURNITURE

The City of Burlington requests bids for the following street furniture that meet the specifications detailed in the next section: ***(Pictures provided are a representation of a sample for the Bidder to consider as part of its submission, except for the bus shelter and standalone trash can, as the that is reflective of the City of Burlington's standard)***

- Bus shelter, bench with two delineator bars, solar lighting, map case (48" x 60") (panel on roof, capable of providing light to the shelter through lights installed inside the shelter);



- Bus shelter, small footprint class (requires ≤ 2 feet of depth to install) w bench with two delineator bars, solar lighting, map case (48" x 60") (panel on roof, capable of providing light to the shelter through lights installed inside the shelter);



- Bench with two delineator bars with option for advertising space on the back rest;



- Stop sign mountable seats (similar to design of Simme Seat or equal; Simme Seat is an acceptable sub-contractor).



- Garbage cans;



- Pole mounted trash cans;



- Bike racks;



- Info Panel (8.5 inches wide by 14 inches tall);



- Spare Parts Need to Replace Damaged Parts

The bus stop amenities should feature around the silver and lime design.

2. GENERAL CONDITIONS

All bus stop amenities, when installed, shall comply with the accessibility requirements of the Americans with Disabilities Act (ADA).

Standard Material and Construction Specifications - Materials shall meet the current requirements of the following organizations:

Stainless Steel	A.S.T.M.
Aluminum	The Aluminum Association
Steel	American Institute of Steel Construction
Welding	American Welding Society
Galvanizing	Standard specifications for Zinc (hot galvanized) Coatings on structural Steel Shapes, Plates and Bars

The Proposer, if required by the City of Burlington, shall furnish an affidavit from the materials manufacturer, certifying that materials used meet the requirements specified.

Material Referred to by Name - Special reference in the specifications to any material or product name or make shall be interpreted as establishing a standard quality and shall not be construed as limiting competition, and the Proposer, in such cases, may at use another product or material which, in the judgment of the City of Burlington, is equal to that named.

The Proposer guarantees that the bus stop amenities provided are standard new product, made from regular stock materials; also, that no component or part has been substituted contrary to manufacturer's recommendations and standard practice.

Each bus stop amenity shall be guaranteed against faulty workmanship, material, assembly and installation for at least one (1) year from date of installation. The Proposer shall repair or replace any defective items at no cost to the City of Burlington. The finish shall be warranted for a minimum of three (3) years against lifting, peeling or flaking, full three (3) year warranty and pro-rated @ 25% reductions for the following two (2) years. Additional bus stop amenities may be of a different size or type than as specified below. Should a different size or type be requested during the initial Contract term, a new price for the alternative will be requested from the Proposer.

All materials should have an anti-graffiti finish.

All materials shall be packaged and shipped in a manner to insure their delivery without loss or damage. Small stock shall be securely bundled, bagged or boxed. The Proposer shall be responsible for and shall replace any material lost or damaged during shipment.

The manufacturer will provide signed and sealed architectural drawings by a professional engineer and complete assembly instructions with its proposal.

All materials used in the manufacture of the bus stop amenities shall be subject to the City of Burlington's inspection and approval. Inspection may be made at the point of manufacture at the City of Burlington's discretion. Samples may be selected at random from each shipment. These samples will be considered as representing the quality of the lot.

Failure of any material, or of samples thereof to satisfactorily meet the specified standards shall be cause for rejection of all material furnished under the Purchase Order. The Proposer shall pay for transportation charges.

3. SHELTER SPECIFICATIONS

The requirements and specifications below are meant to establish a minimum acceptable level of construction, materials and finish quality. Alternate materials and methods are acceptable if they meet or exceed the minimum requirements. All proposals shall be supported by detailed drawings and specifications, clearly showing dimensions, joining details, alloy, temper, finish and thickness of all members and components. All proposals shall include detailed assembly instructions.

a. General Dimensions

The shelters shall have a rear wall, full end walls, and an open front.

b. Materials and Design

Shelters shall be designed to withstand minimum winds common in the Burlington, NC geographic area and shall be graffiti-resistant.

c. Framing

The structural frame, including header and sill, shall be extruded seamless 6063-T5 aluminum tubing, 2.5" square, .125" minimum thickness, with a common color PMS or RAL powder coat finish. Color shall be selected and approved by the City of Burlington.

All structural frame connections shall be concealed. Fasteners shall be stainless steel bolts and lock washers. SELF-TAPPING CONNECTORS WILL NOT BE ACCEPTED. Exposed fasteners shall match shelter finish.

External flanges (4" minimum height) shall support each column and shall have 3" minimum leveling capability. External flanges shall be square aluminum tubing, .250" minimum thickness, welded to a .375" galvanized base plate. Stainless steel fasteners (min. ½" dia.) shall attach shelter to concrete pad.

d. End Wall and Rear Panels

End walls and rear panels shall be perforated metal panels with a common color PMS or RAL powder coat finish. A minimum of one end wall shall allow for weatherproof encasement of Link Transit route map and schedules. Wall panels shall be installed into an integral gasketed channel in the underside of the roof perimeter. Vertical mullions shall be incorporated in the rear wall. Standard design of the shelter shall enable the installation of the wall panels, leaving a 6" to 10" gap between the surface of a level concrete pad and the bottom framing.

e. Roof and Fascia/Gutter

The roof shall be slanted, dome or barrel vault roof. Roof and Fascia/Gutter shall have a common color PMS or RAL powder coat finish. The color and style shall be selected and approved by the City of Burlington. Roof shall be shipped in a single complete section, ready for installation.

The roof shall have a common color PMS or RAL powder coated aluminum panels and shall be capable of supporting 40 lbs per square foot. The color and style shall be selected and approved by the City of Burlington. The roof shall be gasketed and sealed to prevent water from leaking into the shelter. Solar powered lighting should be incorporated into the roof.

- The battery for the solar-powered lighting shall have some battery autonomy or reserve that allows system to operate for five (5) days minimum from full charge with zero (0) solar charge;
- Must turn on automatically at dusk (and remain on for at least six (6) hours) or have an ADA approved button for operation up to 15 minutes per activation;
- Manufacturer must meet ISO 9001 standards (provide certificate);
- Light must be Light Emitting Diode (L.E.D.) technology with minimum 50,000-hour lifespan;
- Proposer to provide separate Buy America cost certification and breakdown from solar light supplier and cost documentation in support of same; and
- Unit to be warrantied for a minimum of 10 years.

Fascia/gutter shall be one-piece extruded aluminum, .125" minimum thickness, with mitered corners and an integral gutter. Fascia must have a minimum 4" high flat surface suitable for application of logo decals, or location identification. Fascia/gutter shall have

a minimum 3" overhang on all sides. Top lip of fascia shall be rounded for safety. Fascia shall support a concentrated 300 lb load at mid-span without deformation.

Fascia/Gutter shall attach to the shelter frame by a self-aligning attachment lip, secured with tamper-proof fasteners. The fascia exterior shall have no exposed fasteners. Runoff shall be diverted away from the open front or any doorways and the drainage system shall be designed to eliminate weep holes and avoid any possible entrapment of standing water.

4. BENCH

Each shelter or standalone bench shall include a surface mounted perforated metal bench with backrest five feet in length. Each bench shall include two (2) anti-vagrant bars. The finish shall match the shelter and be warranted for a minimum of 3 years against lifting, peeling or flaking.

5. TRASH RECEPTACLES

Receptacles shall be heavy-duty, 20-gallon, mounted, hanging trash receptacles with ring fasteners for trash bags. The finish shall match the shelters with three (3) year warranty against lifting, peeling or flaking. Trash receptacles proposed shall be standalone and pole mounted.

6. SHOPPING CART CORRAL, POLE MOUNTED SEATS, MAP CASES, INFO PANEL, BIKE LOOPS AND ADVERTISING KIOSKS

The finish shall match the shelters with three (3) year warranty against lifting, peeling or flaking.

7. DELIVERY

Bus stop amenities should be delivered Monday through Friday between 7:00 a.m. to 3:00 p.m. to the following address:

City of Burlington Public Works Department
c/o Link Transit
218 East Summit Avenue
Burlington, NC 27215

All prices should include shipping Free on Board (FOB) to the City of Burlington.

Bus stop amenities are to be prefabricated and shipped in knock down condition for installation on a prepared concrete pad (or existing pavement of sufficient thickness and condition to meet engineered load requirements) using standard tools and equipment. Parts are to be clearly identified and complete instructions are to be provided.

All hardware is to be prepackaged in complete kits for each individual shelter (shelter, solar panel, map case, bench, and trash receptacles) or standalone if not ordered as part of a shelter. Bulk packaging of hardware will not be acceptable. Include delivery lead-time from receipt of written order.

8. ON-SITE ASSEMBLY AND INSTALLATION

The Proposer shall (directly or through a sub-contractor) assemble and install the bus stop amenities at each proposed bus stop amenity location, including performing necessary concrete work and securing permits for doing so. The shelters, including all materials for the shelter, associated bus stop amenities and the necessary concrete pad, shall be provided and installed by the Proposer at approved locations. The transporting of all bus stop amenities materials shall be the responsibility of the Proposer. Please provide price and name of Proposer (if subcontract) that would be used for assembly and installation over the Contract period.

In addition, the Proposer shall provide all necessary installation hardware, with complete detailed installation instructions.

Bus Stop amenities shall have installation performed by Proposer certified and qualified local installer. Surface installation requires level concrete pad of appropriate size and thickness to accommodate the appropriate amenity.

VI. PROPOSAL FORMAT & REQUIREMENTS

1. Please note that there will be no public opening of proposals. Prices and other proposal information shall not be made public until the proposal is awarded. At that time the executed Contract and purchase order will become public information. Proposals must be valid for a minimum period of ninety (90) days from the due date. Proposals may **not** be withdrawn after the submission date.
1. The Proposals package shall be clearly marked “**RFP# 22-0916 Solicitation of Passenger Amenities and Installation Services**”. Proposers are fully responsible for the timely delivery of proposals. Reliance upon mail or other carriers is at the Proposer’s own risk. Late proposals shall not be considered. Mail one original hardcopy along with one electronic copy on a flash drive.
2. All inquires regarding technical specifications should be in writing via email and directed to:
John Andoh, CCTM, CPM, Interim Transit Manager
jandoh@burlingtonnc.gov
3. This solicitation does not obligate the City of Burlington to pay for costs incurred in the preparation of proposals or to award a Contract. The City of Burlington reserves the right to accept or reject any or all proposals, or to cancel in part or in whole, this solicitation.
4. A sample Contract is included in this solicitation. The selected Proposer shall sign a Contract with the City of Burlington, substantially similar to that included herein.
5. The initial Contract term shall be three (3) year term with the option to extend for two (2) one 1-year periods. The City of Burlington will evaluate the option to renew at the City of Burlington’s sole discretion.
6. The initial need is for 25 bus shelters and associated passenger amenities in year one (1) with additional purchases to be made over the life of the Contract. Nothing in this request shall imply any set number of shelters will be purchased.
7. The following format shall be used for all proposals:

Proposer Identification - The proposal shall include a brief summary of the Proposer, the size and structure of its organization, the location of its manufacturing facility, the number of full-time and part-time employees, and the number of years that the Proposer has been in the business of manufacturing and installing bus stop shelters. The Proposer’s background, resources (financial and personnel) and capabilities in the relevant areas shall be described. The Proposer shall provide documentation of its insurance coverage, as required by the City of Burlington.

Product Specifications – The proposal shall include measured drawings, photos, specifications, and assembly instructions for the shelters proposed to the City of Burlington.

Recent Clients – Provide a listing of at least three (3) public transportation customers for whom the Proposer has manufactured, and installed bus stop shelters in the last 18 months similar to those proposed to the City of Burlington. The list shall include the name, address, telephone number and e-mail address of the customer’s contact person. Identify the date, type and quantity of shelters installed.

Pricing - The Price Proposal shall be included. The Price Proposal shall provide fixed prices for three (3) year term with the option to extend for two (2) one 1-year periods. Price data shall be provided in the format in Section IV.

Submittals included in Proposal – The following submittals should be included in the proposal submission.

1. Proposer’s product brochures and specifications for shelters and accessories offered.
2. Proposer’s top level shelter design drawings. Include elevations and connection details, as necessary.
3. Stamped, signed and sealed structural engineering calculations.
4. Proposer’s passenger amenities installation instructions.
5. Proposer’s warranty documentation.
6. Buy America Documentation; and
7. Quality Assurance Certificate of Compliance.

VII. PROPOSAL EVALUATION

The City of Burlington shall evaluate all proposals using the factors listed below and shall select the proposal that is in the best interests of the City of Burlington.

1. Price (45%)

Price will be evaluated on the basis of being advantageous to the City of Burlington.

2. Quality of Design and Materials (40%)

Proposers will be evaluated on the quality of the design and workmanship of the bus stop shelters proposed to the City of Burlington. Photographs, specifications and detailed drawings of the proposed shelters will be used extensively for this part of the evaluation. The City of Burlington will consider the shelters' architectural features, structural design, ease of assembly and installation and ease of cleaning and maintenance. The City of Burlington will contact the Proposer's references to ascertain the quality and durability of the proposed shelters.

3. Qualifications, Experience and History of the Proposer (15%)

Proposers will be evaluated on their experience in the manufacture and installation of bus stop shelters, their record of customer service and financial stability. The City of Burlington will contact references to ascertain the Proposer's ability to meet delivery schedules and its responsiveness to customer service issues.

VIII DRAFT CONTRACT

THIS CONTRACT made this _____ day of _____, 2022, by and between _____ (a corporation organized and existing under the laws of the State of _____), hereinafter called the Contractor, and the City of Burlington, hereinafter called The City.

WITNESSETH, that the Contractor and The City, for the consideration stated herein, mutually agree as follows:

ARTICLE 1 - Statement of Work, The Provider shall complete the project as described in the Request for Proposals issued on August 15, 2022, any addenda to the document, and in the Provider’s proposal, dated _____. These documents are hereby incorporated by reference.

ARTICLE 2 - The Contract Price, The City will pay per the following schedule for bus stop amenities to the Contractor for the performance of the Contract, in current funds, for work performed.

Materials

Number	Item	Style 1 [Name]	
		Per Unit Cost	Delivery Date (Days)
Item 1	Shelter, 6-foot Class		
Item 2	Shelter, 12-foot Class		
Item 3	Shelter, small footprint (fit on an existing sidewalk that is 8 foot wide)		
Item 4	Shelter Part: panel		
Item 5	Shelter Part: column		
Item 6	Bench		
Item 7	Bench with Advertising Back		
Item 8	Sign Mount Seats		
Item 9	Sign Mount Trash Can		
Item 10	1 Loop Bike Rack		
Item 11	Standalone Trash Can		
Item 12	Shelter Map Box (48" x 60")		
Item 13	Solar Lighting		
Item 14	Info Panel for Pole (8.5' wide x 14' tall)		

Installation or Removal

Item Number	Item	Type of Work	Unit	Price
Item 15	10 x 5 foot Shelter Pad	Build form, pour concrete	Each	
Item 16	6 Foot Shelter	Installation or removal	Each	
Item 17	18x5 Foot Shelter Pad	Build form, pour concrete	Each	
Item 18	12 Foot Shelter	Installation or removal	Each	
Item 19	9x3 Bench Pad	Build form, pour concrete	Each	
Item 20	5x8 ADA Pad	Build form, pour concrete	Each	
Item 21	Bench	Installation or removal	Each	
Item 22	Trees	Installation or removal	Each	
Item 23	Other Concrete	Build form, pour concrete	<i>Per Inch</i>	
Item 24	Standalone Trash Can	Installation or removal	Each	
Item 25	Bicycle Rack	Installation or removal	Each	
Item 26	Bus Stop Sign, Trash Can Pole & Infocase	Installation or removal	Each	
Item 27	Other items Described in the Scope of Work	Installation or removal	Each	
Item 28	Other Construction Related Items	Installation or removal	Each	
Item 29	Civil Engineer Services		Hourly	
Item 30	Performance Bond			

ARTICLE 3 - Contract Documents, the executed Contract documents shall consist of the following:

- a. Change Orders and Supplements to this Contract
- b. This Contract
- c. Signed Copy of Proposal
- d. Addenda to Proposal Documents
- e. Request for Proposal Documents

This Contract, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated, form the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provisions of any other component part, the provisions of the component part first enumerated in this ARTICLE 3 shall govern, except as otherwise specifically stated.

IN WITNESS THEREOF, the parties hereto have caused this Contract to be executed in 4 original copies on the day and year first above written.

(PRINT OR TYPE THE NAMES UNDERNEATH ALL SIGNATURES)

Attest: _____
Contractor

Witness By: _____
Company Official:

Witness _____
Title

Street Address

City/State

City of Burlington, North Carolina
The City

City Clerk By: _____
City Manager

Date: _____

Corporate Certification

I, _____ certify that I am the _____ of the corporation named as the *Contractor* herein, and that _____ who signed this Contract on behalf of the *Contractor*, was then _____ of said corporation; and further that said Contract was duly signed for and on behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

(Corporate Seal)

DATE

Federal Clauses

ACCESS TO RECORDS AND REPORTS

- a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.
- b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

AMERICANS WITH DISABILITIES ACT(ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly 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 contractor 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 contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. 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 any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency.”

BOND REQUIREMENTS

Bid Guarantee. Bidders shall furnish a bid guaranty in the form of a bid bond, or certified treasurer's or cashier's check issued by a responsible bank or trust company, made payable to the Agency. The amount of such guaranty shall be equal to the value or a percentage of the total bid price.

In submitting this bid, it is understood and agreed by bidder that the Agency reserves the right 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 [90] days subsequent to the opening of bids, without the written consent of Agency.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of their bid within [90] days after the bid opening without the written consent of the Agency, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent Agency's damages occasioned by such withdrawal, or refusal, or inability to enter into a Contract, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense Agency for the damages occasioned by default, then the undersigned bidder agrees to indemnify Agency and pay over to Agency the difference between the bid guarantee and Agency's total damages so as to make Agency whole.

The undersigned understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

Performance Guarantee. A Performance Guarantee in the amount of 100% of the Contract value is required by the Agency to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Agency within ten (10) business days from Contract execution. The Agency requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. Agency may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand-By Letter of Credit will only be accepted by the Agency if:

1. A bank in good standing issues it. The Agency will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.
4. The Agency is identified as the Beneficiary.
5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.

6. The effective date of the Letter of Credit is the same as the effective date of the Contract
7. The expiration date of the Letter of Credit coincides with the term of the contract.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the Agency and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds. A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Agency as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Agency) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

BUY AMERICA REQUIREMENTS

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all 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. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

- (1) The contractor 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.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA."

CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent 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 United States-Flag commercial vessels;
- b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

1 Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:

- a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
- b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

2 Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25

prohibit discrimination on the basis of sex.

3 Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

4 Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., 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, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5. Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

- (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 forty 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 forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), 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 paragraph (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 forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The agency 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 any moneys payable on account of work performed by the 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 and 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 paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

DEBARMENT AND SUSPENSION

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000
- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT

- a. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- b. The Non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

“Compliance with the Copeland “Anti-Kickback” Act.

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are

incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FTA 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 of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. 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 Agency deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

ENERGY CONSERVATION

The contractor agrees to comply with 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.

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: 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 contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor 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 vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

FEDERAL CHANGES

49 CFR Part 18 Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they 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.

FLY AMERICA

a) Definitions. As used in this clause—

1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50 States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Incorporation of Federal Transit Administration (FTA) Terms - The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

NOTIFICATION TO FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its sub agreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

PROCUREMENT OF RECOVERED MATERIALS

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
- ii. Meeting contract performance requirements; or
- iii. At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

a. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain;or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company(or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

b. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

c. See Public Law 115-232,section 889 for additional in formation.

d. See also § 200.471.

PROMPT PAYMENT

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. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, 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 Agency.

SAFE OPERATION OF MOTOR VEHICLES

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

SEISMIC SAFETY

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

SPECIAL DOL EEO CLAUSE

Applies to construction contracts > \$10,000; This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States –

a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

- (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
- (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
- (3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

SIMPLIFIED ACQUISITION THRESHOLD

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America's eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).

TERMINATION

Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the 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 the Contractor, the Agency, after setting up a new delivery of performance

schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency 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 Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Service)

If the 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 Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will 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 the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Transportation Services)

If the 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 the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will 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 the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and compete 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. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency

Termination for Convenience or Default (Cost-Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the 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 Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

VETERANS HIRING PREFERENCE

Veterans Employment - Recipients of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

VIOLATION AND BREACH OF CONTRACT

Rights and Remedies of the Agency

The Agency shall have the following rights in the event that the Agency deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors; 2. The right to cancel this Contract as to any or all of the work yet to be performed; 3. The right to specific performance, an injunction or any other appropriate equitable remedy; and 4. The right to money damages.

For purposes of this Contract, breach shall include.

Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Agency, the Contractor expressly agrees that no default, act or omission of the Agency shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the Agency directs Contractor to do so) or to suspend or abandon performance.

Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, the Agency will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Contract by the Contractor before the Agency takes action contemplated herein, the Agency will provide the Contractor with sixty (60) days written notice that the Agency considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by an authorized representative of Agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Agency's authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Agency's authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the Agency's direction or decisions made thereof.

Performance during Dispute

Unless otherwise directed by Agency, 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 its employees, agents or others for whose acts it is legally liable, a claim for damages therefor 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 Agency and the Contractor arising out of or relating to this Contract or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located.

Rights and Remedies

The 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 Agency 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.

Federal Certifications

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, _____ hereby certify
(Name and title of official)

On behalf of _____ that:
(Name of Bidder/Company Name)

- 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, and 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.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, 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 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 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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 undersigned 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. Section 3801, et seq., are applicable thereto.

Name of Bidder/Company Name: _____

Type or print name: _____

Signature of authorized representative: _____ Date ____/____/____

Signature of notary and SEAL: _____

**GOVERNMENT-WIDE DEBARMENT AND SUSPENSION
(NONPROCUREMENT)**

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

(1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

- a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
 - 1. Debarred,
 - 2. Suspended,
 - 3. Proposed for debarment,
 - 4. Declared ineligible,
 - 5. Voluntarily excluded, or
 - 6. Disqualified,
- b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
 - 1. 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 transaction,
 - 2. Violation of any Federal or State antitrust statute, or,
 - 3. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
- c. It is 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 listed in the preceding subsection 2.b of this Certification,
- d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
- e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,
- f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
 - 1. Equals or exceeds \$25,000,,
 - 2. Is for audit services, or,
 - 3. Requires the consent of a Federal official, and
- g. It will require that each covered lower tier contractor and subcontractor:
 - 1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
 - 2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
 - a. Debarred from participation in its federally funded Project,
 - b. Suspended from participation in its federally funded Project,
 - c. Proposed for debarment from participation in its federally funded Project,
 - d. Declared ineligible to participate in its federally funded Project,
 - e. Voluntarily excluded from participation in its federally funded Project, or
 - f. Disqualified from participation in its federally funded Project, and
 - 3. It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

(3) It will provide a written explanation as indicated on a page attached in FTA's TrAMS platform or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third-Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

Certification

Contractor: _____

Signature of Authorized Official: _____ Date _____ / _____ / _____

Name and Title of Contractor's Authorized Official: _____

**BUY AMERICA CERTIFICATION
STEEL OR MANUFACTURED PRODUCTS**

General Requirement (as stated in 49 CFR 661.5)

- a. Except as provided in 49 CFR 661.7 and 49 CFR 661.11, no funds may be obligated by FTA for a grantee project unless all iron, steel, and manufactured products used in the project are produced in the United States.
- b. All steel and iron manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.
- c. The steel and iron requirements apply to all construction materials made primarily of steel or iron and used in infrastructure projects such as, transit or maintenance facilities, rail lines, and bridges. These items include, but are not limited to, structural steel or iron, steel or iron beams and columns, running rail and contact rail. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured products or rolling stock, or to bimetallic power rail incorporating steel or iron components.
- d. For a manufactured product to be considered produced in the United States:
 - 1. All of the manufacturing processes for the product must take place in the United States; and
 - 2. All of the components of the product must be of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents.

If steel, iron, or manufactured products (as defined in 49 CFR 661.3 and 661.5) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in 49 CFR 661.13(b).

Certificate of Compliance with Buy America Requirements

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.

Company _____
Name _____ Title _____
Signature _____ Date _____

Certificate of Non-Compliance with Buy America Steel or Manufactured Products Requirements

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 C.F.R. 661.7.

Company _____
Name _____ Title _____
Signature _____ Date _____