



Bay Area Transportation Authority

INVITATION FOR BIDS

**Annual Purchase of Bulk Liquefied
Petroleum Gas (LPG)**

Issue date:

October 11th, 2024

Bid due date and time:

October 29th, 2024, 10:00 A.M. (EDT)

Contact Information:

Shaughn Handley

1340 Hammond Rd. W

Traverse City, Michigan 49686

Email: info@bata.net

Table of Contents

SECTION 1. PROJECT DESCRIPTION AND SPECIFICATIONS4

SECTION 2. SUBMISSION INSTRUCTIONS FOR BIDDERS6

SECTION 3. EVALUATION OF BIDS.....8

SECTION 4. TERMS & CONDITIONS.....9

SECTION 5. FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES 14

SECTION 6. CERTIFICATION REGARDING LOBBYING34

SECTION 7. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION 35

SECTION 8. CERTIFICATION REGARDING BUY AMERICA.....37

SECTION 9. ACKNOWLEDGEMENT FORM FOR TERMS & CONDITIONS 38

SECTION 10. BIDDERS LIST FORM.....39

SECTION 11. PRICE PROPOSAL FORM40

SECTION 12. CHECKLIST FOR BID SUBMISSION.....41

SECTION 13. NO BID REPLY FORM42

SECTION 14. ANSWERS TO VENDOR QUESTIONS SUBMITTED43

SECTION 15. AMENDMENTS TO ORIGINAL IFB44

PUBLIC NOTICE

Bay Area Transportation Authority

Annual Purchase of Bulk Liquefied Petroleum Gas (LPG)

Date Issued: **October 11th, 2024**

Deadline: **October 29th, 2024 10:00 A.M. (EDT)**

The Bay Area Transportation Authority (BATA) is issuing an Invitation for Bids (IFB) from qualified vendors to provide bulk Liquefied Petroleum Gas (LPG) from **October 11th, 2024, through October 29th, 2024**.

Questions or requests for clarification regarding the IFB will be accepted via email only until **October 18th, 2024 @ 12:00PM (EDT)** to info@bata.net via email. Answers to submitted questions will be posted on **October 22nd, 2024**, at <https://www.bata.net/> for all interested proposers to review prior to submitting bids.

Bids shall consist of the original and two additional copies of the following:

- 1) A cover letter with the Proposer's company, contact name, address, website, phone, and email;
- 2) A signed Certification Regarding Lobbying;
- 3) A signed Certification Regarding Debarment & Suspension;
- 4) A signed Acknowledgement for Terms & Conditions and Required FTA Clauses;
- 5) A signed Bidder's List form;
- 6) A completed Pricing Proposal Sheet that must include breakdowns for all associated costs;
- 7) A signed Checklist for Bid Submission;
- 8) Three (3) references of similar service provided in the past five (5) years;
- 9) Material/Product specifications;
- 10) Proof of Insurance, as required for this contract

The successful Bidder shall acknowledge receipt of and compliance with all applicable FTA Contract Clauses. The full IFB is found at <https://www.bata.net/>.

Sealed bids must be clearly labeled on the outside "Annual BATA LPG Bid" and submitted to: Shaughn Handley, Procurement & Grants Management Specialist, 1340 Hammond Rd. W, Traverse City, Michigan 49686, info@bata.net, by **the deadline of 10:00 AM (EDT), October 29th, 2024** at which time the bids will be opened and read aloud. Late bids will be rejected. Bidders are invited – but not required – to attend the bid opening.

Bids are irrevocable for a period of sixty (60) days from the date of the bid opening and shall not be withdrawn, modified, or altered after the bid opening. In the event of default by the selected vendor, BATA may accept an alternate bid from a responsive and responsible Proposer. BATA reserves the right to accept or reject any and all bids, to waive irregularities/informalities in the bids received, or to rebid, or, in the best interest of BATA, to select an individual contractor for each facility outlined in the agreement.

BATA is an Equal Employment Opportunity (EEO) organization.

SECTION 1 PROJECT DESCRIPTION AND SPECIFICATIONS

1. **BACKGROUND.** The Bay Area Transportation Authority (BATA) operates a public transportation system in Grand Traverse County and is located at 1340 Hammond Rd. W., Traverse City, MI 49686.
2. **PURPOSE.** BATA has an existing fleet and is continuing to expand its fleet of propane-powered vehicles. Consequently, BATA is seeking a qualified supplier(s) to provide bulk Liquefied Petroleum Gas (LPG) for twelve (12) months. BATA makes no representations, warranties, or agreements with respect to this Invitation for Bids (“IFB”). In addition, BATA makes no commitment to purchase any products or services or take any other action, including but not limited to, awarding a contract to the Supplier submitting the low responsive and responsible bid. BATA reserves the right to amend or cancel this IFB at any time for any or no reason. All amendments to this IFB shall be in writing.
3. **LPG.** The Bidder shall provide a detailed description of their LPG product. The product shall be HD-5 grade propane and meet the requirements of ASTM D-1835 for an alternative automotive fuel application. The Bidder must include, as applicable, technical specifications, material safety data sheets, and any other relevant material.
4. **USAGE.** BATA presently has 45 propane-powered vehicles in its fleet, with 8 additional propane-powered vehicles anticipated to be delivered in the next year. The fleet will use a minimum of 324,000 gallons and a maximum of 396,000 gallons for this twelve-month contract obligation. The maximum quantity indicated is not a guaranteed maximum.
5. **STORAGE CAPACITY.** A 30,000-gal capacity LPG storage tank is located at the BATA Operations Center, 1340 Hammond Rd. W., Traverse City, MI 49686.
6. **PRODUCE QUALITY.** BATA is committed to the principle of zero defects and will insist on that same commitment on the part of the Bidder. The Bidder shall make adequate provisions to ensure that the parts, materials, and workmanship meet or exceed the specifications of this IFB. The Bidder shall establish and maintain quality control procedures throughout the entire contract term.
7. **WARRANTY.** The Bidder must provide details of its warranty policies and procedures. The Bidder shall replace any materials within the warranty period that fail due to defects in material resulting from normal use. Deficient materials shall be replaced at no additional cost to BATA.
8. **CUSTOMER SERVICE.** The successful bidder shall respond to BATA’s inquiries within one business day of receipt of contract.
9. **DELIVERY.** Title and risk of loss shall not pass from the Bidder until LPG has been received and accepted. Mere acknowledgment by BATA of receipt shall not be deemed as acceptance of LPG. If acceptance is revoked, BIDDER bears the risk of loss thereafter. The bidder shall be required to remotely monitor the LPG level in the tank via an owner-installed monitoring device through an open API and deliver optimally to ensure the tank does not go below 15% of capacity. On rare occasions, emergency deliveries during inclement weather, catastrophic events, weekends, or

after normal business hours may be necessary. Emergency deliveries optimally shall be received four (4) hours from notification by BATA. Bidders must include with their submission a delivery schedule if it differs from this IFB request.

10. **MINIMUM REQUIREMENTS FOR PRICING.** Bids shall include all requested deliverables as indicated in Section 11 – Specifications on the Price Proposal Form. Delivery shall be F.O.B. destination and at no additional charge to BATA. Bidder shall include delivery response time for normal and emergency deliveries on the Price Proposal Form.
11. **INSPECTIONS.** Quarterly inspections of the tank and the entire fuel station (hoses, piping, dispensers, pumps, bollards, electrical, valving, fire extinguishers, etc.) that comply with the National Fire Protection Association Code 58.

Prices quoted shall be a firm fixed price from the date of the contract.

SECTION 2

SUBMISSION INSTRUCTIONS FOR BIDDERS

1. Sealed bids MUST be received by the due date and time specified in this IFB. Bids received after the due date and time will not be considered.
2. Sealed envelopes containing the bid response must be labeled with the bid name, due date, and firm name; submit one (1) original and two (2) additional copies of the bid. The original must be marked original.
3. BATA assumes no responsibility for errant delivery of bids, including those relegated to a courier agent who fails to deliver in accordance with the time and receiving point specified.
4. This IFB does not commit BATA to award a contract.
5. BATA will not pay Bidders for costs associated with preparing responses to this IFB.
6. No email or facsimile bids will be considered.
7. Bidders agree to and acknowledge all IFB specifications, terms, and conditions and indicate an ability to perform by submission of its bid.
8. Submitted Bids shall be valid for at least sixty (60) days.

IFB REQUIREMENTS

Proposing firms must include the minimum information in their sealed proposals.

1. Cover Letter

The bid must include a cover letter identifying the proposed firm, mailing address, contact person, telephone number, website address, and email address. The cover letter must be signed by the individual who is authorized to negotiate and execute a contract on behalf of the proposing firm.

2. Proposal

The bid shall include a listing of all associated pricing summarized in the Section 11 Pricing Proposal Form.

Include Disadvantaged Business Enterprise (DBE) certification (if applicable). The Disadvantaged Business Enterprise program is explained on the Michigan Department of Transportation (MDOT) website. www.michigan.gov/mdot/0,4616,7-151-9625_21539---,00.html

The contractor will be required to comply with all Equal Employment Opportunity laws.

All Bidders will be required to certify that they are not on the Federal Excluded List of Ineligible Contractors. BATA reserves the right to reject any bid if the contractor fails to comply:

- A. Business Organization/Bidder. State the full name and address of your organization, years in business and if applicable, the branch office or other subordinate element that will perform or assist in performing the work. Indicate whether you operate as an individual, partnership or corporation; if as a corporation includes the state in which you are incorporated.
 - B. Prior Experience. Bids submitted shall include three (3) references of similar Contracts that your firm has performed in the past 5 years.
3. The following completed/signed forms and certifications, the forms for which are included in this Invitation for Bids:
- a. Signed and Completed Bid;
 - b. Certification Regarding Lobbying;
 - c. Certification Regarding Debarment & Suspension;
 - d. Acknowledgement From for Terms & Conditions & FTA Required Clauses;
 - e. Bidder's List Form;
 - f. Pricing Proposal Sheet;
 - g. Checklist for Bid Submission;

Sealed bids must be delivered by the due date and time to:

Shaughn Handley
Procurement & Grants Management Specialist
Bay Area Transportation Authority
1340 Hammond Rd. W
Traverse City, MI 49686
Email: info@bata.net

SECTION 3

EVALUATION OF BIDS

SELECTION CRITERIA

BATA is seeking a “best value” proposal for the purchase of LPG Gas.

This contract will be awarded to that responsible bidder whose bid, conforming to this solicitation, will be most advantageous to BATA. BATA reserves the right to accept or reject any and all bids, waive informalities and minor irregularities in bids, or to enter into negotiations with the preferred bidder.

Upon approval of project award by BATA, the selected vendor will be sent a Notice of Award/Notice to Proceed for approval and signature. The original form is to be returned promptly to the Authority and the contractor is to keep a copy of the form. Work may not proceed until the contractor signs the Notice to Proceed. Work will commence per contracted term after a signed Notice to Proceed. Non-successful Proposers will be notified of BATA’s selection of a vendor.

SECTION 4

TERMS & CONDITIONS

DURATION OF PROJECT & AGREEMENT: The project will commence per contracted term with BATA's Notice of Award/Notice to Proceed.

CONTRACT CHANGES: Additions, deletions or modifications to this project and agreement may be made only with written agreement between BATA and the selected contractor.

DISPUTES: Except as other provided in this agreement, any dispute concerning a question of fact arising under the agreement which is not disposed of by agreement shall be decided by BATA, which shall put its decision in writing and mail or otherwise furnish a copy to the contractor. In connection with any appeal proceeding under this clause, the contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute thereunder, the contractor shall proceed diligently in accordance with the agreement and in accordance with BATA's decision.

This clause does not preclude consideration of law questions in connection with decisions provided for in this clause, provided that nothing in this agreement shall be construed as making final the decision of an administrative official, representative or board on a question of law.

INDEMNIFICATION: The contractor agrees to indemnify and hold BATA, its officers, agents, employees and/or trustees, harmless from and against any and all claims or causes of action brought against BATA and from any and all damages, losses, expenses, attorney fees, costs and liabilities sustained by BATA arising out of any claimed defect in the goods and services provided by the contractor. The contractors' obligation under this paragraph shall include the obligation to indemnify and hold BATA harmless for negligence, whether active, passive, or concurrent, in the performance of BATA's duties and obligations pursuant to this project and agreement.

COVENANT AGAINST GRATUITIES: The contractor warrants that it has not offered or given gratuities (in the form of entertainment, gifts or otherwise) to any official or employee of BATA with a view toward securing favorable treatment in the awarding, amending, or evaluating this project and agreement.

ASSIGNABILITY RIGHTS: The contractor shall not assign this contract – wholly or in part – without the written consent of BATA. No assignment shall relieve the contractor of any obligations under the contract.

LIABILITY INSURANCE: The contractor shall maintain such insurance as will protect it from claims under Worker's Compensation Acts and other employee benefits acts, from claims for damages because of bodily injury, including death, to its employees and all others and from claims for damages to property; any and all of which may arise out of result from the contractor's operations under this agreement, or from any subcontractor or anyone directly or indirectly employed by either of them. Proposers shall provide proof of insurance with the submission of their bid.

LICENSING & PERMITTING: The contractor shall be licensed. Additionally, the contractor awarded the project will be required to file any permitting, as required, for this project.

CONTRACT TERMS: The contract between BATA and the contractor shall become effective upon signing and shall remain in force until at which time the contract has expired, or until notice of termination in writing is given by the other party as provided herein. BATA reserves the right to terminate the contract at any time if the successful bidder fails to meet the requirements stated in this bid.

The contract shall terminate absolutely and without further obligation at such time as appropriated and otherwise unobligated funds are no longer available to satisfy the obligations under this contract.

WRITTEN STANDARDS OF CONDUCT: No BATA employee, officer, agent, Board member or their immediate family member, partner, or organization will participate in the selection, award, or administration of a contract if a conflict of interest, real or apparent, is involved. BATA is concerned with Conflicts of Interest that create actual or potential job-related concerns, especially in the areas of confidentiality, customer relations, safety, security, and morale. If there is any actual or potential conflict of interest between a BATA employee and a competitor, supplier, distributor, or contractor to the organization, the BATA employee must disclose the conflict with your manager/supervisors. If an actual or potential conflict of interest is determined to exist, BATA will take such steps as it deems necessary to reduce or eliminate this conflict. A few examples of conflicts of interest that should always be avoided are listed below but are not exhaustive of every potential conflict of interest.

- If a BATA employee has a direct or indirect financial interest in a firm that does business with BATA and the interest might be sufficient to affect the employee's decisions or actions, the employee must report the interest to BATA and must not represent BATA in such transactions.
- No BATA employee or member of the employee's immediate family shall directly or indirectly accept gifts from any persons or firms doing or seeking to do business with BATA under circumstances where it might reasonably be inferred that the purpose of the gift is to influence the employee in the conduct of BATA business with the donor. Such gifts should be returned with a note of explanation.
- Employees are not prohibited from accepting advertising novelties such as pens, pencils, calendars, or other gifts of nominal value when circumstances clearly show that the gifts are offered for reasons of personal esteem.

TAXES: BATA is exempt from all federal excise tax and state and local sales, use and fuel; Seller certifies any such taxes are not included in the prices shown here in; however, the contractor shall pay all taxes required by law. BATA cannot exempt others from tax.

COMPLIANCE WITH LAWS: The contractor will comply with all State, Federal, and local laws and regulations.

CANCELLATION FOR CAUSE: If either party shall refuse, fail or be unable to perform or observe any of the terms or conditions of the contract for any reason, then the party claiming such failure shall give the other party a written notice of such breach. If, within ten (10) days of such notice, the failure has not been corrected, the injured party may cancel the contract effective ten (10) days after notice of cancellation.

BATA reserves the right to terminate the contract immediately in the event that the contractor discontinues or abandons operations; is adjudged bankrupt or is reorganized under any bankruptcy law; or fails to keep in force any required insurance policies or bonds.

Failure of the contractor to comply with any section or part of the contract will be considered grounds for immediate termination of the contract by BATA without penalty to BATA. BATA shall pay for services rendered up to the point of termination. Notwithstanding anything to the contrary contained in the contract between BATA and the successful Bidder, BATA may, without prejudice to any other rights it may have, terminate the contract for convenience and without cause, by giving thirty (30) days written notice to the successful contractor. If the termination clause is used by BATA, the successful contractor will be paid by BATA for all scheduled work completed satisfactorily by the successful contractor up to the termination date set forth in the written termination notice.

CONDITION OF MATERIALS: It is understood and agreed that any materials delivered to or acquired by BATA shall be new, of the latest design, and in first quality condition, unless specified otherwise in this IFB.

REJECTION OF SUBMISSIONS/CANCELLATION OF INVITATION FOR BIDS: BATA reserves the right to reject any or all bids, to waive any irregularity or informality in a bid, and to accept or reject any item or combination of items, when to do so would be to the advantage of BATA. It is also within the rights of BATA to reject bids that do not contain all elements and information requested in this document. BATA reserves the right to cancel this IFB at any time. BATA will not be liable for any cost/losses incurred by the bidders throughout this process, including reimbursement for any costs for the preparation of bids in response to this IFB.

DISADVANTAGE BUSINESS ENTERPRISE (DBE), EEO AND NON-DISCRIMINATION: BATA seeks and encourages DBE participation on projects and contracts that use federal funds that have an established DBE goal. BATA is an Equal Opportunity Employer, and does not discriminate on the basis of race, religion, color, sex, national origin, age, or disability. Bidders are required to disclose any sub-contracts for this project that will be completed by certified DBE firms. The DBE participation goal for this Contract is set at NO GOAL %. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling **not less than** NO GOAL % of the total Contract price. Failure to meet the stated goal at the time of proposal submission may render the Bidder/Offeror non-responsive.

WRITTEN PROTEST PROCEDURES: Contractors wishing to protest procurement decisions or processes must submit the protest in writing to the BATA Executive Director at the Bay Area Transportation Authority – 1340 Hammond Rd. W, Traverse City, MI 49686. Protests about solicitation specifications or processes must be received 10 business days before the solicitation due date. Protests received after the due date, but before award must be received before 5 business days after the due date. Post-award protests must be received by the Bay Area Transportation Authority no later than 5 business days after the award decision. The protestor must qualify as an “interested party” in the procurement. An “interested party” is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award or failure to award the procurement at issue. The written protest must identify the protesting party, clearly define the decision or process being protested and the reason(s) for the protest, and the

relief desired of the Bay Area Transportation Authority's procurement award. The Bay Area Transportation Authority reserves the right to not accept solicitations, postpone or extend the solicitation due date, cancel any award, or re-solicit based on the protest received. The Bay Area Transportation Authority Executive Director or his/her designee will review the written protest and provide a written decision to the protestor within 10 business days of receiving the protest. The protestor can appeal the Bay Area Transportation Authority Executive Director's or his/her designee's decision to the BATA Board of Directors. That appeal must be filed with the Bay Area Transportation Authority Executive Director or his/her designee within 5 business days of BATA's Executive Director's or his/her designee's decision. The BATA Board of Director's decision on the appeal will be final.

PROJECT COORDINATION: The contractor shall employ and assign only qualified and competent personnel to perform any service or task involved in this project. The contractor shall designate one such person as a Project Manager, and the Project manager shall be deemed to be the contractor's authorized representative, who shall be authorized to receive and accept any and all communications from BATA. BATA shall name a Project Manager who shall be authorized to generate, receive, and accept communication as an authorized representative of BATA. The contractor hereby agrees to replace any personnel or sub-contractor, at no cost or penalty to BATA, if BATA reasonably determines that the performance of any sub-contractor or personnel is unsatisfactory.

ACCURACY OF WORK: The contractor shall be responsible for the accuracy of the work performed and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by BATA will not relieve the contractor of the responsibility for subsequent correction of errors, the clarification of any ambiguities, or the costs associated with any additional work caused by negligent acts, errors, or omissions by the contractor or latent defects in the products sold by the contractor.

APPROPRIATION OF FUNDS: The initial contract and any continuation contract(s) shall terminate immediately and absolutely at any such time as there are no appropriated and otherwise unencumbered funds available to satisfy BATA's obligations under said contract(s).

PAYMENT TERMS: Payment shall be made monthly, or at the end of each project, within 30 days of the submittal of a correct invoice for goods received or work performed. If applicable, expenses shall be billed at cost without markup and must be supported by actual receipts. Mileage and per diem rates, if applicable, shall not exceed the federal rates. Proposers may suggest other payment terms for consideration. Under no circumstances will payment be advanced prior to work or services provided.

PROMPT PAYMENT: The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from BATA. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors' work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of BATA. This clause applies to both DBE and non-DBE subcontracts. Additionally, the prime contractor is required to maintain records and documents of payment to subcontractors, including DBEs, for a minimum of three (3) years

unless otherwise provided by applicable record retention requirements for BATA's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by BATA or DOT. This clause applies to both DBE and non-DBE subcontracts.

Failure of the contractor to comply with this requirement is cause for breach of contract, resulting in the subcontractor being paid directly and the amount deducted from the retainage owed to the prime contractor.

IFB CONSTITUTES BINDING CONTRACT: The specifications, requirements, and terms and conditions contained in this IFB will constitute a binding contract between the Proposer and BATA upon the acceptance of the bid by BATA. Any changes to the terms or requirements of this Contract must be documented in the Award of Contract/Notice to Proceed.

Section 5

Federal Transit Administration Required 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, 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. § 200.334. 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, including such records and information the contractor or its subcontractors may regard as confidential or proprietary, related to performance of this contract in accordance with 2 CFR § 200.337.
- 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 in accordance with 2 CFR § 200.337.

AMERICANS WITH DISABILITIES ACT (ADA)

The contractor 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.

BUY AMERICA

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.

Build America, Buy America Act. Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget’s “Buy America Preferences for Infrastructure Projects,” 2 CFR Part 184. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b). In accordance with 2 CFR § 184.2(a), the Recipient shall apply the standards of 49 CFR Part 661 to iron, steel, and manufactured products.

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. Domestic preferences for procurements.

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. For more information please see the FTA’s Buy America webpage at: <https://www.transit.dot.gov/buyamerica>

CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 CFR Part 381.

b. to furnish within 20 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 46 CFR § 381.7(a)(1) shall be furnished to both the recipient (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; 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.

CHANGES TO FEDERAL REQUIREMENTS

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation,

other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third-Party Agreement and parties thereto at any tier.

CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts. The Contractor and any subcontractor agree to comply with all the requirements prohibiting discrimination on the basis of race, color, or national origin of the Title VI of the Civil Rights Act of 1964, as amended 52 U.S.C 2000d, and U.S. DOT regulation "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of the Title VI of the Civil rights Act," 49 C.F. R. Part 21 and any implementing requirement FTA may issue.

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.

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.”

DEBARMENT AND SUSPENSION

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. 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 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, 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. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, 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.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

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. 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, 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).

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 (42 U.S.C. § 6201).

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.

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

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all 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 Recipient 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 Recipient, 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.

NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS

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 subagreements 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.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

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 information.

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.

RESTRICTIONS ON LOBBYING

Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: 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.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

Certification and disclosure.

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

- (1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- (2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

- (1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- (2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

(1) A subcontract exceeding \$100,000 at any tier under a Federal contract;

(2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;

(3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,

(4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,

Shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989, effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

(h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

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.

SEVERABILITY

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

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).

SOLID WASTES (RECOVERED MATERIALS)

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the

value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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 complete it by contract or otherwise, and may take

possession of and use any materials, appliances, and plant on the work site necessary for completing the work. 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.

VIOLATION AND BREACH OF CONTRACT

Disputes:

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the 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 agencies 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 agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance during Dispute:

Unless otherwise directed by the agencies authorized representative, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages:

Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within 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 agencies authorized representative and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located.

Rights and Remedies:

Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by the 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 TAX LIABILITY AND RECENT FELONY CONVICTIONS

(1) The contractor certifies that it:

(a) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(b) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third Party Agreement with the Third Party Participant without FTA's written approval.

(2) Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

TRAFFICKING IN PERSONS

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

(a) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;

(b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or

(c) Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

Section 6

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. 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.

Name of Bidder/Company Name: _____

Type of Print Name: _____

Signature of Authorized Representative: _____

Date: _____

Section 7

GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Recipients, contractors, and subcontractors that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person (found below) ; or (c) adding a clause or condition to the contract or subcontract.

Instructions for Certification: Signing below indicates the prospective lower tier participant is providing the signed certification.

(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.,

Certification

Contractor: _____

Signature of Authorized Official: _____ **Date:** _____

Name and Title of Contractor's Authorized Official: _____

Section 8

BUY AMERICA CERTIFICATION – STEEL OR MANUFACTURED PRODUCTS

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** _____

Section 9

ACKNOWLEDGEMENT FORM FOR TERMS & CONDITIONS

AND REQUIRED FTA CLAUSES

I have received, read, understand, and agree to comply with the Terms & Conditions and the Required FTA Clauses included in the Bay Area Transportation Authority's Invitation for Bid (IFB) for **Purchase of Bulk Liquefied Petroleum Gas** that was issued **October 11th, 2024**.

I understand that failure to acknowledge or comply with any of these terms, conditions, or requirements will deem our firm unresponsive to this IFB or result in our default of the contract after its execution.

Date:

Printed Name of Authorized Representative:

Signature of Authorized Representative:

Name of Firm:

Address, City, State:

Section 10 - Bidders List Form

Company Name:	
Address (including ZIP Code):	Telephone Number: Fax Number:
Email Address:	Federal Tax ID Number:
<p>Check ONE of the following:</p> <p style="text-align: center;"> <input type="checkbox"/> Partnership <input type="checkbox"/> Non-Profit Corporation <input type="checkbox"/> Profit Corporation </p> <p>Check ONE of the following. If you have a DBE status, submit current certificate with bid:</p> <p style="text-align: center;"> <input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE </p> <p>Other, Specify:</p>	
Race & Gender of Company Majority Owner:	Age of Company (Years):
NAICS Code for Work to Be Performed: (Refer to: https://www.census.gov/naics/)	Annual Gross Receipts of Firm (check one): \$0-\$1Mil <input type="checkbox"/> \$1Mil-\$3Mil <input type="checkbox"/> \$3Mil-\$6Mil <input type="checkbox"/> \$6-\$10Mil <input type="checkbox"/> >\$10Mil <input type="checkbox"/>
<i>I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder.</i> Signature of Person Authorized to Sign:	Title of Authorized Signatory:
Name of Authorized Signatory (print):	Date:
<i>The above individual is authorized to sign on behalf of the company submitting this proposal. Proposals must be signed by an official authorized to bind the provider to its provisions for a period of at least 60 days.</i>	
EXCLUSIONS Please list any exclusions for this IFB (attach a separate page if necessary):	

SECTION 11

PRICE PROPOSAL FORM

PRICE PROPOSAL FORM

(This form must accompany your bid)

Liquefied Petroleum Gas (LPG)

Description of Material	Minimum Gallons Per Contracted (12) Month Period	Price/Gallon
LPG per specifications	324,000	\$ _____

This price is guaranteed for a period of _____ months.

The undersigned certifies that he or she offers to furnish materials in strict accordance with the requirements of this bid including the Terms and Conditions, Specifications, Bid Form and has reviewed any questions and answers posted on the BATA website on or after October 22nd, 2024, and the prices quoted are correct. Please ensure that any and all additional fees are included in your price per gallon bid. This bid may not be withdrawn for a period of sixty (60) days from the due date noted above.

Delivery Response Time:

Normal:	Emergency:
---------	------------

Remote Monitoring Capabilities? If yes, please explain:

BIDDER INFORMATION

Company Name: _____

Address: _____

Email Address: _____

Phone Number: _____

Printed Name of Authorized Representative: _____

Title: _____

Signature & Date: _____

SECTION 12
CHECKLIST FOR BID SUBMISSION

SUBMITTAL CHECKLIST

Submittal to: Bay Area Transportation Authority, 1340 Hammond Rd. W, Traverse City, MI 49686

Deadline: October 29th, 2024, 10:00 am (EDT) *(A bid will be automatically rejected if it is received after the stated deadline.)*

All forms/Certifications below MUST be completed and included when you submit your Bid Package:

-
- One (1) Original and Two (2) copies of the Bid Package
 - Business Organization Information
 - Debarment and Suspension, Restrictions on Lobbying, & Buy America Certification for Prospective Contractors
 - Acknowledgement for Terms & Conditions and Required FTA Clauses
 - Bidders List Form
 - Completed Price Proposal Page(s) (Signed)
 - Three (3) references of similar services provided in the past 5 years
 - Material/Product Specifications
 - Addendum(s) (as issued)
 - Checklist for Bid Submission

See Sections 1 and 2 for more detailed information on bid submission and format.

SUBMITTED BID CONTAINS ALL COMPLETED FORMS/CERTIFICATIONS AS LISTED ABOVE

Authorized Signature _____

Date _____

SECTION 13
NO BID REPLY FORM
BULK LIQUEFIED PETROLEUM GAS

To assist us in obtaining good competition on our Invitation for Bids, we ask that each firm that has received an invitation, but does not wish to propose, state their reason(s) below and return in a clearly marked envelope, or to: info@bata.net via email. If mailed, please include "ATT: ANNUAL BATA LPG BID" on the outside of the envelope.

Unfortunately, we must offer a "No Bid" at this time because:

___1. We do not wish to participate in the bid process.

___2. We do not wish to propose under the terms and conditions of the Invitation for bids document. Our objections are:

___3. We do not feel we can be competitive.

___4. We do not provide the services on which Bids are requested.

___5. Other: _____

FIRM NAME

SIGNATURE

DATE

SECTION 14

ANSWERS TO VENDOR QUESTIONS SUBMITTED

- 1.) Would BATA prefer a 24-month price commitment over a 12-month commitment if the price was the most competitive compared to the other bids?
 - a. **Answer:** 12 months is the requested commitment

- 2.) Are there any substantial peak times of the year or is usage fairly ratable throughout the year? Based on the annual usage, it appears the daily usage is around 1,000 gallons per day.
 - a. **Answer:** There may be a slight uptick in July, but the forecast should be steady throughout the year.

- 3.) What is the contract timeline for the awarded vendor? For example, will awarded vendor's contract start 12/01/2024-11/30/2025?
 - a. **Answer:** The period will be 12 months from the Date of Notice to Proceed from BATA

- 4.) For pricing clarification, are you wanting a total fixed pricing for a specific time frame? Or is pricing a fixed margin over a posting?
 - a. **Answer:** Pricing should be a unit price per gallon for a 12-month commitment.

SECTION 15

AMENDMENTS TO ORIGINAL IFB

- Section 9 – Delivery
 - Change:
 - From 20% to 15% on tank level monitoring
 - Clarified Emergency delivery plan
 - Remote monitoring on BATA owned device through open API in lieu of vendor owned equipment
- Section 11 – Inspection:
 - Add:
 - Vendor is responsible for quarterly inspections that comply with the NFPA Code 58