

Los Angeles County
Metropolitan Transportation Authority

License to Sell and Display Advertising on Metro Buses

RFP No. PS12714022

ISSUED: 01.05.12



Metro

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TABLE OF CONTENTS

SECTION 1 – LETTER OF INVITATION	1-0
LETTER OF INVITATION FOR PROPOSAL	1-1
LETTER OF INVITATION SUPPLEMENT	1-3
SECTION 2 – CONTRACT DOCUMENTS	2-0
REVENUE SERVICES CONTRACT	2-1
ARTICLE I: CONTRACT DOCUMENTS ORDER OF PRECEDENCE	2-2
ARTICLE II: REVENUE COMPENSATION TO LACMTA	2-3
ARTICLE IV: CONTRACT SECURITY	2-4
ARTICLE V: EXPIRATION OF TERM	2-4
ARTICLE VI: CONTRACT TERM AND PERIOD OF PERFORMANCE	2-4
ARTICLE VII: CONTRACT OPTIONS	2-4
ARTICLE VIII: DALP-SBE-M/WBE PARTICIPATION	2-5
ARTICLE IX: INSURANCE	2-5
ARTICLE X: PROTECTION OF METRO STRUCTURES, EQUIPMENT AND VEGETATION ..	2-5
ARTICLE XI: WAIVER OF RIGHT TO CONTEST ADVERTISING RESTRICTIONS	2-5
ARTICLE XII: ENTIRE AGREEMENT	2-6
EXHIBIT 1 - PAYMENT CERTIFICATION.....	2-7
STATEMENT OF WORK.....	2-8
ATTACHMENT B.....	2-16
INSURANCE REQUIREMENTS.....	2-17
GENERAL CONDITIONS - REVENUE SERVICES CONTRACT	2-19
1.0 DEFINITIONS.....	2-19
2.0 INDEPENDENT CONTRACTOR	2-19
3.0 METRO AUTHORIZED REPRESENTATIVES	2-19
4.0 ACCEPTANCE BY METRO	2-19
5.0 ASSIGNMENT	2-20
6.0 EXTENSION OF TIME	2-20
7.0 WARRANTY	2-20
8.0 TERMINATION.....	2-20
9.0 MODIFICATIONS	2-21
10.0 RESOLUTION OF DISPUTES	2-21
11.0 INDEMNITY	2-21
12.0 APPLICABLE LAW	2-21
13.0 NO WAIVER	2-21
14.0 RESERVED.....	2-21
15.0 INSURANCE.....	2-22
16.0 PAYMENT TO SUBCONTRACTORS *	2-23
17.0 SAFETY AND LOSS PREVENTION *	2-24
18.0 ENGLISH REQUIREMENTS *	2-25
19.0 INTERRUPTION OF PERFORMANCE:	2-25
REGULATORY REQUIREMENTS	2-26
RR-01 ADMINISTRATIVE CODE *	2-26
RR-02 DISCRIMINATION *	2-27
RR-03 WHISTLEBLOWER REQUIREMENTS *	2-27
RR-04 PUBLIC RECORDS ACT *	2-28
RR-05 ACCESS TO RECORDS.....	2-28
RR-06 FEDERAL FUNDING, INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS, AND FEDERAL CHANGES*	2-29

RR-07	ENERGY CONSERVATION REQUIREMENTS	2-30
RR-08	CIVIL RIGHTS REQUIREMENTS *	2-30
RR-09	NO GOVERNMENT OBLIGATION TO THIRD PARTIES *	2-31
RR-10	PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS *	2-31
RR-11	SUSPENSION AND DEBARMENT*	2-32
RR-12	RECYCLED PRODUCTS.....	2-33
RR-13	CLEAN WATER AND CLEAN AIR REQUIREMENTS*	2-33
RR-14	COMPLIANCE WITH FEDERAL LOBBYING POLICY *	2-33
RR-15	BUY AMERICA *	2-34
RR-16	CARGO PREFERENCE*	2-34
RR-17	FLY AMERICA.....	2-35
RR-18	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT *	2-35
RR-19	SEISMIC SAFETY	2-37
RR-20	ADA ACCESS.....	2-37
RR-21	ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM *	2-38
RR-22	TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS *	2-39
RR-23	CHARTER SERVICE OPERATIONS.....	2-40
RR-24	SCHOOL BUS REQUIREMENTS.....	2-41
RR-25	FEDERAL PATENT AND DATA RIGHTS*	2-41

SECTION 3 – BID/PROPOSAL DOCUMENTS 3-0

INSTRUCTIONS TO PROPOSERS		3-1
IP-01	PREQUALIFICATION REQUIREMENTS	3-1
IP-02	BIDDERS LIST FORM	3-1
IP-03	RESERVED	3-2
IP-04	EXAMINATION OF RFP DOCUMENTS	3-2
IP-05	INTERPRETATION OF RFP DOCUMENTS.....	3-2
IP-06	COMMUNICATION WITH METRO	3-2
IP-07	AMENDMENT.....	3-2
IP-08	PREPARATION OF SUBMITTAL	3-3
IP-09	MODIFICATIONS AND ALTERNATIVE PROPOSALS	3-3
IP-10	SIGNING OF PROPOSAL AND AUTHORIZATION TO NEGOTIATE	3-3
IP-11	SUBMISSION OF PROPOSAL	3-4
IP-12	PROPOSAL EVALUATION PROCESS	3-4
IP-13	WITHDRAWAL OF SUBMITTAL.....	3-4
IP-14	PRE-AWARD AUDIT	3-4
IP-15	METRO RIGHTS	3-5
IP-16	PUBLIC RECORDS ACT	3-5
IP-17	DISQUALIFICATION OF PROPOSERS	3-5
IP-18	FILING OF PROTESTS.....	3-6
SUBMITTAL REQUIREMENTS.....		3-7
1.1	GENERAL FORMAT	3-7
1.2	PROPOSAL CONTENT	3-7
EVALUATION CRITERIA		3-9
1.	REVENUE 40%	3-9
2.	QUALIFICATIONS OF FIRM 30%	3-9
3.	MANAGEMENT AND WORK PLAN 30%	3-9

SECTION 4 – BID/PROPOSAL FORMS 4-0

PROPOSAL LETTER		4-1
BIDDERS LIST FORM.....		4-5

SECTION 5 – REQUIRED CERTIFICATIONS 5-0

ETHICS DECLARATION5-1

GENERAL CERTIFICATIONS.....5-3

CERTIFICATE OF COMPLIANCE WITH 49 CFR PART 655, PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE IN TRANSIT OPERATIONS5-5

BUY AMERICA CERTIFICATE5-7

BUY AMERICA CERTIFICATE5-8

CERTIFICATION OF COMPLIANCE WITH FEDERAL LOBBYING REQUIREMENTS (49 CFR PART 20).....5-9

* All Articles, Subarticles, or portions of the Contract noted by an asterisk (*) shall be included in (flow-down to) all Subcontracts of any tier.

SECTION 1 – LETTER OF INVITATION

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January 5, 2012

ATTENTION: Prospective Proposer

SUBJECT: REQUEST FOR PROPOSALS (RFP) FOR RFP No. PS12714022,
License to Sell and Display Advertising on Metro Buses

Los Angeles County Metropolitan Transportation Authority (LACMTA or Metro) has established a contracting opportunity for the exclusive right to sell and display advertising on Metro Buses as outlined in the Statement of Work. Advertising options include standard exterior, standard interior, enhanced exterior (including super ultrakings, enhanced tails and headliners), and exterior wrapped advertising.

The Los Angeles County Metropolitan Transportation Authority intends to award a revenue contract for a two year term with three additional one-year options for a total contract term of up to five years.

An irrevocable Letter of Credit will be required in accordance with Article IX, Contract Security (see Contract Document).

Potential proposers are invited to submit a proposal to furnish all of the labor, materials, and any other related items for the performance of a contract resulting from this Request for Proposals.

The LACMTA will receive proposals for the above-identified contract (Contract). An original and 5 (five) copies of all proposals must be submitted in sealed envelopes, by mail or hand delivered to the address below, by COB on Thursday, March 15, 2012, which is 2:00 p.m.

Los Angeles County
Metropolitan Transportation Authority (Metro)
One Gateway Plaza
Los Angeles, CA 90012-2952
9th Floor Receptionist
RFP No. PS12714022

All communications in connection with this RFP shall be provided as follows:

By U.S. Mail, FedEx,
UPS, or courier

Los Angeles County
Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012-2952
Attention: Linda Wasley, Sr. Contract Administrator
RFP No. PS12714022

- By Phone to (213) 922 - 4186 Los Angeles County
Metropolitan Transportation Authority
- By FAX to (213) 922 - 1005 Attention: Linda Wasley, Sr. Contract Administrator
RFP No. PS12714022
- By e-mail to wasleyl@Metro.net
Diversity & Equal Opportunity, Violeta Aguilos, (213) 922-2639
Ethics or Lobbyist Registration Information, (213) 922-2900
Pre-Qualification Department, (213) 922-4130

A Pre-Proposal Conference will be held on January 17, 2012, at 10:00A, in the Palisades Conference Room on the 8th Floor of the Metro Gateway Plaza Building.

The Contract award will be made to the proposer whose proposal meets the requirements of the RFP and is most advantageous to Metro based upon the proposal evaluation criteria. Metro reserves the right to reject any or all proposals, to waive informalities or irregularities to the extent permitted by law in any proposal received, and to be the sole judge of the merits of the respective proposal received.

Issued by:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY


Linda Wasley
Sr. Contract Administrator

LETTER OF INVITATION SUPPLEMENT

Bidders/Proposers are hereby notified that:

Please note: As of 10/01/06, there have been significant changes to the required Disadvantaged Business Enterprise (DBE) Instructions to Bidders/Proposers.

Metro HAS NOT established a “**Disadvantaged Business Enterprise Anticipated Level of Participation (DALP)**” for this project.

1. However, it is the policy of Metro to provide maximum opportunity for DBE firms to compete on its federally-assisted contracts. Bidders and Proposers are encouraged to utilize DBE firms when opportunities are available.
2. DBE participation listed for this contract may be counted towards Metro’s race neutral overall DBE goal.

METRO ASSURANCE

Metro shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any federal-assisted contract or in the administration of its DBE program or the requirements of 49 Code of Federal Regulations (CFR) Part 26 as amended.

IF DALP PARTICIPATION IS LISTED

If the awarding Contractor utilizes DBE firms to achieve DALP participation on the contract, the Contractor will be requested to cooperate with administrative requirements during the performance of the contract. The administrative requirements include the following:

1. **Complete and submit DBE Forms:** If the awarding Contractor will utilize DBE firms in the performance of the contract, the Contractor will be required to submit completed DBE Forms prior to contract award.
2. **DBE Payment Reporting:** The Contractor will be required to submit monthly and final Summary Subcontractor Paid Report (Form 103) reporting the amount paid to each DBE firm for work completed in the reporting period.
3. **Commercial Useful Function:** The Contractor and all subcontractors will be required to ensure that all DBE subcontractors (including DBE primes) perform a commercially useful function in managing, performing, and supervising its work.
4. **Termination and Substitution of DBE:** The Contractor and all subcontractors will be required to notify Metro in writing prior to terminating or substituting a DBE firm listed to perform on this contract. The Contractor will be required to comply with the Public Contract Code, Section 4107 when requesting substitution of a DBE firm. When substituting a DBE firm, the Contractor or subcontractor will be encouraged to replace the DBE firm with another DBE firm.

SECTION 2 – CONTRACT DOCUMENTS

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LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

CONTRACT NO. RFP NO. PS12714022

LICENSE TO SELL AND DISPLAY ADVERTISING ON METRO BUSES

REVENUE SERVICES CONTRACT

BETWEEN

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

AND

(NAME OF CONTRACTOR TO BE FILLED IN AT TIME OF AWARD)

TO BE FILLED IN AT TIME OF AWARD

EFFECTIVE DATE

**LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
FIRM FIXED PRICE EZ FORM SERVICES CONTRACT**

CONTRACT NO: RFP NO. PS12714022

Between

**LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION AUTHORITY
ONE GATEWAY PLAZA
LOS ANGELES, CA 90012-2952**

and

(NAME OF CONTRACTOR TO BE FILLED IN AT TIME OF AWARD)

LICENSE TO SELL AND DISPLAY ADVERTISING ON METRO BUSES

This revenue Contract is entered into by and between the Los Angeles County Metropolitan Transportation Authority (Metro), and _____ (Contractor).

In consideration of the mutual covenants of the parties as set forth below, the parties hereby agree as follows:

ARTICLE I: CONTRACT DOCUMENTS ORDER OF PRECEDENCE

- A. This Contract includes this Form of Contract, the Contract Documents listed in Section B, and all Attachments, all of which are incorporated herein and made a part of this Contract. **PLEASE READ ALL CONTRACT DOCUMENTS; THEY ALL APPLY.**
- B. Except as otherwise specified herein, in the event of any conflict, the precedence of the Contract Documents shall be as follows:
1. Form of Contract
 2. Regulatory Requirements
 3. General Conditions
 4. Statement of Work
- C. An Amendment or Change to this Contract shall take its precedence from the term it amends. All other documents and terms and conditions shall remain unchanged.

ARTICLE II: REVENUE COMPENSATION TO LACMTA

- A. Contract Price. Except as may otherwise be expressly provided, the Contractor shall pay the LACMTA the Total Contract Price set forth below as compensation for the License to Sell and Display Advertising on Metro Buses in accordance with the terms of the Contract.
- B. Payment Provisions to LACMTA by Contractor. In consideration of the license herein granted, Contractor shall pay the LACMTA the Contract Amount during the term of this Contract as determined in Section A above or in Article V, Contract Options below.

Except as provided in Article GC-8 entitled CHANGES in the General Conditions and in Circumstances Affecting Payment to Metro, item D below, the contract amounts listed above in item A are the compensation to be paid to the LACMTA.

Contractor shall absorb all costs associated with fabrication/installation/removal of advertising. Contractor shall absorb all costs associated with installation/removal of advertising in LACMTA reserved advertising space.

- C. Invoicing. The LACMTA shall submit an original invoice at the conclusion of each month. The Contractor shall submit payment by the 15th day following the close of each month and shall be considered delinquent after the 15th day and shall be charged interest at the rate of 1 ½% of the total or any portion thereof outstanding. Payment shall be mailed to the Metro as follows:

Los Angeles County Metropolitan Transportation Authority
File 54924
Los Angeles, CA 90051-0296
Contract No. **RFP No. PS12714022**

- D. Circumstances Affecting Payment to the LACMTA

[This clause to be modified when LACMTA awards the contract if award is for a percentage of net revenue rather than for a firm, fixed price.]

Revenue Payments to the LACMTA shall be adjusted in accordance with any increase or decrease in scheduled peak-hour bus service or special circumstances affecting over-all bus operations. The Contract benchmark for scheduled peak-hour buses that accept advertising is 1870.

1. With each net increase of 200 buses that accept advertising scheduled during peak-hour service from the contract benchmark, payment to the LACMTA shall be increased by 10% percent the first day of the month following the increase in peak-hour bus service.
2. With each net decrease of 200 buses that accept advertising scheduled during peak-hour service from the contract benchmark, payment to the LACMTA shall decrease by 10% percent the first day of the month following the decrease in peak-hour bus service.
3. Should a special circumstance occur beyond the control of the LACMTA that results in a cessation or substantially limited operation that decreases normal bus operations by 50% or more of the fleet, payment for said period shall be calculated and adjusted.

The yearly award amount shall be adjusted to a daily fee amount (total award divided by 365 days = daily fee amount) times the number of days that services are impacted. This calculated adjustment shall be deducted from the scheduled payment for that period.

Special Circumstances is defined in as, but not limited to, strike, riot, civil insurrection, Act of God, act of terrorism, fires, floods and any situation that is reasonably agreed to be beyond the control of the LACMTA and as is further defined in GC-6, Force Majeure.

ARTICLE IV: CONTRACT SECURITY

Contractor shall post an Irrevocable Letter of Credit, in a form acceptable to the LACMTA, in an amount equal to fifty percent (50%) of the total guaranteed payment amount for the first one-year period. Thirty days prior to expiration, Contractor shall post an Irrevocable Letter of Credit for the second year of the contract. For each option period, the Contractor shall post an Irrevocable Letter of Credit for each option year. Failure to submit the Letter of Credit is grounds for a default termination pursuant to the General Conditions, Article GC-11, Termination.

ARTICLE V: EXPIRATION OF TERM

Upon the date of expiration of the term of this Contract, Contractor shall assign and transfer to Metro all active client contracts relative to this Contract, and such contracts shall thereupon become the property of Metro. Metro may then assign and transfer these contracts to any future contractor selected through a new procurement process without further approval of Contractor.

The successful future contractor, as applicable, shall then pay Contractor 20% of gross revenues received from such client contracts for a period of nine (9) months following the expiration of this Contract (until September 30 of that year) or until the termination of such client contracts between Contractor and its clients, or the date Metro terminates such client contract, whichever occurs first.

ARTICLE VI: CONTRACT TERM AND PERIOD OF PERFORMANCE

The Period of Performance of this Contract shall begin on January 1, 2013 (hereinafter "Commencement Date"). Contractor shall complete all Work under the Contract by December 31, 2013 (hereinafter "Completion Date"), unless this Contract is terminated earlier or extended by the Metro, in writing, as provided in the Contract.

ARTICLE VII: CONTRACT OPTIONS

Metro is hereby granted options to extend the term of this Contract, which shall include increases in the total Contract price as detailed below. The LACMTA may exercise said options no later than six months prior to the Contract expiration date by citing this Contract section as authority. The payment amounts billed for the option periods are payable in accordance with Contract Article II entitled Revenue and Compensation to LACMTA subject to the adjustments provided for in this Article. Should the LACMTA elect not to exercise all option items on a yearly basis, the new contract price will be adjusted accordingly.

<u>OPTION NO.</u>	<u>ITEM NO.</u>	<u>OPTION INCREASE</u>	<u>NEW CONTRACT PRICE</u>	<u>NEW CONTRACT EXPIRATION DATE</u>
1	1			December 31, 2014
2	2			December 31, 2015
3	3			December 31, 2016
4	4			December 31, 2017

ARTICLE VIII: DALP-SBE-M/WBE PARTICIPATION

No DALP has been recommended for this contract.

The Contractor is referred to the Contract Compliance Manual (Federal or Non-Federal) for applicable DALP administrative requirements and guidance.

ARTICLE IX: INSURANCE

Insurance shall be in accordance with GC 15, Insurance. The minimum applicable limits are as follows:

Commercial General Liability	Minimum \$2,000,000 per occurrence; aggregate limit shall be twice the required occurrence limit or \$4,000,000
Automobile Liability	Minimum \$1,000,000 per occurrence
Workers' Compensation Liability	Minimum as required by law

ARTICLE X: PROTECTION OF METRO STRUCTURES, EQUIPMENT AND VEGETATION

Contractor shall use reasonable care to avoid damaging existing structures, equipment, and vegetation on Metro's property. If the Contractor fails to comply with requirements of the Contract or failure to use reasonable care in performing the Services and causes damage to any Metro property, Contractor shall replace the property or repair the damage at no expense to Metro. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the costs incurred by Metro to effect the repairs or replacement, and shall be subject to termination for Default.

ARTICLE XI: WAIVER OF RIGHT TO CONTEST ADVERTISING RESTRICTIONS

Contractor shall not contest in court of competent jurisdiction, or in any forum, any advertising display or content restrictions or limitations identified in the Statement of Work herein, and hereby waives any right it may otherwise have to contest such restriction.

ARTICLE XII: ENTIRE AGREEMENT

This Contract includes this Form of Contract, all other Contract Documents incorporated pursuant to Article I herein, and all Attachments and other documents incorporated herein by inclusion or by reference, and constitutes the complete and entire agreement between the Metro and Contractor and supersedes any prior representations, understandings, communications, agreements or proposals, oral or written.

**CONTRACTOR NAME
PHYSICAL ADDRESS
EMAIL ADDRESS
PHONE NUMBER**

**LOS ANGELES COUNTY
METROPOLITAN
TRANSPORTATION AUTHORITY**

ARTHUR T. LEAHY
CHIEF EXECUTIVE OFFICER

BY: _____

SIGNATURE OF AUTHORIZED OFFICIAL

BY: _____
(PRINT OR TYPE NAME)

DATE

TITLE

DATE

TAX ID NO.: _____

APPROVED AS TO FORM BY COUNTY COUNSEL ON July 15, 2003.

**Contract No. RFP No. PS12714022
License to Sell and Display Advertising on Metro Buses**

EXHIBIT 1 - PAYMENT CERTIFICATION

1. I hereby certify to the best of my knowledge and belief that:
 - A. This Payment Request represents a true and correct statement of the Work performed;
 - B. The Work completed to date under this Contract is in full accordance with the terms of the Contract; and
 - C. All Subcontractors and/or Suppliers who have performed Work on the project through the closing date of the prior Payment Request have been paid their proportionate share of all previous payments from the Metro.

2. I understand that it is a violation of both the federal and California False Claims Acts to knowingly present or cause to be presented to the Metro a false claim for payment or approval. A claim includes a demand or request for money. It is also a violation of the False Claims Acts to knowingly make use of a false Record or statement to get a false claim paid. The term "knowingly" includes either actual knowledge of the information, deliberate ignorance of the truth or falsity of the information, or reckless disregard for the truth or falsity of the information. Proof of specific intent to defraud is not necessary under the False Claims Acts. I understand that the penalties under the Federal False Claims Act and State of California False Claims Act are non-exclusive, and are in addition to any other criminal and/or civil remedies which the Metro may have either under contract or law.

I certify under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct

Firm: _____

Signature: _____

Name of Certifying Official: _____

Title: _____

Date of Execution: _____

STATEMENT OF WORK
RFP NO. PS 12714022
LICENSE TO SELL AND DISPLAY ADVERTISING ON METRO BUSES

1.0 GENERAL ISSUES

The Los Angeles County Metropolitan Transportation Authority (METRO) is offering the right to sell and display specific types of advertising on METRO buses. The successful Proposer will be awarded a two-year contract commencing January 1, 2013 through December 31, 2014. METRO reserves the right to exercise options to extend the contract for a total of three additional years, either in one-year increments or any combination thereof. METRO will provide written notification of the intent to exercise or not exercise an option by July 1 of the preceding year.

Advertising options on METRO buses include the following:

- Standard exterior advertising
- Standard interior advertising
- Enhanced exterior advertising (including “super ultrakings,” enhanced tails and headliners)
- Exterior wrapped advertising

In addition, Proposer is invited to propose any recommended additional innovative approaches to increase advertising inventory on and revenue from METRO’s buses.

Proposer is required to propose two (2) revenue payment approaches as defined below:

- Approach 1: Guaranteed Fixed Revenue
- Approach 2: Revenue Share against Minimum Guarantee, whichever is greater. Revenue share to METRO shall be at least 65% of net revenue.

In either approach, METRO will invoice Contractor on a monthly basis for revenues due; Approach 2 will require additional documentation from Contractor. Exhibit 1, Historical Fixed Revenue to METRO, provides revenue amounts currently being paid to METRO for information purposes.

2.0 METRO BUS ADVERTISING – BACKGROUND & GENERAL REQUIREMENTS

A contract awarded to sell and display advertising on the METRO bus fleet is subject to the following limitations and requirements:

2.1 Metro currently operates approximately 150 bus routes and serves an area of 1,433 square miles.

2.2 The Metro bus fleet covered by this contract includes buses operated directly by Metro and buses operated by contracted operators. The Metro bus fleet currently is housed in 11 separate Metro divisions in Los Angeles County and three additional locations used by

contracted operators. It is possible that this number of locations could increase or decrease over the term of this contract.

- 2.3 The current total active fleet size is **2283**. However, not all buses accept exterior advertising. No paid exterior advertising may be displayed on the following types of buses: Metro Orange Line vehicles (see Attachment A, Quantities of Buses Excluded from Advertising.) All buses in the fleet accept standard interior advertising.
- 2.4 The number of buses scheduled for peak-hour service that accept advertising is calculated by Metro's Service Planning department, usually twice a year in June and December coinciding with scheduled service changes. The calculation considers Gross Metro-Operated Equipment required, less Interline Savings, plus Contracted Service, less buses that do not accept exterior advertising. Calculations are made for the AM-peak and the PM-peak; the average of these two is used relative to the contract benchmark for determining payment levels.
- 2.5 The number of buses scheduled for peak-hour service is projected to be **1873** at the start of this contract. It is possible that peak-hour service may either increase or decrease over the life of this contract; however, current plans do not call for major changes to this number.
- 2.6 METRO will provide the Contractor with bus assignment data. Bus assignment rights will remain with METRO. The Contractor shall not represent to advertisers that specific buses containing the advertiser's advertising will appear on specific bus lines.
- 2.7 Independent proposals are requested for standard exterior advertising, standard interior advertising, enhanced exterior advertising (including "super ultrakings," enhanced tails and headliners), and wrapped advertising. METRO may choose to award any or all of these components; however, all items awarded pertaining to advertising on the Metro bus fleet will be awarded to the same Contractor.
- 2.8 All Metro buses currently have Transit TV monitors on the interiors that carry news and entertainment programming as well as video advertising. These monitors are governed under a separate agreement and are expected to remain in place for the life of this contract.
- 2.9 To ensure the safety and security of passengers, operators and law enforcement officers, advertising displays which employ vinyl window graphics are restricted from obscuring window surfaces on Metro vehicles as follows:
 - Buses: No more than 30% of the vehicle's total window surface, and no more than 50% of the window surface of any bus side, may be covered by vinyl window graphics. (Note: this excludes the front window surface, which may not be covered in any manner.)
 - Metro Rapid: No wrapped advertising, enhanced tails or oversized king ads are permitted on Metro Rapid vehicles or on any articulated buses.

3.0 METRO BUS – STANDARD EXTERIOR ADVERTISING

Specifications for the sale and display of standard exterior advertising on the METRO Bus fleet are provided below:

- 3.1 Standard king ads measure 30" x 144" for application on curbside and street side of buses. Tail ads measure 21" x 72" and a small number (approximately 60) measure 27" x 55.5". See Attachment B, Diagrams of Exterior Bus Ad Posting, for positioning.
- 3.2 Space for advertising on the exterior front of METRO's buses is not available for sale by the Contractor.
- 3.3 Ads shall be mounted by Direct Application to bus exteriors. Direct Application is defined as ads placed directly on the exterior surface of the vehicle. No frame is used. Direct Application ads have adhesive backing; materials used must meet Metro's fire/life/safety specifications.
- 3.4 Ads must be specifically positioned, and trimmed if necessary, according to METRO's design guidelines. No deviation from this positioning is permitted.
- 3.5 Ads shall not be placed so as to obscure or in any way interfere with any METRO decals or numbers. Layering of a maximum of six (6) ads is permitted; all 6 of the previous applied vinyls must be removed before application of a new vinyl.
- 3.6 Contractor shall reimburse METRO for the cost of repairs should removal of Direct Application ads cause damage to buses.
- 3.7 METRO reserves the right to use 800 exterior king advertising spaces per month as well as any unsold exterior space for its exclusive purpose. METRO also reserves the right to designate the allocation of this space including the use of an entire bus or multiple buses.
- 3.8 Advertising installation and removal shall be the responsibility of the Contractor at no cost to METRO, including all space used by METRO.
- 3.9 Standard exterior ads with dated content shall be removed within four weeks of the expiration or obsolescence of the ad content.
- 3.10 Reports: Contractor shall provide monthly reports on the status of all standard exterior METRO advertising. Contents of this report shall be specified by a METRO designee and shall be subject to change or modification, as METRO deems necessary.

4.0 METRO BUS – STANDARD INTERIOR ADVERTISING

Specifications for the sale and display of standard interior advertising on the METRO Bus fleet are provided below:

- 4.1 Interior ad space, or bus car cards, measure either 11"x28" or 11"x35."
- 4.2 Advertising installation and removal shall be the responsibility of the Contractor at no cost to METRO, including space used by METRO.
- 4.3 Contractor shall be responsible for the purchase, installation, maintenance and replacement of styrene spacers used for interior advertising during the life of the contract.

- 4.4 Contractor shall be responsible for the installation and maintenance of space markers to designate common locations for bus car cards on all buses.
- 4.5 METRO reserves 50% of the spaces available for interior advertising space for METRO advertising, messages, promotions, etc.
- 4.6 METRO reserves the right to determine placement of advertising inside all buses. METRO shall provide contractor with a posting chart, updated on a regular basis, indicating the positions of paid bus car cards and of specific METRO bus car cards using the space designations cited in 4.4.
- 4.7 Standard interior ads with dated content shall be removed within four weeks of the expiration or obsolescence of the ad content
- 4.8 Reports: Contractor shall provide monthly reports on the status of all standard interior METRO advertising. Contents of this report shall be specified by a METRO designee and shall be subject to change or modification, as the METRO deem necessary.

5.0 METRO BUS – ENHANCED EXTERIOR ADVERTISING

Specifications for the sale and display of enhanced exterior advertising on the METRO Bus fleet (including “super ultrakings,” enhanced tails, headliners and other oversized single-side displays) are provided below:

- 5.1 Super ultrakings may be displayed on one side only of all Metro buses with the following exceptions: No super ultrakings may be displayed on Metro Orange Line vehicles, Metro Rapid vehicles or articulated buses. (Attachment A, Quantities of Buses Excluded from Advertising, shows the current quantities of these ineligible vehicles.)
- 5.2 Enhanced tails may be displayed on all METRO buses with the following exceptions: No enhanced tail advertising may be displayed on Metro Orange Line vehicles, Metro Rapid vehicles, or articulated buses. (Attachment A, Quantities of Buses Excluded from Advertising, shows the current quantities of these ineligible vehicles.)
- 5.3 Enhanced tail advertising may cover the entire rear surface of the bus but may not extend beyond the edges of the rear surface.
- 5.4 Headliners may be displayed on the street side of all vehicles. Headliners must be produced in the size and displayed in the position designated by METRO. See Attachment A for diagrams of ad positioning.
- 5.5 Enhanced exterior advertising shall not obscure or in any way interfere with the visibility of the bus number, CNG decal or Metro logo. It is the Contractor’s responsibility to reapply the bus number, CNG decal and Metro logo in the same size, typeface and position over the enhanced exterior advertising.
- 5.6 Enhanced exterior advertising must be applied at locations other than bus divisions or the Metro Support Services Center. Vehicles to be used for this purpose are to be selected by METRO. Contractor is responsible for coordinating and taking into account the availability of buses for enhanced exterior advertising with division staff.

- 5.7 Contractor is responsible for all repair costs that result from installing or removing enhanced exterior advertising.
- 5.8 Enhanced exterior advertising shall be removed within four (4) weeks of the ad's scheduled expiration date.
- 5.9 Reports: Contractor shall provide monthly reports on the status of all enhanced exterior advertising. Contents of this report shall be specified by a METRO designee and shall be subject to change or modification, as METRO deems necessary.

6.0 METRO BUS – “WRAPPED” ADVERTISING

Specifications for the sale and display of wrapped advertising on the METRO Bus fleet are provided below:

- 6.1 METRO grants the Contractor the right to use up to 200 buses at any given time for “wrapped” advertising as defined below. Contractor is responsible for all repair costs that result from installing or removing “wrapped” advertising. Vehicles to be used for this purpose are to be selected by METRO; no wrapped advertising may be displayed on Metro Orange Line vehicles, Metro Rapid vehicles or articulated buses (Attachment B, Buses Excluded from Enhanced Exterior Advertising, shows the current quantities of these ineligible vehicles.). Wrapped advertising must be applied at locations other than bus divisions or the Metro Support Services Center. Contractor is responsible for coordinating and taking into account the availability of buses for wrapping with division staff.
- 6.2 “Wrapped” advertising includes any full or partial wrap that extends across two or more sides of a vehicle.
- 6.3 To ensure the safety and security of passengers, operators and law enforcement officers, any bus advertising displays which employ vinyl window graphics are restricted from obscuring window surfaces on METRO vehicles as follows: No more than 30% of the vehicle's total window surface, and no more than 50% of the window surface of any bus side, may be covered by vinyl window graphics. (Note: this excludes the front window surface, which may not be covered in any manner.)
- 6.4 “Wrapped” ads shall not obscure or in any way interfere with the visibility of the bus number, Metro logo or CNG decal located on all four sides of the vehicle. It is the Contractor's responsibility to reapply the bus number, Metro logo and CNG decal in the same size, typeface and position over the wrapped advertising.
- 6.5 Wrapped advertising shall be removed within four (4) weeks of the ad's scheduled expiration date.
- 6.6 Contractor is responsible for all repair costs that result from installing or removing wrapped advertising.
- 6.7 Reports: Contractor shall provide monthly reports on the status of all wrapped advertising. Contents of this report shall be specified by a METRO designee and shall be subject to change or modification, as the METRO deems necessary.

7.0 INNOVATIVE APPROACHES

METRO may choose to implement innovative approaches or advertising enhancements, as recommended by Contractor, for display on METRO buses.

- 7.1 Contractor shall obtain approval in concept from METRO for posting the specific type of advertising. The creative shall be submitted to METRO for review and approval; comments/approval shall be provided to contractor by METRO within three business days.
- 7.2 If any innovative approaches are implemented, the Contractor shall submit a report to METRO by the 15th of the month following posting of said advertising which details net revenue realized from the sale and display (net revenue excludes advertising agency commissions, installation and posting costs). Payment for these approaches is detailed in Article II, Compensation to Metro, Item B.2.
- 7.3 Contractor is responsible for all repair costs that result from installing or removing innovative advertising.

8.0 BEER & WINE ADVERTISING – ESTIMATE ONLY

Metro's current advertising policy does not permit advertising for alcohol and tobacco products, including beer and wine. However, the Contractor at their option may include with their proposal an estimate indicating the percentage by which total revenue to Metro would increase if beer and wine advertising were permitted.

- 8.1 This estimate is provided at the Contractor's option, for information purposes only. Should Metro consider amending its advertising policy in the future to permit beer and wine advertising, the successful Contractor will be requested to submit a more detailed breakdown regarding the effects of such advertising on revenue returned to Metro.

9.0 METRO ADVERTISING CONTENT GUIDELINES

The following guidelines and content restrictions apply to all forms of advertising on the METRO system:

- 9.1 Alcohol and Tobacco Advertising
Advertising of all alcohol and tobacco products is prohibited.
- 9.2 Non-Commercial Advertising
METRO does not accept advertising from non-governmental entities if the subject matter and intent of said advertising is non-commercial. Specifically, acceptable advertising must promote for sale, lease or other form of financial benefit a product, service, event or other property interest in primarily a commercial manner for primarily a commercial purpose.
Exception: Governmental entities, meaning public entities specifically created by government action, may purchase advertising space for messages that advance specific

government purposes. It is METRO's intent that government advertising will not be used for comment on issues of public debate.

9.3 Other Subject Matter Restrictions

Advertising may not be displayed if its content:

- Promotes or relates to an illegal activity;
- Contains language which is obscene, vulgar, profane or scatological;
- Contains images, copy or concepts that actively denigrate a specific ethnic or gender group;
- Contains images, copy or concepts that actively denigrate public transportation; or
- Contains obscene matter as defined in the Los Angeles County Code, Chapter 13.17, Section 13.17.010, or sexually explicit material as defined in the Los Angeles County Code, Chapter 8.28, Section 8.28.010D.

9.4 METRO's Right of Rejection

Beyond the above, METRO's vendors may review advertising content according to their own guidelines of acceptability. METRO does not screen individual ads submitted to its vendors prior to posting unless specifically requested to do so by the vendors. Nevertheless, in all contracts METRO reserves the right to reject any advertising content submitted for display on its properties and/or to order the removal of any advertising posted on its properties. METRO's Chief Communications Officer makes decisions regarding the rejection or removal of advertising based upon the criteria in METRO's policy statement. Upon verbal notice by the Chief Communications Officer or designee, the Contractor shall immediately remove such advertisement within 24 hours. Upon request, METRO will furnish written confirmation

10.0 Contractor's Own Advertising

Advertising developed and produced for the Contractor's own use to promote the sale of transit advertising or a related theme or concept and the type and number of such ads shall be submitted to METRO for review and approval in advance of posting. METRO reserves the right to limit the amount of available space for display of such advertising to five percent (5%).

Attachment A

Quantities of Buses Excluded from Advertising

As of December 11, 2011

Metro Orange Line – Articulated Vehicles:

No Exterior Advertising

Peak: 28
Spare: 6
Backfill: 6
Total: 40

Non- Metro Orange Line Articulated Vehicles (Local & Rapid):

No Enhanced Tail Advertising

No Super Ultrakings

No Wrapped Advertising

Peak: 290
Spare: 56
Backfill: 4
Total: 350

Non-Articulated Metro Rapid Vehicles:

No Enhanced Tail Advertising

No Super Ultrakings

No Wrapped Advertising

Peak: 166
Spare: 31
Backfill: 30
Unassigned: 10
Total: 237

ATTACHMENT B

Diagrams of Exterior Bus Ad Posting

INSURANCE REQUIREMENTS

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons, or damages in property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employee or subcontractors

A. Insurance Requirements

Contractor agrees that the cost of obtaining and maintaining the following types of insurance for itself and all subcontractors for the duration of this agreement is included in the Contract Price:

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG0001)
2. Insurance Services Office form number CA0001 covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Insurance is to be placed with California admitted carriers with a current A.M. Best rating of no less than A:VII, unless otherwise approved by Metro.

B. Insurance Endorsements and Certificates

The insurance policies required per the terms of the contract are to contain, or be endorsed to contain, the following provisions:

1. Metro, its subsidiaries, successors, directors, officers and employees are to be covered as additional insureds as respects liability arising out of the activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned leased, hired or borrowed by the Contractor. The general liability coverage shall also include contractual, personal injury, independent contractors and broad form property damage liability. The coverage shall contain no special limitations on the scope of protection afforded to Metro, its subsidiaries, officials and employees.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects Metro, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by Metro shall be excess of the Contractor's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to Metro, its subsidiaries, officials and employees.
4. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Metro.
6. Workers' Compensation and Employer's Liability policies shall provide a waiver of subrogation in favor of Metro.
7. Contractor shall furnish Metro with original endorsements and certificates of insurance evidencing coverage required by this clause. All documents are to be signed by a person authorized by that insurer to bind coverage on its behalf. All documents are to be received and approved by Metro before work commences. If requested by Metro, the Contractor shall submit copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

C. Deductibles and Self-insured Retentions

Any deductibles or self-insured retentions must be declared to, and amounts over \$25,000 approved by Metro.

- D. Contractor shall include all Subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverage's for Subcontractors shall be subject to all of the requirements stated herein. If requested by Metro, the Contractor shall submit copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

GENERAL CONDITIONS - REVENUE SERVICES CONTRACT

1.0 DEFINITIONS

Terms and conditions marked with an asterisk (*) shall be included in any subcontract placed under this contract. "Metro" means the Los Angeles County Metropolitan Transportation Authority. "Contractor" means the person, firm or corporation supplying the Work under the Contract, and includes all of its employees, representatives, subcontractors, and suppliers. "Work" means goods, equipment and materials, and all productive and operative efforts and services provided to generate the results specified, indicated or implied in the Contract to complete the project described in the Statement of Work; may also refer to Work in progress. "Modification" means a written order from Metro's Authorized Representative directing an amendment in the Work that is within the general scope of the Work described in the Statement of Work. Additional terms may be defined elsewhere in the Contract.

2.0 INDEPENDENT CONTRACTOR

Contractor is an independent contractor and is not an agent of Metro in the performance of the Contract, and represents that it is fully experienced and properly qualified, licensed, equipped, organized, and financed to perform the class of Work required for the Contract and shall maintain complete control over its employees and its Subcontractors and Suppliers of any tier. Contractor shall: (1) perform the Work in compliance with the terms of the Contract in accordance with its own methods and in accordance with professional standards or skill, care, and diligence adhered to by firms recognized for their expertise and knowledge in performing similar Work, and (2) be responsible for the professional quality, technical accuracy, completeness and coordination of the Work. Nothing contained in the Contract or any Subcontract awarded by Contractor shall create any contractual relationship between any Subcontractor and Metro. Metro reserves the right of prior approval of all subcontractors and may provide notice to Contractor to terminate any subcontractor for any reason, and Contractor shall terminate the subcontractor in accordance with the notice.

3.0 METRO AUTHORIZED REPRESENTATIVES

Metro or LACMTA means the Los Angeles County Metropolitan Transportation Authority (Metro), its predecessors, successors, or any successor in interest, or its Contracting Officer or other Metro Authorized Representative.

Metro's Authorized Representatives shall be its Contracting Officer, or persons designated by the Contracting Officer in a written Notice to Contractor. The authority of such designated Authorized Representatives will be limited as expressly set forth in the Notice.

4.0 ACCEPTANCE BY METRO

Metro shall have a reasonable time (but not less than 30 days) after receipt to inspect the Work tendered by Contractor. Metro may in its sole discretion reject all or any portion of Work tendered for acceptance if any portion does not comply in every respect

with each and every term and condition of this Contract. If Metro elects to accept nonconforming Work, in addition to its other remedies, Metro may deduct a reasonable amount from the Contract Price to compensate Metro for the nonconformity. Any acceptance by Metro, even if unconditional, shall not be deemed a waiver or settlement of any defect in the Work. Until accepted by Metro as provided above, Contractor shall bear all risk of loss and damage, unless such loss or damage results solely from the active negligence of Metro. Notwithstanding any acceptance by Metro, Contractor shall not be relieved of any obligation hereunder, including its obligations to complete any portion of the Work, the non-completion of which was not disclosed to Metro (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise); and Contractor shall remain obligated under all those provisions of this Contract which expressly or by their nature extend beyond and survive final acceptance of the Work.

5.0 ASSIGNMENT

Contractor shall not assign any right or delegate any duty without the prior written consent of Metro.

6.0 EXTENSION OF TIME

Metro will grant Contractor an extension of time to perform the Work if the delay is caused by circumstances which are both beyond its control and not foreseeable, but in no event shall Contractor be excused for any inability to obtain goods or services necessary for Contractor's performance or for failure to take reasonable precautions or actions to mitigate the delay.

7.0 WARRANTY

Contractor warrants that the Work shall (a) comply with each requirement of this Contract, (b) be of merchantable quality; (c) be fit for the particular needs and purposes of Metro as communicated to Contractor in the Statement of Work; and (d) not be restricted in any way by patents, copyrights, trade secrets, or any other rights of third parties. If any of the foregoing warranties is breached, Contractor shall correct all defects and nonconformities, be liable for all direct, indirect, consequential and other damages suffered by Metro and any other persons, and defend and indemnify Metro from any claim asserted by any person resulting in whole or in part from such breach.

8.0 TERMINATION

Metro may, by written Notice to Contractor, terminate this Contract in whole or in part at any time, either for Metro's convenience or for default.

A. Default. If Contractor is in default of any provision of this Contract, Metro may terminate in whole or in part, and Contractor shall be liable for all damages arising out of the default. If in Metro's reasonable judgment a default can be cured, prior to termination for default Metro may issue a Cure Notice to Contractor. If Contractor fails to cure the default within five (5) days, or commence and complete the cure in accordance with such additional time limits as may be described in the Cure Notice, Metro may terminate for default.

B. Convenience. If Metro terminates all or any part of this Contract for Metro's convenience Metro will compensate Contractor to the extent provided and in accordance with the applicable portions of Part 49 of the Federal Acquisition Regulations. Metro will not compensate Contractor for any services not performed or goods not shipped by the date of such termination.

9.0 MODIFICATIONS

Metro may, direct changes in the Work by Modifications. If a Modification results in an increase or decrease in costs to be incurred or time needed to complete performance of this Contract, then Contractor shall submit a written proposed adjustment in the contract Price and/or schedule, and the parties shall make a fair and equitable adjustment.

10.0 RESOLUTION OF DISPUTES

The Parties shall use their best efforts to resolve disputes by negotiation or mutually agreed alternate dispute resolution (ADR) process such as mediation or arbitration. If the Parties are unable to resolve the dispute, it may be pursued by either party in the courts of Los Angeles County or in the Federal District Court for the Central District of California. All rights and remedies of Metro and Contractor shall be cumulative. Unless otherwise directed by Metro, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

11.0 INDEMNITY

Contractor shall indemnify, defend and hold harmless Metro, its officers, representatives and employees, from and against all liability, demands, claims, suits, losses and expenses whatsoever ("Liability"), including attorneys fees, whether direct or consequential, on account of (1) any loss, injury to or death of any person or persons or damage to any property (including without limitation all property owned by, leased to or used by either Contractor or Metro or both), or (2) any loss or damage to business or reputation or privacy of any person, arising in whole or in part from Contractor's performance hereunder, and regardless of whether such Liability results in whole or in part from the negligence or omission of Metro. Liability resulting solely from Metro's gross negligence, or willful misconduct is excluded from this indemnity.

12.0 APPLICABLE LAW

This Contract and the performance hereunder shall be construed according to the law of California. Contractor shall at all times comply with all applicable laws, regulations and codes.

13.0 NO WAIVER

Failure or delay of Metro to enforce at any time any provision of the Contract shall not be construed as a waiver thereof. No waiver by Metro of any breach of any provision of the Contract shall constitute a waiver of any other breach of such provision.

14.0 RESERVED

15.0 INSURANCE

Contractor shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons, or damages in property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employee or subcontractors

A. Insurance Requirements

Contractor agrees that the cost of obtaining and maintaining the following types of insurance for itself and all subcontractors for the duration of this agreement is included in the Contract Price:

Coverage shall be at least as broad as:

4. Insurance Services Office Commercial General Liability coverage (occurrence form CG0001)
5. Insurance Services Office form number CA0001 covering Automobile Liability, code 1 (any auto).
6. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Insurance is to be placed with California admitted carriers with a current A.M. Best rating of no less than A:VII, unless otherwise approved by Metro.

B. Insurance Endorsements and Certificates

The insurance policies required per the terms of the contract are to contain, or be endorsed to contain, the following provisions:

8. Metro, its subsidiaries, successors, directors, officers and employees are to be covered as additional insureds as respects liability arising out of the activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned leased, hired or borrowed by the Contractor. The general liability coverage shall also include contractual, personal injury, independent contractors and broad form property damage liability. The coverage shall contain no special limitations on the scope of protection afforded to Metro, its subsidiaries, officials and employees.
9. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects Metro, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by Metro shall be excess of the Contractor's insurance and shall not contribute with it.
10. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to Metro, its subsidiaries, officials and employees.
11. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

12. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Metro.
13. Workers' Compensation and Employer's Liability policies shall provide a waiver of subrogation in favor of Metro.
14. Contractor shall furnish Metro with original endorsements and certificates of insurance evidencing coverage required by this clause. All documents are to be signed by a person authorized by that insurer to bind coverage on its behalf. All documents are to be received and approved by Metro before work commences. If requested by Metro, the Contractor shall submit copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

C. Deductibles and Self-insured Retentions

Any deductibles or self-insured retentions must be declared to, and amounts over \$25,000 approved by Metro.

- D. Contractor shall include all Subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each Subcontractor. All coverage's for Subcontractors shall be subject to all of the requirements stated herein. If requested by Metro, the Contractor shall submit copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

16.0 PAYMENT TO SUBCONTRACTORS *

A. **Applicability.** This Article applies only if Contractor has employed Subcontractors.

B. **Requirements**

1. Payments - Contractor shall pay each Subcontractor under this Contract for satisfactory performance of its Subcontract no later than ten (10) days after its receipt of each Payment from Metro.
2. Release of Retention to Subcontractors - Contractor shall pay to each Subcontractor all amounts it has retained from payments under the Subcontract within ten (10) days after the Subcontractor's Work is satisfactorily completed.
3. Delay in Payment – Contractor shall not delay payment beyond the ten (10) day time limit except for good cause.

C. Failure to Comply

If Metro determines that Contractor has failed to comply with this Article, Metro may give written notice to Contractor and Contractor's Surety describing the default, that the default shall be cured, and if the default is not cured as provided the Article entitled TERMINATION FOR DEFAULT in the GENERAL CONDITIONS of this Contract, the Contract may be terminated for default as provided therein, or Metro may exercise any other remedy it has under the Contract or Law.

17.0 SAFETY AND LOSS PREVENTION *

This Article is to be construed in its broadest sense for the protection of persons and property by the Contractor and no action or omission by Metro, the Contracting Officer, any Authorized Representative or any other person shall relieve the Contractor of any of its obligations and duties hereunder.

A. Metro's Safety Principles

1. Safety is a 24/7 priority
2. Safety is everyone's responsibility
3. Accidents and injuries are preventable
4. Working safely is a condition of employment
5. Training is essential for good safety performance
6. Management is accountable for safety

B. Contractor Responsibilities

The Contractor is responsible for:

1. Complying with all applicable safety Laws
2. Enforcing Worksite safety practices; and
3. The discovery, determination and correction of any unsafe conditions related to the Contractor's performance of the Work or Goods supplied by the Contractor on Metro property.
4. The Contractor shall cooperate and coordinate with Metro and with other Metro Contractors on safety matters and shall promptly comply with any specific safety instructions or directions given to the Contractor by Metro.

C. Safety Practices

1. The Contractor shall inform its personnel of Metro safety practices and the requirements of Metro's safety program identified in [Metro Safety Manual For Other Than Major Construction](#).
2. If any of the Contractor's personnel are required to visit any Worksites, the Contractor shall furnish suitable safety equipment and enforce the use of such equipment by those personnel. The Contractor shall cooperate and coordinate with Metro and with other Metro Contractors on safety

matters and shall promptly comply with any specific safety instructions or directions given to the Contractor by Metro.

18.0 ENGLISH REQUIREMENTS *

At all times, all Contractor personnel on site must have sufficient knowledge of the English language to comprehend safety related directions and requirements. At all times the Contractor shall have a lead representative on site who has sufficient comprehension of the English language to read, write, speak and understand all job related directions and discussions.

19.0 INTERRUPTION OF PERFORMANCE:

License fees will be abated for any period of time caused by a Force Majeure event provided that;

1. Contractor has taken reasonable precautions to prevent interruption of its performance owing to such events; and
2. Contractor notifies Metro in writing of the cause(s) of the interruption within five (5) days from the beginning of any such interruption.

Metro shall ascertain the facts and extent of the interruption, and remedies granted shall be the final and conclusive remedies for the consequences of any-interruption. Contractor has the burden of proof that the interruption was beyond its control.

- B. A delay of starting the Work after date of NTP due to circumstances under the control of the Contractor shall not be a cause for granting any abatement in fees.
- C. The Contractor shall submit notification to Metro at the earliest possible date and supplement thereafter as information becomes available:
 1. An analysis of the impact of the claimed Force Majeure event, identifying the actual impacts; and
 2. proposals to minimize the effects of the claimed interruption.

Neither the granting an abatement of fees nor a delay in performance shall be deemed a waiver of Metro's rights under the Contract.

Force Majeure events are events beyond the control and not due to an act or omission of the Contractor are defined in GC-6 Force Majeure above.

REGULATORY REQUIREMENTS

RR-01 ADMINISTRATIVE CODE *

A. Applicability

This Article applies to all contracts.

B. Metro Administrative Code

Contractor warrants and represents that it has read and understands Title 4, Procurement, and Title 5, Ethics, of the [Metro Administrative Code](#) (hereinafter "Administrative Code" - available at [www.metro.net/images/MTA Administrative Code Enactment.pdf](http://www.metro.net/images/MTA_Administrative_Code_Enactment.pdf)), and will comply with each and every one of those requirements in accordance with their terms to the extent that they are applicable to contractors doing business with Metro. All definitions used in the Administrative Code are hereby incorporated herein as though fully set forth.

Without reducing or affecting its obligation to comply with any and all provision of the Administrative Code, as applicable, Contractor specifically warrants, represents and covenants that it will:

1. Comply with:
 - a. Chapter 5-20, Contractor Code of Conduct;
 - b. Chapter 5-25, Lobbying the Metro; and
 - c. Chapter 5-35, Metro Conflict of Interest Code, and
2. Not induce, attempt to induce, or solicit:
 - a. Board members to violate Chapter 5-10;
 - b. Metro employees to violate Chapter 5-15;
 - c. Metro Financial employees to violate Chapter 5-30: or
 - d. Either Board members, Metro employees or Metro Financial employees to violate any other provision of the Administrative Code.

C. Compliance with §§1090 et. seq. and §§87100 et. seq. of the California Government Code

Contractor shall comply with all applicable provisions of §§1090 et. seq. and §§87100 et. seq. of the California Government Code. Without reducing or affecting its obligation to comply with any and all of said provisions, Contractor specifically covenants:

1. Contractor shall not cause or permit any member, officer, or employee of Metro to have any financial interest in the Contract;
2. Contractor shall not enter into any Subcontract involving services or property with a person or business prohibited from transacting such business with Metro;
3. Contractor warrants and represents that to its knowledge no Board member, officer, or employee of Metro has any interest, whether contractual, non-contractual, financial or otherwise, in this Contract, or in the business or any other contract or transaction of the Contractor or any Subcontractor and that if any such interest comes to Contractor's knowledge at any time, Contractor shall make a full and complete disclosure of all such information in writing to Metro.

D. Campaign Contributions

Neither Contractor nor its Agents shall give or offer to give any campaign contribution to any member of Metro's Board of Directors in violation of the California Government Code §§84300 et seq or of the Administrative Code. Contractor shall submit a Certification of Campaign Contributions with all COs of two hundred thousand dollars (\$200,000) or more.

E. Environmental Management System (EMS) Policy

Contractor represents that during the performance of the Contract it will assist Metro in achieving the principles of Metro's EMS Policy, available at [Environmental Management System \(EMS\) Policy](#) and Contractor further commits that it shall adhere to the applicable EMS Policy principles in its choice of means and methods in the performance of the Work.

RR-02 DISCRIMINATION *

A. Applicability

This Article applies to all contracts.

- B.** In connection with the performance of Work provided for under this Contract, Contractor agrees that it will not, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, medical condition, marital status, sex, sexual orientation, or age, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Federal, State or local laws.

RR-03 WHISTLEBLOWER REQUIREMENTS *

A. Applicability

This Article applies to all contracts.

- B. Contractor shall not adopt any rule, regulation or policy preventing an employee from disclosing information to a government or law enforcement agency, where the employee believes the information discloses violation or noncompliance with a state or Federal regulation; nor shall Contractor retaliate against an employee for taking such actions as set forth in the California Labor Code §1101 et. seq.

RR-04 PUBLIC RECORDS ACT *

A. Applicability

This Article applies to all contracts.

- B. Except as otherwise provided herein, all records, documents, drawings, plans, specifications, and all other information relating to the conduct of Metro's business, including all information and documents submitted by Contractor ("**Records**"), shall become the exclusive property of Metro and shall be deemed public records. Said Records are subject to the provisions of the California Public Records Act (Government Code §6250 et. seq.). Metro's use and disclosure of its records are governed by this Act. Metro will use its best efforts to inform the Contractor of any request for any financial records or documents marked "Trade Secret", "Confidential" or "Proprietary" provided by Contractor to Metro. Metro will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.
- C. In the event of litigation concerning the disclosure of any Records, Metro's sole involvement will be as a stakeholder, retaining the Records until otherwise ordered by a court. The submitting party, at its sole expense and risk, shall be fully responsible for any and all fees for prosecuting or defending any action concerning the Records and shall indemnify and hold Metro harmless from all costs and expenses including attorney's fees in connection with any such action.

RR-05 ACCESS TO RECORDS

A. Applicability

This Article applies to all federally funded contracts.

- B. Contractor agrees to provide Metro, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or the FTA's authorized representatives, including any FTA Project Management Oversight Contractor, access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is

receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

- C. If this Contract is for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) and was entered in to through other than competitive bidding, the Contractor shall make records related to this Contract available to Metro, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- D. Contractor shall permit any of the foregoing parties to reproduce without any cost by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- E. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until Metro, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

RR-06

FEDERAL FUNDING, INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS, AND FEDERAL CHANGES*

A. Applicability

This Article applies to all federally funded contracts.

- B. This Contract includes, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the Contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008 (including any changes, revisions or successor circulars) is automatically hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Metro requests which would cause Metro to be in violation of the FTA terms and conditions.

This Contract is subject to a financial assistance agreement between Metro and the Federal Transit Administration of the US Department of Transportation and all laws, regulations, guidelines, and provisions of the financial assistance agreement apply to this Contract and are incorporated by reference as if fully set forth herein.

- C. Contractor shall at all times comply with all applicable federal laws and regulations, including without limitation FTA regulations, policies, procedures and directives, including those listed directly or by reference in Applicable Grant Agreements between Metro and FTA, as they may be amended or

promulgated from time to time during the term of this Contract collectively "Federal Requirements". These Federal Requirements may change and the changed Federal Requirements will apply to this Contract as required unless the Federal Government determines otherwise. Contractor's failure to so comply with the Federal Requirements shall constitute a material breach of this Contract.

RR-07 ENERGY CONSERVATION REQUIREMENTS

A. Applicability

This Article applies to all federally funded contracts.

- B.** Contractor shall 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 USC §6321 et seq.

RR-08 CIVIL RIGHTS REQUIREMENTS *

A. Applicability

This Article applies to all federally funded contracts.

- B.** Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Contractor shall comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

C. Equal Employment Opportunity

- (a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, Contractor shall 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. Parts 60 et seq. , (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the Contract. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without

regard to their race, color, creed, national origin, sex, or age. 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. In addition, Contractor shall comply with any implementing requirements FTA may issue.

- (b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, Contractor shall refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor shall comply with any implementing requirements FTA may issue.
- (c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor shall comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor shall comply with any implementing requirements FTA may issue.

RR-09 NO GOVERNMENT OBLIGATION TO THIRD PARTIES *

A. Applicability

This Article applies to all federally funded contracts.

- B.** Notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award this 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 Metro, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from this Contract.

Contractor shall include this Article in each Subcontract and shall not modify the Article, except to identify the Subcontractor who will be subject to its provisions.

RR-10 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS *

A. Applicability

This Article applies to all federally funded contracts.

- B.** 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, shall apply to actions pertaining to

this Contract. Upon execution of this Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining this Contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

- C. Contractor also acknowledges that this Contract is 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. § 5307 and if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.
- D. Contractor shall include this Article in each subcontract financed in whole or in part with Federal assistance provided by FTA. Contractor shall not modify the Article, except to identify the Subcontractor who will be subject to the provisions.

RR-11 SUSPENSION AND DEBARMENT*

A. Applicability

This article applies to federally funded contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services.

- B. This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor shall verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

Contractor shall comply with 49 CFR 29, Subpart C and shall include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

- C. By entering into this Contract, Contractor certifies that it shall comply with the requirements of 49 CFR 29, Subpart C throughout the period of this Contract.

This certification is a material representation of fact relied upon by Metro. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to remedies available to Metro, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment .

RR-12 RECYCLED PRODUCTS

A. Applicability

This Article applies to federally funded operations/management, construction, or materials & supplies contracts for items designated by the Environmental Protection Agency, when procuring \$10,000 or more per year.

- B.** To the extent practicable and economically feasible, a competitive preference shall be given for products and services that conserve natural resources and protect the environment and are energy efficient.

RR-13 CLEAN WATER AND CLEAN AIR REQUIREMENTS*

A. Applicability

This Article applies to all federally funded contracts over \$100,000.

B. CLEAN WATER REQUIREMENTS

Contractor shall 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., and all applicable clean water standards of the State of California and any state or local agency having jurisdiction. Contractor shall report each violation to Metro. Metro will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office, and all other agencies having jurisdiction.

C. CLEAN AIR

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. and all applicable Clean Air Standards of the State of California or any state or local agency having jurisdiction. Contractor shall report each violation to Metro. Metro will, in turn, report each violation as required to FTA, the appropriate EPA Regional Office and all other agencies having jurisdiction.

RR-14 COMPLIANCE WITH FEDERAL LOBBYING POLICY *

A. Applicability

The following Article applies to federally funded contracts over \$100,000.

- B.** The Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, requires that Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, attached hereto as the certification entitled, "Certification of Compliance with Federal Lobbying Requirements." As set forth in the certifications, each tier of subcontractors shall certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer

or employee of any agency, a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures shall be forwarded from tier to tier up to Metro.

RR-15 BUY AMERICA *

A. Applicability

The following Article applies to federally funded rolling stock purchase and construction contracts over \$100,000 and to contracts over \$100,000 for materials & supplies for steel, iron, or manufactured products.

- B.** Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver.

Metro may investigate Contractor's, any Subcontractor's, and any Supplier's compliance with this Article. If an investigation is initiated, Contractor, Subcontractor, or Supplier shall document its compliance, in accordance with 49 CFR 661.15, and cooperate with the investigation. Contractor shall incorporate the Buy America conditions set forth in this Article in every subcontract or purchase order and shall enforce such conditions.

RR-16 CARGO PREFERENCE*

A. Applicability

The following Article applies to federally funded contracts involving equipment, materials, or commodities which may be transported by ocean vessels

B. USE OF UNITED STATES FLAG VESSELS

Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels

Contractor shall furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of -lading

in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Metro (through Contractor in the case of a subcontractor's bill-of-lading.)

Contractor shall 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.

RR-17 FLY AMERICA

A. Applicability

This Article applies to federally funded contracts if the contract or subcontracts may involve the international transportation of goods, equipment, or personnel by air.

- B.** Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

RR-18 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT *

A. Applicability

This Article applies to federally funded construction contracts over \$100,000 (including ferry vessels), rolling stock purchases over \$100,000 and to operations/management contracts over \$100,000 (except transportation services)

- B.** Pursuant to the Labor Standards Provisions Applicable to Non-construction Contracts subject to the Federal Contract Work Hours and Safety Standards Act, 40 U.S.C.A. § 327 through 332 as implemented by U.S. Department of Labor regulations, 29 CFR 5.5 (b) and (c) Contractor and Subcontractor’s contracting for any part of the Contract work shall comply with the following:

- 1. Overtime requirements** – Neither Contractor nor any Subcontractor contracting for any part of the Contract work that requires or involves the employment of laborers or mechanics shall require or permit any such

laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- 2. Violation; liability for unpaid wages; liquidated damages** – In the event of any violation of the Article set forth in paragraph 1 of this Section Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and Subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the Article set forth in paragraph 1 of this Section, in the sum of ten dollars (\$10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the Article set forth in paragraph 1 of this Section.
- 3. Withholding for unpaid wages and liquidated damages** – Metro shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by Contractor or Subcontractor under the Contract or any other Federal contract with Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by Contractor, such sums as may be determined to be necessary to satisfy any liabilities of Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the Article set forth in paragraph 2 of this Section.
- 4. Subcontracts** – Contractor or Subcontractor shall insert in any Subcontracts the Articles set forth in this Section and also a Article requiring the Subcontractors to include these Articles in any lower tier Subcontracts. Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the Articles set forth in this Section.
- 5. Payrolls and basic records** – The records to be maintained hereinabove shall be made available by Contractor or Subcontractor for inspection, copying, or transcription by Metro and U.S. Dept. of Labor. Contractor and Subcontractor shall maintain payrolls and basic records during the course of the work and shall preserve them for a period of three (3) years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid.

RR-19 SEISMIC SAFETY

A. Applicability

This Article applies to federally funded Architect & Engineer contracts for the design of new buildings or additions to existing buildings and to contracts for the construction of new buildings or additions to existing buildings.

- B.** Any new building or addition to an existing building shall be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and Contractor shall certify to compliance to the extent required by the regulation. Contractor shall ensure that all work performed under this Contract, including work performed by a Subcontractor, is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

RR-20 ADA ACCESS

A. Applicability

This Article applies to federally funded Architect & Engineer, Operations/Management, Rolling Stock Purchase, and Construction contracts

B. Access Requirements for Persons with Disabilities

Contractor shall comply with:

1. The requirements of 49 U.S.C. § 5301(d), which states the Federal policy that elderly persons and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy;
2. 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;
3. 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;
4. 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; and
5. All applicable requirements of the following regulations and any subsequent amendments thereto:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
- (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; and
- (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609;
- (11) Any implementing requirements FTA may issue.

RR-21 ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM *

A. Applicability

This Article applies to federally funded contracts for transit operations.

B. FTA Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations Regulations

Contractor and its Subcontractors shall comply with the FTA anti-drug and alcohol misuse regulations (49 CFR Part 655) and the U.S. Department of Transportation (DOT) Procedures for Transportation Workplace Drug and Alcohol Testing Programs (49 CFR Part 40) to the full extent that they are, by their terms, applicable to Contractor and its Subcontractors. The regulations apply to all “contractors” that have “covered employees” that perform “safety sensitive functions” as those terms are defined in the regulations.

C. Certificate of Compliance

The CERTIFICATE OF COMPLIANCE WITH 49 CFR PARTS 655, PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE IN TRANSIT, submitted by Contractor prior to award, is incorporated as part of the Contract Documents.

D. Drug and Alcohol Testing Program

In the event that any part of the Work under this Contract falls within the scope of 49 CFR Part 655, Contractor, and its Subcontractors (as applicable), shall implement all programs required under the regulations, including without limitation, a Drug and Alcohol Testing Program and an anti-drug use and alcohol misuse program, in full compliance with the regulations.

E. Alcohol and Drug Free Workplace Program

In addition to the above, for Work performed on Metro property, Contractor shall provide an Alcohol and Drug-free Workplace Program in accordance with FTA requirements found at <http://transit-safety.volpe.dot.gov/Safety/DATesting.asp>.

RR-22 TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS *

A. Applicability

Subject to the limitations in Sections B, C and D, this Article applies if this Contract involves transit operations to be performed by employees of a Contractor recognized by FTA to be a transit operator, and if FTA has determined that it is financed in whole or in part with Federal assistance.

B. General Transit Employee Protective Requirements

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance (other than Federal assistance authorized by 49 U.S.C. § 5310(a)(2) or 49 U.S.C. § 5311), and if the U.S. Secretary of Transportation has determined that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for Metro under this Contract, then Contractor shall perform the transit operations work under the Contract in compliance with terms and conditions, (a) determined

by the U.S. Secretary of Labor to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. Department of Labor (“U. S. DOL”) guidelines at 29 C.F.R. Part 215, and any amendments thereto, and (b) stated in a U. S. DOL letter of certification to FTA, the date of which is set forth in the applicable Grant Agreement or Cooperative Agreement with Metro, and which is incorporated in the Form of Contract as a Contract Document entitled “U. S. DOL Certification”.

C. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for Metro under the Contract, Contractor shall perform the Work in compliance with the terms and conditions determined, (a) by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto, and (b) stated in the U.S. DOL's letter of certification to FTA, the date of which is set forth in the applicable Grant Agreement or Cooperative Agreement with Metro, and which is incorporated in the Form of Contract as a Contract Document entitled “U. S. DOL Certification”.

D. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor shall comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

E. Indemnity

Contractor shall defend, indemnify and hold harmless Metro, and its Board Members, employees and agents from and against all liability, claims, demands actions, costs, judgments, penalties, damages, losses and expenses arising out of or in connection with Contractor’s failure to comply with or failure to carry out its responsibilities under all applicable provisions of Sections B, C and D of this Article.

RR-23 CHARTER SERVICE OPERATIONS

A. Applicability

This Article applies to federally funded Operational Service Contracts.

- B. Contractor shall comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

RR-24 SCHOOL BUS REQUIREMENTS

A. Applicability

This Article applies to federally funded Operational Service Contracts

- B. Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

RR-25 FEDERAL PATENT AND DATA RIGHTS*

A. Applicability

This Article applies to each contract involving experimental, developmental or research work and for which the purpose of the FTA grant is to finance the development of a product or information.

B. Subject Data

The term "Subject Data" used in this Article means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "Subject Data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

C. Restrictions on Subject Data

The following restrictions apply to all Subject Data first produced in the performance of the Contract:

1. Except for its own internal use, metro or Contractor may not publish or reproduce Subject Data in whole or in part, or in any manner or form, nor may metro or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.
2. In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any Subject Data or copyright described in subparagraphs C.2(a) and C.2(b) of this Paragraph C.2. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
 - (a) Any Subject Data developed under the Contract, whether or not a copyright has been obtained; and
 - (b) Any rights of copyright purchased by metro or Contractor using Federal assistance in whole or in part provided by FTA.
3. When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, Metro and Contractor performing experimental, developmental, or research work required by the Contract shall permit FTA to make available to the public, either FTA's license in the copyright to any Subject Data developed in the course of the Contract, or a copy of the Subject Data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become Subject Data and shall be delivered as the Federal Government may direct. This Paragraph C.3 shall not apply to adaptations of automatic data processing equipment or programs for Metro's or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.
4. Unless prohibited by state law, upon request by the Federal Government, Metro and Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Metro or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Contract. Neither Metro nor Contractor shall be required to indemnify the Federal Government for any such liability

arising out of the wrongful act of any employee, official, or agent of the Federal Government

5. Nothing contained in this Article shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
6. Data developed by Metro or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the Contract is exempt from the requirements of Paragraphs 2, 3, and 4 of this Article, provided that Metro or Contractor identifies that data in writing at the time of delivery of the Contract Work.

D. Patent Rights

If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the Contract, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, Metro and Contractor shall take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

E. Provision of Rights in Invention to Federal Government

Unless the Federal Government later makes a contrary determination in writing, irrespective of Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), Metro and Contractor shall take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

END OF REGULATORY REQUIREMENTS

SECTION 3 – BID/PROPOSAL DOCUMENTS

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INSTRUCTIONS TO PROPOSERS

IP-01 PREQUALIFICATION REQUIREMENTS

- A. All contractors, subcontractors, material suppliers (supplying directly to Metro), and any other firm competing for award of contracts or subcontracts of \$100,000 or more will be required to complete and submit a Contractor Pre-Qualification Application. Failure to do so may cause your Proposal to be rejected as non-responsive.
- B. Contractor Pre-qualification Applications are due to the pre-qualification office no later than the Proposal due date. Do not put copies of pre-qualification documents in your Proposal.
- C. For contact information, please refer to the Letter of Invitation. For detailed instructions, refer to the Pre-Qualification Application which can be downloaded from Metro website (<http://www.metro.net/EBB/PQA/vprequal.htm>), or provided by the Pre-Qualification Office.

IP-02 BIDDERS LIST FORM

- A. In accordance with 49 CFR 26.11 (c), Los Angeles County Metropolitan Transportation Authority (Metro) is required to maintain a Bidders List, consisting of all firms bidding on prime contracts and bidding or quoting subcontracts, who seek an award or participation on Metro contracts funded in whole or in part with Federal funds. Each Bidders List is a compilation of Bidders, Proposers, Quoters, subcontractors, manufacturers, and suppliers of materials who have submitted bids during the advertising period of a specific project.
- B. **If the Letter of Invitation identifies this RFP as federally funded, all businesses are required to complete and submit a Bidders List Form (PRO FORM 132) when submitting a Bid, Proposal, or Quote directly to Metro.**
- C. All businesses that submit a Bid, Proposal, or Quote directly to Metro must also ensure that all of its quoting subcontractors, suppliers, manufacturers and suppliers that the Proposer included in its response to Metro, are required to complete and submit a Bidders List Form (PRO FORM 132).
- D. Bidders List Forms (PRO FORM 132) are due at time of Proposal due date as provided in the Letter of Invitation. Failure to submit the Bidders List Form(s) may deem the Proposer non-responsive.
- E. Metro will use the Bidders List to identify the universe of DBE and non-DBE contractors and subcontractors who seek to work on Metro contracts for use in establishing Metro overall goals.

IP-03 RESERVED

IP-04 EXAMINATION OF RFP DOCUMENTS

- A. All proposals shall be in strict accordance with the Request for Proposal (RFP) Documents.
- B. Copies of the solicitation, Metro responses to all written questions, and requests for interpretation and clarification will be available for examination and/or purchase as noted in the Request for Proposal Letter. The proposer is solely responsible for the examination of solicitation documents; reviewing all Amendments; comprehending all conditions that may impact the proposal, and the performance of the Work should the proposer be selected. Failure of the proposer to so examine and inform itself must be at its sole risk.

IP-05 INTERPRETATION OF RFP DOCUMENTS

- A. Requests for interpretation or clarification of the solicitation documents shall be submitted in writing. All written requests shall be forwarded to Metro Contract Administrator identified in the Request for Proposal Letter.
- B. To ensure that responses are provided to all Planholders, inquiries shall be received at least ten (10) working days prior to the submittal due date. Where such interpretation or clarification requires a change in the solicitation documents, Metro will issue an Amendment.
- C. Metro shall not be bound by, and the Planholder shall not rely on for any purpose, any oral interpretation or oral clarification of the solicitation documents.

IP-06 COMMUNICATION WITH METRO

All communications between Metro and the proposers must be in writing addressed to the Contract Administrator identified in the Request for Proposal Letter, except for:

- Issues regarding Pre-qualification addressed in PREQUALIFICATION REQUIREMENTS, and
- The Diversity and Economic Opportunity (DEO) department (such as a list of certified firms and the certification status of a particular firm) may be obtained by contacting the responsible party noted in the Request for Proposal Letter.

IP-07 AMENDMENT

- A. Metro reserves the right to revise the solicitation documents prior to the proposal submittal due date. Such revisions, if any, will be made by Amendment to this RFP.

- B. Proposers shall acknowledge receipt of all Amendments to the solicitation documents in the Proposal Letter. Failure to acknowledge receipt of all Amendments and to include all the requirements of the Amendments in the proposal may render the proposal unacceptable and cause it to be rejected.
- C. Prior to submitting the proposal to Metro for consideration, each proposer is responsible for checking Metro website to ensure that it has received all applicable Amendments.

IP-08 PREPARATION OF SUBMITTAL

- A. The proposal shall be formatted in accordance with the requirements specified herein. Proposals shall include the forms provided with the solicitation documents, or on legible photocopies of the forms. Proposers shall complete the forms in accordance with the directions specified in these Instructions and the forms. All required explanatory narratives and the supplementary data are to be included with the proposal forms as indicated.
- B. Pencil or erasable ink shall not be accepted. Initial all modifications made to the proposer's entries and identify the proposer's name on the top right of each page. Liquid or dry correction materials shall not be used.
- C. Failure to comply with the requirements outlined in these solicitation documents may render the proposal(s) incomplete and may cause proposal rejection. This RFP does not commit Metro to enter into a contract nor does it obligate Metro to pay for any costs incurred in the preparation and submission of proposals.

IP-09 MODIFICATIONS AND ALTERNATIVE PROPOSALS

- A. Proposers are cautioned to limit exceptions, conditions, limitations to the provisions of this RFP as they may be determined to be so fundamental as to cause rejection of the proposal for not responding to the requirements of the RFP.
- B. Proposers submitting conforming proposals may submit alternate proposals to this RFP as complete separate offers, if the alternate proposals offer technical improvements or modifications that are to the overall benefit of Metro. Metro reserves the right to accept or reject any alternate proposal. Oral or telephonic proposals and/or modifications shall not be considered.

IP-10 SIGNING OF PROPOSAL AND AUTHORIZATION TO NEGOTIATE

- A. Proposer or its authorized representative (Proposer's Representative) shall execute the Proposal and all required solicitation documents. Proposers shall submit evidence of the Proposer's Representative's authority.
- B. If the proposer is a joint venture or partnership, it shall submit with its proposal a duly notarized Venturer or Partner-executed Irrevocable Power of Attorney that designates the Proposer's Representative along with a copy of

the signed Joint Venture or Partnership Agreement. The Proposer's Representative shall be empowered to execute the proposal on behalf of the proposer and to act for and bind the proposer in all matters relating to the proposal. The Irrevocable Power of Attorney shall specifically state that each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of the proposer that are assumed under the proposal and under any contract arising therefrom. The Proposer's Representative shall execute the proposal on behalf of the joint venture or partnership in its legal name.

IP-11 SUBMISSION OF PROPOSAL

- A. Metro will accept proposals submitted by the proposer at the address and place shown in the Letter of Invitation, up to the date and time shown therein.
- B. It is the proposer's sole responsibility to see that its proposal is received as stipulated. Metro may leave unopened any proposal received after the date and time for receipt of proposals. Any such unopened proposal may be returned to the proposer.

IP-12 PROPOSAL EVALUATION PROCESS

- A. Metro shall review and evaluate the proposals in accordance with the requirements of solicitation documents, including any Good Faith Efforts submittals. Following the evaluation period the Notice of Intent to Award will be sent to all proposers and posted on Metro's website.
- B. During the proposal evaluation period, staff shall determine if proposals are complete and proposers are responsible. Responsibility is defined as the apparent ability of the proposer to meet and successfully complete the requirements of the Contract. Responsibility includes, but is not limited to; consideration of a proposer's trustworthiness, the quality of past performance, financial ability, and fitness and capacity to do the proposed Work in a satisfactory manner. Proposers may be required to present further evidence that it has successfully performed similar Work of comparable magnitude or provide other proof satisfactory to Metro that it is competent to successfully perform the Work.

IP-13 WITHDRAWAL OF SUBMITTAL

The proposer by means of a written request, signed by the Proposer's Representative, may withdraw a proposal. Such written request shall be delivered to the Contract Administrator identified in the Request for Proposal Letter prior to the award.

IP-14 PRE-AWARD AUDIT

Metro or its representatives, upon reasonable advance written notice, shall have the right to examine any books, records, accounts and other documents of any

proposer to determine the reasonableness, allowability, and allocability of the proposal.

IP-15 METRO RIGHTS

Metro may investigate the qualifications of any proposer under consideration inclusive of, but not limited to, the information provided in the Pre-Qualification Application. Metro may require confirmation of information furnished by a proposer, and require additional evidence of qualifications to perform the Services described in this RFP. Metro reserves the right to:

1. Reject any or all of the proposals, at its discretion;
2. Remedy errors in the RFP;
3. Cancel the entire RFP;
4. Issue subsequent RFP;
5. Appoint evaluation committees to review proposals;
6. Seek the assistance of outside technical experts to review proposals;
7. Approve or disapprove the use of particular subcontractors and suppliers;
8. Establish a short list of proposers eligible for discussions after review of written proposals;
9. Solicit best and final offers (BAFO) from all or some of the proposers;
10. Negotiate with any, all or none of the proposers;
11. Award a contract to one or more proposers;
12. Accept other than the lowest priced proposal;
13. Disqualify the proposal(s) upon evidence of collusion with intent to defraud or other illegal practices on the part of the proposer(s);
14. Waive any informalities or irregularities in any proposal, to the extent permitted by law; and
15. Award a Contract without interviews, discussions or negotiations.

IP-16 PUBLIC RECORDS ACT

- A. Responses to this RFP must be subject to the provisions of the California Public Records Act (California Code Government Code, §6250 et seq.).
- B. Any documents provided by the Contractor to Metro marked "Trade Secret," "Confidential," or "Proprietary" or any financial records provided by the Contractor to Metro shall be handled in accordance with the General Condition entitled "Public Records".

IP-17 DISQUALIFICATION OF PROPOSERS

- A. Federal Organizational Conflict of Interest may apply to this procurement. See Supplemental Condition entitled, Organizational Conflict of Interest.

- B. Any person, firm, corporation, joint venture or partnership, or other interested party that has been compensated by Metro or a contractor engaged by Metro for assistance in preparing the RFP Documents and/or estimate shall be considered to have gained an unfair competitive advantage in proposing and shall be precluded from submitting a proposal in response to this RFP.
- C. After the RFP is issued, any person, firm, corporation, joint venture or partnership, or other interested party that has discussions regarding this RFP with anyone within Metro other than the Contract Administrator may be considered to have gained an unfair competitive advantage. The enclosed Metro Lobby Ordinance, Certification of Conflict Checklist and Metro Code of Conduct shall govern the limits of participation. Non-compliance with these regulations could lead to disqualification. All communications with Metro shall be in accordance with the instruction, COMMUNICATIONS WITH METRO.

IP-18

FILING OF PROTESTS

- A. All Protests must be filed and resolved in a manner consistent with the Metro, "PROTEST INSTRUCTIONS" (available for download at <http://www.metro.net/EBB/protest.pdf>).
- B. Appeals related to a Pre-Qualification Denial must be filed in accordance with the Pre-Qualification Appeal entitled Contractor Pre-Qualification Program (available for download at <http://www.metro.net/EBB/PQA/vprequal.htm>).

END OF INSTRUCTIONS TO PROPOSERS

SUBMITTAL REQUIREMENTS

1.1 GENERAL FORMAT

Proposals shall be prepared single-sided on 8-1/2 x 11" paper (recycled paper preferred) with 1" left, top, bottom and right margins. Typing shall be single spaced and with a minimum font size of ten. The original shall be bound in a three ring binder. Copies may be bound in any other fashion. Use of 11" x 17" fold out sheets for large tables, charts or diagrams is permissible, but should be limited. Elaborate format is not necessary. Do not provide promotional or advertising information.

One original and five copies of the proposal, including all submittal forms, are required. The proposals shall:

- Contain concise written materials that enable the reviewer to clearly understand the Proposer's capabilities;
- Be submitted in multiple volumes as specified below.

1.2 PROPOSAL CONTENT

The proposal shall have the following components and shall be laid out in the format exactly as shown here:

VOLUME I – SECTION 1

PROPOSAL LETTER (see Section 5); this letter must be completed and executed by an authorized representative of the Proposer. No other letter may replace or be included in addition to the Proposal Letter.

EXECUTIVE SUMMARY (maximum of one page)

QUALIFICATIONS OF THE FIRM

1. Firm's history and experience
 - a. Provide historical summary of firm and ownership structure. Provide any significant developments in the organization in the last three years (i.e. reorganization, changes in ownership, etc.)
 - b. Describe the firm's experience performing work of a similar nature to this Statement of Work.
 - c. Summarize the proposer's performance in out-of-home media with supporting financial numbers and charts or graphs
 - d. State ability to secure an Irrevocable Letter of Credit in the amount of 50% of the first year's payments proposed to the LACMTA and 50% in each of the follow on years of the contract.
 - e. Identify and explain any contracts that have been re-negotiated, terminated or cancelled in the past five years.

- f. Identify and explain any delinquent payment performance or any contract that has drawn on a Letter of Credit in the past five years.

2. Organization of Firm (Staffing and Project Commitment)

- a. Provide an organization chart (including sub-contractor personnel – if applicable) that identifies the Project Manager and the other key personnel who comprise the team that will be assigned to this project.
- b. Provide brief resumes and supporting text to explore education, experience, and capabilities of the key members of the team. Resumes may not exceed two pages per resume. Particularly note experience with government agencies.
- c. Include a discussion of other commitments of key personnel and how these commitments will affect their availability for the LACMTA's revenue contract.

NOTE: Any personnel changes after award of contract from the team proposed is grounds for immediate termination of the contract.

MANAGEMENT AND WORK PLAN

- a. Provide a Work Plan approach that clearly demonstrates understanding of the Statement of Work and the context in which it is to be performed.
- b. Identify methods that Proposer will use to insure quality control and performance according to the LACMTA's advertising policies. This includes not only revenue collection and quality of content, but the plan for posting and removal of advertising on Metro buses.
- c. Identify and provide a detailed plan for any innovative approaches to enhance advertising promotions and campaigns.

VOLUME II REVENUE PROPOSAL

VOLUME III CERTIFICATION FORMS

EVALUATION CRITERIA

All proposals resulting from this RFP will be evaluated according to the following criteria and associated weights. Sub-criteria are equally weighted. The criteria for DBE participation is either responsive or non-responsive.

PASS/FAIL (MINIMUM REQUIREMENTS)

Three years experience in management and sale of outdoor/out-of-home advertising is required.

NOTE: Firms not having three years experience will not be further considered.

1. REVENUE 40%

- Highest guaranteed revenue
- Reasonableness of the total revenue in relationship to the RFP and in the best interests of the LACMTA.
- Adequacy of data in support of revenue proposed.

2. QUALIFICATIONS OF FIRM 30%

- Technical experience demonstrated in providing advertising as indicated in the Statement of Work
- Experience working with public agencies
- Strength and stability of firm and subcontractors (if applicable)
- Past Performance (includes reference checks, contract history)
- Ability to obtain Letter of Credit

3. MANAGEMENT AND WORK PLAN 30%

- Demonstrated understanding of the requirements of the Statement of Work
- Detail and logic of Work Plan and Adequacy of labor commitment
- Innovative approaches to maximize revenue

SECTION 4 – BID/PROPOSAL FORMS

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PROPOSAL LETTER

HONORABLE CHAIRMAN AND MEMBERS OF THE BOARD
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
ONE GATEWAY PLAZA
LOS ANGELES, CA 90012-2952

SUBJECT: REQUEST FOR PROPOSAL CONTRACT NO. RFP No. PS12714022
License to Sell and Display Advertising on Metro Buses

In response to the above referenced Request for Proposals (RFP) and in accordance with the accompanying Instructions to Proposers and Submittal Requirements, we the undersigned hereby offer to perform and complete the work as required in the Contract Documents.

If recommended for contract award, will provide to Metro all required Certificates of Insurance.

The proposal submitted in response to subject RFP shall be in effect for 120 days after the proposal due date.

Further, the undersigned agrees to execute the Metro prepared Contract within ten calendar days after receipt of Notice of Award and provide to Metro all required Certificates of Insurance. The Proposer represents that the following person(s) are authorized to negotiate on its behalf with Metro in connection with this RFP and will provide appropriate evidence of authorization upon request:

Printed Name	Title	Phone
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Printed Name	Title	Phone
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Printed Name	Title	Phone
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In addition to the formal certifications provided, the Proposer certifies that it has:

- A. Examined and is fully familiar with all of the provisions of the RFP Documents and any amendment thereto;
- B. Satisfied itself as to the requirements of the Contract;
- C. Carefully reviewed the accuracy of all statements shown in this Proposal;
- D. Examined the experience, skill and certification (if any) requirements specified in the Statement of Work and that the entities (Contractor, Subcontractor, Supplier) performing the work fulfill the specified requirements, and
- E. Satisfied itself with respect to other matters pertaining to the RFP which in any way affect the performance of the Work.

- F. Unless otherwise noted within this letter, the proposal has been submitted without exception and all Metro Contract Terms and Conditions are acceptable to the Proposer. Noted exceptions will be evaluated for responsiveness and significance, and may initiate discussions with the selected firm to clarify or resolve such exceptions. It is understood that if it is not in the best interests of Metro to accept proposed exceptions, notice will be provided to the Proposer to accept the Terms and Conditions as stated in the RFP, or be eliminated for further consideration.

Exceptions (if any):

Therefore, the undersigned hereby agrees that Metro will not be responsible for any errors and/or omissions in the Proposal.

The undersigned acknowledges receipt, understanding and full consideration of the following amendment to the RFP Documents:

Amendment No(s):

The Proposer further certifies that:

- A. The only persons, firms, corporations, joint ventures/partnerships, and/or other parties interested in the Proposal as principals are those listed as such in the Proposal Forms; and
- B. The Proposal is made without collusion with any other person, firm, corporation, joint venture/partnership, and/or other party.
- C. Joint ventures/partnerships are to provide a signed copy of their agreement with their Proposal.

Proposer's
Name: _____

Business
Address: _____

Contractor's License
No.: _____

License Expiration
Date: _____

Classification
Type: _____

Phone: _____ Fax: _____

e-mail address

Signature of Authorized Official

Type or Print
Name

Title

Date

_____ being duly sworn, deposes and says
Name

That he/she is the _____ of _____
Title Company

and that all statements and information contained in the Proposal and made a part of through attachment and/or reference, are true and correct.

Subscribed and sworn before me before this _____ day of _____, 200__.

Notary Public: _____

My Commission expires: _____

BIDDERS LIST FORM

The Los Angeles County Metropolitan Transportation Authority (LACMTA) is required per 49 CFR 26. 11 (c) to create and maintain a comprehensive Bidders List. The Bidders List Form (PRO FORM 132) will be used to determine the relative availability of Disadvantaged Business Enterprise (DBE) and non-DBEs, and will assist with establishing the agency's annual DBE goal. Each Bidders List is a compilation of bidders, proposers, quoters, subcontractors, manufacturers, and suppliers of materials and services who have submitted bids during the advertising period of a specific acquisition. Please provide the following mandatory data:

Part A: Business Data

1. Business Name: _____
2. Business Address:

Street City State Zip
4. County Business is located in: _____
5. Name of Contact Person: _____
6. Phone: () _____ 6. Fax: () _____
7. Email Address: _____
8. Is this business certified as a Disadvantaged Business Enterprise? a. Yes b. No
9. Business Annual Gross Receipts: 10. Age of Business: _____ Years _____ Months
a. Less than \$500,000 b. \$500,000 to \$1,000,000 c. \$1,000,000 to \$2,000,000
d. \$2,000,000 to \$5,000,000 e. Over \$5,000,000

Part B: Project and Work Description

11. RFIQ, IFB, or RFP # _____
12. Project Name: _____
13. Provide brief description of scope of work, services, and/or materials to be performed/furnished:

14. Will you subcontract any of your work? a. Yes * b. No
(* If "Yes," the subcontractor(s) must complete an individual Bidders List Form also.)

Part C: Signature

The undersigned declares that the information set forth on this page is current, complete and accurate.

Authorized Signature: _____ Date: _____
Printed Name: _____ Title: _____

**GUARANTEED FIXED REVENUE PRICE PROPOSAL
RFP PS12714023**

Proposer

	Standard Exterior Bus	Standard Interior Bus	Enhanced Exterior Bus	Wrapped Bus	Total
Year 1	_____	_____	_____	_____	_____
Year 2	_____	_____	_____	_____	_____
Option 1 Year 3	_____	_____	_____	_____	_____
Option 2 Year 4	_____	_____	_____	_____	_____
Option 3 Year 5	_____	_____	_____	_____	_____
TOTAL CONTRACT VALUE	_____	_____	_____	_____	_____

Signed: (print name) Title: Date

Please attach:
Anticipated Rate Cards
Assumed Occupancy Rate

MINIMUM ANNUAL GUARANTEE PLUS REVENUE SHARE PROPOSAL
RFP PS12714023
Page 1 of 2

 Proposer

NOTE: % of Net to LACMTA must be equal to or greater than 65%. Proposer must report monthly according to format provided. _____%

	Estimated Gross Income	Estimated Expenses	Estimated Net	Amt to Metro (____% of net)	Net Amt Retained by Proposer	Minimum Guarantee To Metro
Standard Exterior	_____	_____	_____		_____	
Standard Interior	_____	_____	_____		_____	
Enhanced Exterior	_____	_____	_____		_____	
Wrapped Bus	_____	_____	_____		_____	
Year 1 Total	_____	_____	_____		_____	
Standard Exteriors	_____	_____	_____		_____	
Standard Interiors	_____	_____	_____		_____	
Enhanced Exterior	_____	_____	_____		_____	
Wrapped Bus	_____	_____	_____		_____	
Year 2 Total	_____	_____	_____		_____	
Standard Exteriors	_____	_____	_____		_____	
Standard Interiors	_____	_____	_____		_____	
Enhanced Exterior	_____	_____	_____		_____	
Wrapped Bus	_____	_____	_____		_____	
Option 1 Year 3 Total	_____	_____	_____		_____	
Standard Exteriors	_____	_____	_____		_____	
Standard Interiors	_____	_____	_____		_____	
Enhanced Exterior	_____	_____	_____		_____	
Wrapped Bus	_____	_____	_____		_____	
Option 2 Year 4 Total	_____	_____	_____		_____	

SECTION 5 – REQUIRED CERTIFICATIONS

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ETHICS DECLARATION

- A. The following questions are designed to ensure contractors and Metro, including its employees and Board of Directors, are able to comply with their obligations to avoid conflicts of interest issues. Your company should make or cause to be made a reasonably diligent investigation prior to responding to the questions to ensure your responses are correct and you must have an authorized official sign below where indicated.

The authorized official is responding on behalf of your company and your sub-contractors and other persons and entities that your company or its subsidiaries have designated to perform the work requested in the bid/proposal.

An affirmative response to any of the questions will not automatically cause your company to be disqualified. However, failure to answer the questions in good faith or providing material false answers may subject your company to consequences up to and including disqualification of its bid.

If you have any questions please contact the contract administrator assigned to this procurement.

- B. State the names of your company’s parent, all subsidiaries, and “related business entities” as that term is defined in California Code of Regulations 18703.1(d). If none, circle “none” under each category below:

Name of parent: (none)

Name of subsidiaries (use additional sheet if necessary): (none)

Name of related businesses (use additional sheet if necessary) (none)

Questions	Yes/No
1. Are any of your employees, officers, shareholders, partners, or directors (including your and those of your subcontractors’ and consultants’ collectively “Employees”) formerly a Metro board member or employee within the previous 12 months?	
2. Are any of your Employees related to any Metro board member or employee?	
3. Are any of your Employees also Metro board members or employees?	
4. Do any Metro board members or employees own any stock in your company, or that of your consultants or subcontractors?	
5. Have you or Employees given any gifts within the previous 12 months to a Metro board member or employee?	

Questions	Yes/No
6. Have you, your Employees or their family members of your parent, subsidiaries and relate business entities as stated above, made any campaign contributions any present Metro Board Member or employee in the past four years?	
7. Have you employed or do you intend to employ as a lobbyist any former Metro board member or employee who has left Metro within the last twelve months?	
8. Did you or you Employees receive any confidential information concerning this contract?	
9. Did you or any of your Employees perform work within the last 3 years relating to the project or services contemplated to be performed under this contract, including development of the specifications or earlier phases of the project or services to be provided under this contract?	
	No. of Pages Attached
10. If you answered "yes" to any question 1 through 9 above, explain in detail on a separate sheet the facts and information, including names, dates, amounts, and other circumstances relevant to the question.	

You have read and shall abide by Metro Code of Conduct for Contractors at all times during your relationship with Metro. Your consultants and subcontractors you retain (if any) to perform any services under the contract you are seeking have or will promptly upon your hiring of those persons, shall read and abide by Metro Code of Conduct for Contractors. You have read and will continually remain in compliance with Metro Lobby Ordinance.

C. **DECLARATION**

I, (name) _____, on behalf of (name of bidder/proposer) including its subcontractors and consultants, _____ at which I am employed as (your title) _____, declare that after having made or caused to be made a reasonably diligent investigation both regarding my company and all sub-contractors and consultants designated by the above bidder/proposer, the foregoing responses, and the explanation on the attached sheet, if any, in response to question 10, are correct to the best of my knowledge and belief.

Signature

Date

GENERAL CERTIFICATIONS

The Bidder/Proposer shall respond either "Yes" or "No" to each of the following where indicated. If the Bidder/Proposer's response is "No", a full explanation shall be provided in the space following the last item.

1.0 CERTIFICATE OF NONDISCRIMINATION

Yes No

The Bidder/Proposer hereby certifies: that it does not unlawfully discriminate against any employee or applicant for employment with regard to race, sex, color, religion, ancestry, national origin, marital status, age (over 40), or disability (including AIDS, and cancer-related medical condition); that it is in compliance with all applicable Federal, state, and local directives and executive orders regarding nondiscrimination in employment; and that it agrees to pursue positively and aggressively the principle of equal opportunity in employment. The Bidder/Proposer and its Subcontractors shall comply with the provisions of the Fair Employment and Housing Act Gov. Code § 12900 and the applicable regulations promulgated thereunder. The Bidder/Proposer agrees specifically to adhere to the following:

- A. Establish and observe employment policies that actively promote opportunities for minority persons and women at all job levels.
- B. Communicate this policy to all company employees, outside recruiting services, especially those serving minority communities and women, and minority communities and women at large.
- C. State in all solicitations or advertisements for employees that the Bidder/Proposer will consider all qualified applicants for employment without regard to race, sex, color, religion, ancestry, national origin, marital status, age (over 40), or disability (including AIDS, and cancer-related medical condition).

2.0 AFFIRMATIVE ACTION

Yes No

The Bidder/Proposer certifies that it and those Subcontractors with subcontracts in excess of ten thousand dollars (\$10,000) are maintaining Affirmative Action Programs consistent with those required under Federal Executive Order 11246. The detailed requirements are set forth in the Contract Compliance Manual.

3.0 FRAUDULENT USE OF DBE FRONTS

Yes No

Only legitimate DBE's are eligible to participate in Metro contracts as DBEs. The Bidder/Proposer certifies that it has not knowingly and willfully used "fronts" as defined in section 100.6 of Metro's Contract Compliance Manual (Federal) to meet the Disadvantaged Business Enterprise Anticipated Level of Participation (DALP). The use of "fronts" and "pass through" Subcontracts to non-disadvantaged firms may constitute a criminal violation¹.

4.0 WHISTLEBLOWER REQUIREMENTS

Yes No

The Bidder/Proposer certifies that it will take no action, or adopt any rule, regulation or policy which is contrary to the provisions set forth in California Labor Code § 1101.

A full explanation of all "No" answers shall be provided below.

Bidder/Proposer hereby declares under the penalty of perjury under the laws of the State of California that the certifications made above in No. 1-4 are true and correct.

Executed on _____, 20____, at _____, _____
(Date) (City) (State)

Typewritten or Printed Name	Signature of Authorized Official	Title
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¹ Any indication of fraud, waste, abuse, or mismanagement of these funds should be immediately reported to the Metro Small Business Diversity and Labor Compliance Office, at (213) 922-6000; the Metro Inspector General Office at (213) 344-7300 or the toll free hotline number (800) 221-1142; or to the Office of Inspector General, U.S. Department of Transportation at the toll-free hotline number (800) 424-9071; or to the following field office: 201 Mission Street, Suite 2210; San Francisco, CA 94105-1926; (415) 744-3133.

**CERTIFICATE OF COMPLIANCE WITH 49 CFR PART 655,
PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE IN
TRANSIT OPERATIONS**

Bidder/Proposer hereby certifies that:

A. Anti-drug Use and Alcohol Misuse Program

(Choose one Alternative with "X" in the box)

1. Bidder/Proposer has established and implemented an anti-drug use and alcohol misuse program meeting the requirements on 49 CFR 655.

OR

2. Bidder/Proposer will establish and implement an anti-drug use and alcohol misuse program meeting the requirements on 49 CFR 655 prior to contract award.

B. Drug and Alcohol Testing Program

(Choose one alternative with "X" in the box)

1. To the best of my knowledge and belief the Work required under the Contract will not require the performance of "Safety Sensitive Functions" as defined in 49 CFR Part 655.

OR

2. To the best of my knowledge and belief the Work required under the Contract will require the performance of "Safety Sensitive Functions" as defined in 49 CFR Part 655.

(If Alternative 2 was chosen, select one of the following alternatives with an "X" in the box)

- a. Bidder/Proposer has established and implemented a drug and alcohol testing program that complies with 49 CFR Part 655.

OR

- b. Bidder/Proposer will establish and implement a drug and alcohol testing program that will comply with 49 CFR Part 655 prior to contract award.

C. Submittals

Bidder/Proposer will submit its Anti-drug Use and Alcohol Misuse Program, and, if B.2 was marked above, its Drug and Alcohol Testing Program, to Metro for review and approval prior to contract award.

Bidder/Proposer: _____

Authorized Representative: _____

Signature of Authorized Representative: _____

Title: _____

Date: _____

BIDDER/PROPOSER: _____

**BUY AMERICA CERTIFICATE
FOR COMPLIANCE WITH TITLE 49 USC § 5323(J)(1)
(For Procurement of Steel, Iron, or Manufactured Products)**

A.

The Bidder/Proposer hereby certifies that it will comply with the requirements of Title 49 USC § 5323(j)(1) and the applicable regulations in 49 CFR Part 661.

Executed on _____, 20____, at _____, _____
(Date) (City) (State)

Typewritten or Printed Name	Signature of Authorized Official	Title
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BUY AMERICA CERTIFICATE FOR NON-COMPLIANCE WITH TITLE 49 USC §. 5323(J)(1)

The Bidder/Proposer hereby certifies that it cannot comply with the requirements of Title 49 USC § 5323(j)(1), but it may qualify for an exception pursuant to Title 49 USC § 5323(j)(2)(B) or (j)(2)(D) and the regulations in 49 CFR 661.7.

Executed on _____, 20____, at _____, _____
(Date) (City) (State)

Typewritten or Printed Name	Signature of Authorized Official	Title
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BIDDER/PROPOSER: _____

**BUY AMERICA CERTIFICATE
FOR COMPLIANCE WITH TITLE 49 USC § 5323(J)(2)(C)
(For Procurement of Buses, Other Rolling Stock and Associated
Equipment)**

B.

The Bidder/Proposer hereby certifies that it will comply with the requirements of Title 49 USC § 5323(j)(2)(C) and the applicable regulations at 49 CFR Part 661.

C.

Executed on _____, 20____, at _____, _____
(Date) (City) (State)

Typewritten or Printed Name

Signature of Authorized
Official

Title

BUY AMERICA CERTIFICATE FOR NON-COMPLIANCE WITH TITLE 49 USC § 5323(j)(2)(C)

The Bidder/Proposer hereby certifies that it cannot comply with the requirements of Title 49 USC § 5323(j)(2)(C), but may qualify for an exception pursuant to Title 49 USC § 5323(j)(2)(B) or (j)(2)(D) and the regulations in 49 CFR Part 661.7.

Executed on _____, 20____, at _____, _____
(Date) (City) (State)

Typewritten or Printed Name

Signature of Authorized
Official

Title

BIDDER/PROPOSER: _____

CERTIFICATION OF COMPLIANCE WITH FEDERAL LOBBYING REQUIREMENTS (49 CFR PART 20)

To be submitted with each Bid/Proposal or offer of Bidder/Proposer exceeding \$100,000

The _____ (Bidder/Proposer) certifies to the best of its knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency; a member of Congress, an officer or employee of Congress, an employee of a member of Congress; or any Board member or employee of Metro in connection with the awarding of any federal contract; any federally funded contract; or the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any federal contract, federally funded contract grant, loan or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts, or influencing or attempting to influence; an officer or employee of any agency; a member of Congress; an officer or employee of Congress; an employee of a member or Congress or a Board member or employee of Metro in connection with this federally funded contract, grant, loan, or cooperative agreement, the undersigned shall register and comply with all federal disclosure requirements.
3. The undersigned shall require that the language of this certification be included in the solicitation and award documents for all subawards at all tiers including but not limited to subcontracts, subgrants and contracts under grants, loans and cooperative agreements and that all subrecipients 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 Title 31 USC § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any offeror who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed on _____, 20____, at _____, _____
(Date) (City) (State)

Typewritten or Printed Name

Signature of Authorized
Official

Title

RESTRICTIONS ON LOBBYING

(a) Definitions, as used in this clause:

Agency as defined in Title 5 USC § 552(f), includes federal executive departments and agencies as well as independent regulatory commissions and government corporations, as defined in Title 31 USC § 9101(1).

Metro means the Los Angeles County Metropolitan Transportation Authority.

Covered Federal action means any of the following federal actions:

1. The awarding of any federal contract;
2. The making of any federal grant;
3. The making of any federal loan;
4. The entering into of any cooperative agreement, and
5. The extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

Covered federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

Indian tribe and **tribal organization** have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act Title 25 USC § 450(b). Alaskan Natives are included under the definitions of Indian tribes in that Act.

Influencing or attempting to influence means making, with the intent to influence, any communication to or appearance before 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 covered federal action.

Local government means a unit of government in a state and, if chartered, established, or otherwise recognized by a state for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

Officer or employee of an agency includes the following individuals who are employed by an agency:

1. An individual who is appointed to a position in the government under Title 5, USC, including a position under a temporary appointment;
2. A member of the uniformed services as defined in Title 37 USC § 101(3);
3. A special government employee as defined in, Title 18 USC § 202; and,
4. An individual who is a member of a federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5 USC Appendix 2.

Person means an individual, corporation, company, association, authority, firm, partnership, society, state, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization,

or any other Indian organization with respect to expenditures specifically permitted by other federal law.

Reasonable compensation means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the federal government.

Reasonable payment means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

Recipient includes all contractors and subcontractors at any tier in connection with a federal contract. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other federal law.

Regularly employed means, with respect to an officer or employee of a person requesting or receiving a federal contract, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 days.

State means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a state, and a multi-state, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

(1) Title 31 USC § 1352 provides in part that 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.

(2) The prohibition does not apply as follows:

(i) Agency and legislative liaison by Own Employees.

(A) The prohibition on the use of appropriated funds, in paragraph (b) (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a federal

contract if the payment is for agency and legislative liaison activities not directly related to a covered federal action.

- (B) For purposes of paragraph (b) (2) (i) (A) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.
 - (C) For purposes of paragraph (b) (2) (i) (A) of this section, the following agency and legislative liaison activities are allowable at anytime only where they are not related to a specific solicitation for any covered federal action:
 - (1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the persons products or services, conditions or terms of sale, and service capabilities, and
 - (2) Technical discussions and other activities regarding the application or adaptation of the persons products or services for an agency's use.
 - (D) For purposes of paragraph (b) (2) (i) (A) of this section, the following agency and legislative liaison activities are allowable only when they are prior to formal solicitation of any covered federal action:
 - (1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered federal action;
 - (2) Technical discussions regarding the preparation of an unsolicited proposal prior to official submission, and
 - (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
 - (E) Only those activities expressly authorized by paragraph (b) (2) (i) of this section are allowable under paragraph (b) (2) (i).
- (ii) Professional and technical services by Own Employees.
- (A) The prohibition on the use of appropriated funds, in paragraph (b) (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a federal contract or an extension, continuation, renewal, amendment, or modification of a federal contract if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal or application for that federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that federal contract.
 - (B) For purposes of paragraph (b) (2) (ii) (A) of this section professional and technical services shall be limited to advice and analysis directly applying any

professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her clients proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered federal action.

(C) Requirements imposed by or pursuant to law as a condition for receiving a covered federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(D) Only those services expressly authorized by paragraph (b) (2) (ii) of this section are allowable under paragraph (b) (2) (ii).

(iii) Reporting for Own Employees.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

(iv) Professional and technical services by Other than Own Employees.

(A) The prohibition on the use of appropriated funds, in paragraph (b) (1) of this section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that federal contract.

(B) For purposes of paragraph (b) (2) (iv) (A) of this section professional and technical services shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability

of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered federal action.

- (C) Requirements imposed by or pursuant to law as a condition for receiving a covered federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (D) Persons other than officers or employees of a person requesting or receiving a covered federal action include consultants and trade associations.
- (E) Only those services expressly authorized by paragraph (b) (2) (iv) of this section are allowable under paragraph (b) (2) (iv).

(c) Disclosure.

- (1) Each person who requests or receives from Metro a contract with federal assistance shall file with Metro a certification, set forth in Bid/Submittal Form entitled FEDERAL LOBBYING CERTIFICATION, that the person has not made, and will not make, any payment prohibited by paragraph (b) of this clause.
- (2) Each person who requests or receives from Metro a contract with federal assistance shall file with Metro a disclosure form, Standard Form-LLL, Disclosure of Lobbying Activities, 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 (b) of this clause if paid for with appropriated funds.
- (3) 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 paragraph (c) (2) of this section. An event that materially affects the accuracy of the information reported includes:

- (i) 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
 - (ii) A change in the person(s) or individual(s) influencing or attempting to influence a covered federal action; or,
 - (iii) A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered federal action.
- (4) Any person who requests or receives from a person referred to in paragraph (c) (1) of this section a subcontract with a contract value exceeding \$100,000 at any tier under a contract with federal assistance shall file a certification, and a disclosure form, if required, to the next tier above. All disclosure forms shall be forwarded from tier to tier until received by the Prime Contractor who will forward it to Metro.

EXHIBIT 1

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____, hereby certify on behalf of
(Name and title of contracting or sub-contracting official)

_____ that:
(Name of contractor or subcontractor)

- (1) No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 USC § 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.

Executed this _____ day of _____, 20_____.

By: _____
(Signature of Authorized Official)

(Typewritten or Printed Name)

(Title of Authorized Official)

EXHIBIT 2

DISCLOSURE OF LOBBYING ACTIVITIES INSTRUCTIONS FOR COMPLETION OF SF-LLL

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient, at the initiation of receipt of a covered federal action, or a material change to a previous filing, pursuant to Title 31 USC § 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime if the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks Subawardee, then enter the full name, address, city, state and zip code of the prime federal recipient. Include the Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program, name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identified in item 1 (e.g. Request for Proposal (RFP) number, Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the federal agency). Include prefixes, e.g., RFP-DE-90-001.
9. For a covered federal action where there has been an award or loan commitment by the federal agency, enter the federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box (es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the dates of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with federal officials. Identify the federal official(s) or employee(s) contacted or the officer(s), employee(s), or member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (03-46-00046). Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to Title 31 USC § 1352
(See reverse for public burden disclosure.)

<p>1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post award</p>	<p>3. Status of Federal Action: <input type="checkbox"/> a. initial change <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____</p>
<p>4. Name and Address of Reporting Entity <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known:</p>	<p>5. If Reporting Entity in No. 4 is subawardee. Enter name and Address of Prime: Congressional District, if known:</p>	
<p>6. Federal Department/Agency: Department of Transportation Federal Transit Administration</p>	<p>7. Federal Program Name/Description: CFDA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known: \$ _____</p>	
<p>10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): attach continuation sheet(s) SF-LLL-A if necessary</p>	<p>b. Individuals Performing Services (including address if different from No. 10.a) (last name, first name, MI): attach continuation sheet(s) SF-LLL-A if necessary</p>	
<p>11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned</p>		
<p>12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____</p>	<p>13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify _____</p>	
<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employer(s), or member(s) contacted, for Payment indicated in Item 11:</p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No</p>		
<p>16. Information requested through this form is authorized by Title 31 USC § 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>		<p>Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____</p>
<p>Federal Use Only:</p>		<p style="text-align: right;">Authorized for Local Reproduction Standard Form - LLL</p>

**DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET**

Reporting Entity: _____ Page _____ of _____

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