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**LOS ANGELES COUNTY TRANSPORTATION COMMISSION
LONG BEACH - LOS ANGELES RAIL TRANSIT PROJECT**

RECEIVED

JAN 12 1989
F. J. ...
DEPARTMENT

**CONTRACT DOCUMENTS
PORTABLE LRV JACKS, LRV BODY SUPPORTS
AND ELECTRIC LIFT PLATFORMS
CONTRACT NO. R01-T02-P0861**

JANUARY 1989

**INDUSTRY
REVIEW**

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Prepared for the
Los Angeles County Transportation Commission
by
Transit Consultants of Southern California

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LOS ANGELES COUNTY TRANSPORTATION COMMISSION

CONTRACT R01-T02-P0861

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LOS ANGELES COUNTY TRANSPORTATION COMMISSION

LETTER OF INVITATION

CONTRACT NO. R01-T02-P0861

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

LETTER OF INVITATION

INVITATION FOR BID (IFB) NO. R01-T02-P0861

TBD

Attention: Bidder(s)
Subject: The Long Beach-Los Angeles Rail Transit Project
Design and Furnish Portable LRV Jacks, LRV Body Supports and
Electric Lift Platforms

Notice is hereby given that the Los Angeles County Transportation Commission (the "Commission") will receive sealed proposals/bids for the above described contract (the "Contract"). You are invited to submit a proposal/bid for furnishing labor, supervision, materials, tools, services, taxes, and equipment for the performance of the Contract and to start Work approximately TBD. The bidding process and terms and conditions will be in strict accordance with the following Bid Documents:

- Letter of Invitation
- Instructions to Bidders
- Proposal/Bid Requirements
- Form of Contract
- Part - "A" (Specifications - Technical Provisions)
- Part - "B" (General Conditions)
- Part - "C" (Special Provisions)
- Part - "D" (Compensation & Payment Provisions)
- Part - "E" (Affirmative Action/Labor Compliance)

Bidder(s) proposal/bid must be submitted to the Commission on the PROPOSAL/BID REQUIREMENTS FORMS available at the Commission's offices as part of the bid documents. Section 4 need not be completed if Bidder has submitted, within twelve months, a Contractor's Information Statement which was approved by the Commission. The nonrefundable purchase price for the Bid Documents picked up at the Commission's offices is \$80.00 and \$100.00 if documents are to be mailed by the Commission. Contractors may defray mailing costs by submitting their company's express mail form along with a check for \$80.00 to the Commission. Requests for mailing of documents must be received no later than TBD. Bids must be accompanied by a certified or cashier's check, or bid bond in favor of the Commission in an amount not less than ten percent (10%) of the Total Bid Price.

An original of your proposal/bid, using the Proposal/Bid Requirements Forms and including all information required by the Bid Documents must be addressed and delivered to the Commission's offices at the following address, which is the address to be used for all communications in connection with this Invitation or your Bid:

Albert V. Scala, Manager, Contracts
Los Angeles County Transportation Commission
403 West 8th Street, Suite 500
Los Angeles, CA 90014-3096
Attention: Linda Ford McCaffrey

All proposals/bids must be in writing, sealed in the specially marked envelope contained in the Bid Documents, and be received no later than 2:00 p.m. on TBD. All proposals/bids received will be publicly opened, examined and read aloud in the Commission's offices. Proposals/bids received later than the above date and time will be rejected and returned to the bidder unopened. Partial or incomplete proposals/bids or bids on other than the Proposal/ Bid Requirements Forms will not be considered.

Proposals/bids shall be valid for ninety (90) days after the final date for receipt shown above.

A Pre-Bid Conference will be held on TBD, at 10:00 a.m., in the Main Conference Room on the 7th floor of the Commission's offices. Questions regarding this invitation should be referred to Linda Ford-McCaffrey, the Contracts Officer for this Contract, who may be reached at (213) 236-9481, or at the Commission's address.

The successful bidder will be required to furnish, prior to award of the Contract, a Performance Bond in the amount of fifty percent (50%) of the Total Bid Price, in the form attached to this Letter of Invitation.

The Commission reserves the right to reject any or all proposals/bids, to waive any informality or irregularity in any proposal/bid received, and to be the sole judge of the merits of the respective proposals/bids received. The award, if made, will be made to the lowest responsible bidder whose proposal/bid is responsive to the Invitation For Bid.

The Commission affirmatively assures that Disadvantaged and Women-Owned Business Enterprises will be afforded full opportunity to submit proposals/bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, sex or national origin in consideration for an award.

Albert V. Scala
Manager, Contracts
Los Angeles County
Transportation Commission

Date

_____ Approved to issue for bids.
Ed McSpedon
Director, Design & Construction
Long Beach - Los Angeles
Rail Transit Project

Date

LTR.INV/V1
P0861

LOI-2

Contract No. R01-T02-P0861
01.13.9

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PERFORMANCE BOND

CONTRACT NO. R01-T02-P0861

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

CONTRACT NO. R01-T02-P0861

PERFORMANCE BOND

Note: This form is included for reference only and will be required to be executed by the Bidder to whom the Contract is awarded.

WHEREAS the Los Angeles County Transportation Commission ("Commission") has awarded to _____ ("Principal"), Contract No. R01-T02-P0861 consisting of, but not limited to:

Design and Furnish Portable LRV Jacks, LRV Body Supports and Electric Lift Platforms

WHEREAS, Principal is required under the terms of the Contract to furnish a bond for the faithful performance of the Contract;

NOW, THEREFORE, we _____, as Principal and _____ ("Surety"), as Surety, are held and firmly bound unto the Commission in the sum of _____

(use words)

Dollars (\$_____), this amount being not less than fifty percent (50%) (figures)

the Total Contract Price, in lawful money of the United States of America, for payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. In case suit is brought upon this bond, Surety will pay reasonable attorneys' fees to the Commission in an amount to be fixed by the court.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by and well and truly keep and perform all the undertakings, terms, covenants, conditions and agreements in the Contract and any alteration thereof, made as therein provided, all within the time and in the manner therein designated and in all respects according to their true intent and meaning, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

FURTHER, Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or modification of the Contract, or of the Work to be performed thereunder, shall in any way affect its obligations under this bond, and it does hereby waive notice of any such change, extension of time, alteration or modification of the Contract or of the Work to be performed thereunder.

IN WITNESS WHEREOF, three (3) identical counterparts of this instrument, each of which shall for all purposes be deemed an original hereof, have been duly executed by Principal and Surety named herein, on the ____ day of _____, 198__, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

By _____
("Principal")

By _____
("Surety")

By _____

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

INSTRUCTIONS TO BIDDER(S)

CONTRACT NO. R01-T02-P0861

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

INSTRUCTIONS TO BIDDER(S)

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LOS ANGELES COUNTY TRANSPORTATION COMMISSION

INSTRUCTIONS TO BIDDER(S)

I-1.0 EXAMINATION OF BID DOCUMENTS

Copies of the Bid Documents and Drawings will be available for examination and/or purchase at the Commission offices daily between the hours of 9:00am-4:30pm. Bidder shall be solely responsible for examining, with appropriate care, the Bid Documents, including any Addenda issued during the bidding period, and for informing itself with respect to any and all conditions which may in any way affect the amount or nature of Bidder's proposal/bid, or the performance of the Work in the event Bidder is a successful Bidder. Failure of Bidder to so examine and inform itself shall be at its sole risk and no relief for error or omission will be given.

I-2.0 INTERPRETATION OF BID DOCUMENTS

Bidder may request of the Commission in writing during the bid period clarification or interpretation of the Bid Documents. Any interpretation or clarification must be submitted to the Commission at or prior to the Pre-Bid Conference. Where such interpretation or clarification requires a change in the Bid Documents, the Commission will prepare and issue an Addendum to the Bid Documents. The Commission shall not be bound by and Bidder shall not rely on any oral interpretation or clarification of the Bid Documents.

I-3.0 PRE-BID CONFERENCE

The Commission will conduct a Pre-Bid Conference where, in the opinion of the Commission, such a Conference will be of material benefit to Bidder in preparing its proposal/bid. Notification of a Pre-Bid Conference will be as indicated in the Letter of Invitation or as may be communicated to Bidder during the bid period. Each and every Bidder will be invited to attend Pre-Bid Conference. The decision of the Commission not to hold a Pre-Bid Conference shall not relieve Bidder of its sole responsibility for informing itself with respect to any and all conditions as required by I-2.0 hereof.

I-4.0 ADDENDA

The Commission reserves the right to revise the Bid Documents up to the time set for opening the proposals/bids. Such revisions, if any, shall be announced by Addenda to this Invitation. Copies of such Addenda shall be furnished, without additional charge, to all those who have previously purchased the Bid Documents.

If the Addenda require changes in the Schedule of Prices and Quantities, the date set for opening proposals/bids may be postponed by such number of days as in the opinion of the Commission shall enable bidders to revise their bids. The announcement of such new date, if any, shall be included in the Addenda. In any event, the opening of proposals/bids shall not take place within five (5) working days after the issuance of the last Addendum.

Bidders must acknowledge receipt of all Addenda to the Bid Documents in its Proposal Letter. Failure to acknowledge receipt of Addenda may cause the proposal/bid to be deemed nonresponsive to the Invitation For Bid.

I-5.0 PREPARATION OF PROPOSAL (BID)

Bidder's proposal/bid shall be prepared using copies of the Proposal/Bid Data Forms from the Proposal/Bid Requirements provided with the Bid Documents, or on photocopies of such Forms. Bidder's Proposal/Bid Letter shall be executed by an authorized signatory as described in I-8.0, "Signing of Proposal (Bid)". In addition, Bidder shall fill in all blank spaces and initial all interlineations, alterations, or erasures to the Schedule of Prices and Quantities. Bidders shall not delete, modify, or supplement the printed matter on the Forms or make substitutions thereon.

All proposals/bids shall be prepared by and at the expense of Bidder.

I-6.0 MODIFICATIONS AND ALTERNATIVE PROPOSALS (BIDS)

Bidder shall submit a base proposal/bid in strict conformity with the requirements of the Bid Documents. Each proposal/bid prepared by Bidder shall be complete in itself and shall be submitted within a sealed Bid envelope in accordance with the "Submission of Proposal (Bid)" instruction herein.

Unauthorized conditions, limitations or provisions attached to a proposal/bid will render it informal and may cause its rejection. Bidders shall not delete, modify, or supplement the printed matter on the Forms or make substitutions thereon. Alternative proposals/bids will not be considered unless specifically requested. Oral, telegraphic or telephonic proposals/bids or modifications will not be considered.

I-7.0 SIGNING OF PROPOSAL (BID)

Each proposal/bid submitted by Bidder shall be executed by Bidder or by its authorized representative. Where the Bidder is a Corporation, it shall provide satisfactory evidence of its legal status and good standing to do intrastate business in California. In addition, Bidder shall provide evidence in the form of an authenticated resolution of the board of directors and a power of attorney evidencing the capacity of the person signing the proposal/bid to bind Bidder to each proposal/bid and to any Contract arising therefrom. The Corporate Seal shall be affixed to the proposal/bid.

If Bidder is a joint venture or partnership, it shall submit with its proposal/bid an authenticated power of attorney executed by each venturer or partner appointing and designating one of the venturers or partners as a Management Sponsor to execute the proposal/bid on behalf of Bidder, to act for and bind Bidder in all matters relating to the proposal/bid and in particular providing that each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of Bidder assumed under the proposal/bid and under any Contract arising therefrom. The proposal/bid shall be executed by the Management Sponsor on behalf of the joint venture or partnership in its legal name.

I-8.0 BID GUARANTEE

Each Bidder shall submit with its proposal/bid an unconditional certified or cashier's check, or bid bond, in the amount of ten percent (10%) of its Total Bid Price, payable to the Commission, as a guarantee that the Bidder will, if its bid is accepted, execute a Contract and furnish a satisfactory Performance Bond and insurance certificates as specified herein. No proposal/bid will be considered unless accompanied by check or bond in such amount.

After the proposals/bids have been opened, the Commission will promptly return to all but the three lowest bidders the checks or bid bonds submitted with their respective bids. If the Commission rejects all bids, it will promptly return to all bidders their bid guarantee.

Once the Commission has made an award to the successful Bidder and the Bidder has signed a Contract and submitted the necessary bonds and original insurance certificates, the remaining bid guarantees shall be returned.

If a Bidder to whom the award is made fails or refuses to sign a Contract or to furnish the required bonds and certificates, the funds represented by said check or bid bond shall be forfeited and become and remain the property of the Commission; the amount thereof being agreed to by the Bidder and the surety due the Commission because of the delay in the execution of the Contract and in the performance of Work thereunder, resulting from such failure or refusal.

A bid bond must be obtained from a corporate surety authorized to do business as such in the State of California and should be on the form furnished by the Commission or, with the Commission's prior written approval, on one substantially in conformance with it. Certified or cashier's checks must be drawing on a solvent state or national bank or branch thereof in the State of California. The liability of the Commission in connection with such checks or bonds shall be limited to the return of the checks to the Bidder after all acts, for the performance of which said security is required, have been fully performed.

I-9.0 PERFORMANCE BOND REQUIREMENTS

The Bidder to whom a Contract is awarded shall deliver to the Commission prior to execution of the Contract by the Commission and prior to commencing Work three (3) identical counterparts of the Performance Bond in the form supplied by the Commission. The bonds shall be executed as surety by a corporation acceptable to the Commission and authorized to issue such bonds in the jurisdiction where the Contract is to be performed. Such Performance Bond shall be for fifty percent (50%) of the Total Bid Price.

I-10.0 WITHDRAWAL OF PROPOSAL (BID)

A proposal/bid may be withdrawn by the Bidder by means of a written request signed by the Bidder or its properly authorized representative. Such written request must be delivered to the place stipulated in the Letter of Invitation for receipt of proposals/bids prior to the scheduled closing time for receipt of bids. The withdrawal of a proposal/bid does not prejudice the right of a Bidder to file a new proposal/bid. No proposal/bid may be withdrawn after the time fixed for opening bids.

I-11.0 SUBMISSION OF PROPOSAL (BID)

Each proposal/bid submitted by Bidder shall be delivered to the Commission in a sealed bid envelope provided by the Commission with the Bid Documents, or a package to which has been affixed a sealed bid label. Failure to use the sealed envelope may result in an inadvertent opening of the proposal/bid before the time and place for opening of proposals/bids. Bidder shall be entirely responsible for any action, including disqualification of the proposal/bid, which results from such inadvertent opening.

I-12.0 DELIVERY AND OPENING OF PROPOSAL (BID)

Proposals/Bids will be received by the Commission at the address shown in the Letter of Invitation up to the date and time shown therein. It is the Bidder's sole responsibility to see that its proposal/bid is received as stipulated. Proposals/ Bids will be opened by the Commission at the date and time stated in the Letter of Invitation. The Commission will leave unopened any proposal/bid received after the date and time for receipt of proposals/bids. Any such unopened proposal/bid will be returned to Bidder.

Proposals/Bids will be opened in random order and the amount of each proposal/bid will be read out and recorded. Bidder may if it wishes attend the opening of proposals/bids at the Commission offices.

The Commission reserves the right to waive any informality in any proposal/bid where such waiver is in the interest of the Commission.

I-13.0 DISCREPANCIES IN PROPOSALS (BIDS)

In the event there is more than one proposal/bid item in a Schedule of Prices and Quantities, the Bidder shall furnish a price for all proposal/bid items in the Schedule, and failure to do so will render the proposal/bid informal and may cause its rejection. The Bidder shall state in figures the specific sum(s), as the case may be, for which it proposes to supply the labor, materials, supplies, and completely perform the Contract. The total amount of each item bid, if applicable, and the total amount of the proposal/bid shall be stated in figures.

If the unit prices and the total amount named by a Bidder for any items are not in agreement, the unit price alone will be considered as representing the Bidder's intention and the total will be corrected to conform thereto.

I-14.0 SAFETY AND LAW VIOLATION

Each Bidder shall complete, under penalty of perjury, the Safety and Law Declaration which describes the Bidder's industrial safety record and inquires whether the Bidder, any officer of the Bidder, or any employee with a proprietary interest in the Bidder has ever been disqualified, removed or otherwise prevented from bidding on or completing a federal, state or local government project because of a violation of a law or safety regulation.

I-15.0 DISQUALIFICATION OF BIDDERS

A person, firm or corporation shall NOT be allowed to make or file, or to be interested in, more than one bid, except when an alternative bid has specifically been requested; provided, however, that a person, firm or corporation which has submitted a sub-bid to a Bidder submitting a bid, or which has quoted prices on materials to such Bidders, is not thereby disqualified from submitting a sub-bid or from quoting prices to other Bidders submitting bids, or from submitting a bid as a prime Contractor.

I-16.0 BASIS OF AWARD

The Commission shall award a Contract to the lowest responsible Bidder, within ninety (90) days after the Bid Opening, provided that, in the Commission's judgment, such proposal/bid is responsive in all respects to the Invitation For Bid.

The Commission reserves the right to reject any or all proposals/bids. The Commission may reject any proposal/bid which, in the opinion of the Commission, is so unbalanced that the prices quoted for the items in the Schedule of Prices and Quantities do not accurately reflect the cost to perform the Work covered by the respective items.

In selecting the lowest responsible bidder, consideration will be given to the general competency of the Bidder for the performance of the Work. To receive favorable consideration, a Pre-Award Survey may be conducted to determine whether the Bidder fully understands the Specifications and has proposed equipment that will conform thereto; that it successfully performed similar work of comparable magnitude and that it or its associates are personally competent to manage the proposed undertaking and to carry it forward to a successful conclusion. As part of the Pre-Award Survey, the Bidder should be prepared to discuss: (1) proposed system configuration including all major components and test equipment; (2) all anticipated interfaces to equipment/facilities furnished by others; (3) manuals and catalog preparation for maintenance purposes. In addition, professional integrity, and a showing of adequate financial resources will be required to determine whether a Bidder is competent to undertake the proposed Work.

All Bidders shall submit exact make and model numbers for equipment proposed for each bid item. Bidders are requested to supply literature which details the proposed equipment. All proposed equipment must meet or exceed the technical requirements or the Bidder may be declared non-responsive.

The successful Bidder will be notified of acceptance of its proposal/bid by the issue of a Letter of Award as soon as practicable after the opening and evaluation of proposals/bids.

The Commission will prepare formal Contract Documents for execution within a reasonable time of issuing a Letter of Award. The Commission will advise the successful Bidder of a proposed date and time for executing the formal Contract Documents. Bidder shall execute the Contract Documents in the same manner as for the proposal/bid provided for in I-7.0 hereof.

I-17.0 INSURANCE REQUIREMENTS

At the time of Proposal/Bid, Bidder shall provide the Commission with satisfactory evidence that policies providing such coverages and limits of insurance as indicated in the Special Provisions are in full force or may be obtained by the Bidder prior to issuance of the Notice to Proceed. Satisfactory evidence may be demonstrated by a Certificate of Issuance or letter issued by Bidder's insurance agent or broker.

I-18.0 RESPONSIBLE BIDDER QUESTIONNAIRE

Each Bidder shall complete, under penalty of perjury, the Responsible Bidder's Questionnaire which describes the bidder's industrial safety record and inquiries whether the bidder, any officer of the Bidder, or any employee with a proprietary interest in the bidder has ever been disqualified, removed or otherwise prevented from bidding on or completing a federal, state or local government project because of a violation of law or safety regulation.

END OF INSTRUCTIONS TO BIDDER(S)

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PROPOSAL/BID REQUIREMENT FORMS

CONTRACT NO. R01-T02-P0861

**PORTABLE LRV JACKS, LRV BODY SUPPORTS
AND ELECTRIC LIFT PLATFORMS**

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PROPOSAL/BID REQUIREMENT FORMS

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LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PROPOSAL/BID REQUIREMENT FORMS

SECTION 1 - PROPOSAL LETTER

BIDDER _____

HONORABLE CHAIRMAN AND MEMBERS OF THE
LOS ANGELES COUNTY TRANSPORTATION COMMISSION
403 WEST 8TH STREET
LOS ANGELES, CALIFORNIA 90014

In response to the Invitation For Bid (IFB for):

The Long Beach - Los Angeles Rail Transit Project, Design and Furnish Portable LRV Jacks, LRV Body Supports and Electric Lift Platforms, R01-T02-P0861.

We the undersigned, hereby declare that we have carefully examined the location of the proposed work and have read and examined the Bid Documents, including all plans and specifications, and we hereby propose to furnish all labor, materials, equipment, tools, transportation, and services, and to discharge all duties and obligations necessary and required to perform and complete the Work as required in the Contract Documents for the price(s) shown herein below.

TOTAL BID PRICE OF _____
_____ DOLLARS (\$_____).

The undersigned agrees that these Proposal/Bid Requirement Forms constitute a firm offer to the Commission which cannot be withdrawn for ninety (90) calendar days from and after the due date or until a contract for the Work is fully executed by the Commission and a third party, whichever is earlier.

Attached hereto is a certified check, a cashier's check or a bid bond in the amount of _____ Dollars (\$_____), said amount being not less than ten percent (10%) of the Total Bid Price. The undersigned agree that said amount shall be retained by the Commission if we fail or refuse to execute the Contract Agreement and furnish the required bonds and certificates of insurance within the time provided.

If awarded a Contract, the undersigned agrees to execute the formal Contract Documents which will be prepared by the Commission for execution, within 10 calendar days following the Letter of Award for the Contract, and will deliver to the Commission prior to execution of the Contract the necessary original Certificates of Insurance and Performance Bond.

Enclosed herewith is evidence of Bidder's good standing and evidence that the person signing this Proposal/Bid is authorized bind Bidder to this Proposal/Bid and to a contract resulting therefrom.

BIDDER _____

Attached hereto and by this reference incorporated herein and made a part of these Proposal/Bid Requirement Forms are the proposed Section 2, Schedule of Prices and Quantities, and Proposal/Bid Forms required by Section 3 and Section 4 respectively of the Proposal/Bid Requirement Forms. Bidder acknowledges that data submitted with its Proposal/Bid Requirement which it requires to be incorporated into a Contract arising out of this submittal has been so identified by Bidder. Bidder further acknowledges that the Commission, at its discretion, may incorporate any of the remaining data submitted herewith into a contract arising out of this Proposal/Bid.

The undersigned acknowledges receipt, understanding and full consideration of the following addenda to the Contract Documents.

Addenda Nos. _____

The undersigned certifies that it has examined and is fully familiar with all of the provisions of the Contract Documents and is satisfied that the provisions are accurate; that it has carefully checked all the words and figures and all statements made in this Proposal/Bid; that it has satisfied itself with respect to the actual site conditions and the nature and location of the Work, the general and local conditions to be encountered in the performance of the Work, and other matters which in any way affect the Work or the cost thereof. The undersigned hereby agrees that the Commission will not be responsible for any errors or omissions in this Proposal/Bid.

By: _____
(Signature)

Bidder's Business Address:

(Type or Print Name)

(Title)

Bidder shall furnish the following licenses and classification type information:

Bidder's/Contractor's License No.: _____

Classification Type: _____

Bidder's/Contractor's State of Incorporation: _____

License Expiration Date: _____

Proposal/Bid Requirements Date: _____, 19____

NOTE: If Bidder is a corporation, enter State of Incorporation in addition to Business Address; if a partnership or joint venture, give full names of all partners or joint venturers. Evidence of the authority of the person signing on behalf of the corporation, partnership or joint venture to do so should be attached to the Proposal/Bid.

PROPOSAL/BID REQUIREMENT FORMS

SECTION 2 - SCHEDULE OF PRICES AND QUANTITIES

2.A. GENERAL

Bidder shall submit its lump sum price and its firm unit prices for Pay Items numbers 1 through 3 as required by the Schedule of Prices and Quantities, for the Work set forth in Section 1 of this Proposal/Bid and as described in the Invitation For Bid documents.

The Total Bid Price shall be for the completion and acceptance of all Work as required by the Contract. The unit prices for Contingency Items shall include but not be limited to all labor, supervision, equipment, materials, facilities, taxes, insurance, overhead, general and administrative expenses and profit necessary for providing the required services.

Bidder's unit prices for Contingency Items shall remain firm for the period of the Contract. The Commission reserves the right to accept or reject any one or more of the Unit Prices for any single Contingency Item or any combination thereof.

PROPOSAL/BID REQUIREMENT FORMS

SECTION 2 - SCHEDULE OF PRICES AND QUANTITIES

2.B. SCHEDULE OF PRICES AND QUANTITIES

<u>Bid Item</u>	<u>Description</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Total Price</u>
1	Portable Electric Jacks	9 Each	\$_____	\$_____
2	Portable Body Stands	8 Each	\$_____	\$_____
3	Electric Lift Platforms	2 Each	\$_____	\$_____

Total Bid Price (Items 1-3), the Lump Sum of:

(in words)

_____ Dollars (\$_____).

(figures)

PROPOSAL/BID REQUIREMENT FORMS

SECTION 2 - SCHEDULE OF PRICES AND QUANTITIES

Bidder shall submit its Proposal/Bid data in accordance with the format shown on each of the following Proposal/Bid Data Forms. Bidder shall prepare and use as many sheets as are necessary to adequately provide the information required. Bidder shall ensure that each page of its Proposal/Bid data is properly identified with the Bidder's name and page number.

PROPOSAL/BID REQUIREMENT FORMS

SECTION 3 - PROPOSAL/BID DATA FORMS

3.A. BID BOND

KNOW ALL MEN BY THESE PRESENTS:

THAT _____, as

Principal, and _____, as
Surety, are held firmly bound unto the LOS ANGELES COUNTY
TRANSPORTATION COMMISSION, hereinafter called the
Commission, in the sum of _____
(use words)

_____ DOLLARS

(\$ _____), being not less than ten percent (10%) of the
(figures)

total bid price; for the payment of which sum will and truly to be
made, we bind ourselves, our heirs, executors, administrators,
successors, and assigns, jointly and severally, firmly by these
presents.

WHEREAS, said Principal has submitted a bid to the Commission to
perform all Work required under Commission's IFB No. R01-T02-P0861.

NOW, THEREFORE, if said Principal is awarded a Contract for the Work
by the Commission and, within the time and in the manner required by
the Invitation For Bid (IFB), enters into the written form of
Contract bound with said Invitation For Bid, and furnishes the
required bonds, one to guarantee faithful performance and the other
to guarantee payment for labor and materials, and furnishes the
required certificate of insurance, then this obligation shall be null
and void; otherwise it shall remain in full force and effect. In the
event suit is brought upon this bond by the Commission and judgment
is recovered, said Surety shall pay all costs incurred by the
Commission in such suit, including reasonable attorneys' fees to be
fixed by the court.

SIGNED AND SEALED, this _____ day of _____, 198__.

_____(SEAL)
Principal

_____(SEAL)
Surety

BY: _____
Signature

BY: _____
Signature

PROPOSAL/BID REQUIREMENT FORMS

SECTION 4 - BIDDER INFORMATION FORMS

Bidder shall complete the information and data in accordance with the format shown on each of the following Information Forms. Bidder shall prepare and use as many sheets as are necessary to adequately provide the information required. Bidder shall ensure that each page is properly identified with the Bidder's name and page number.

NOTE TO BIDDERS: SECTION 4, NEED NOT BE COMPLETED IF BIDDER HAS PREVIOUSLY COMPLETED A CONTRACTOR'S INFORMATION STATEMENT AND BIDDER HAS BEEN NOTIFIED IN WRITING THAT THE STATEMENT WAS APPROVED AND IS ON FILE IN THE COMMISSION'S CONTRACTS DEPARTMENT.

PROPOSAL/BID REQUIREMENT FORMS

SECTION 4 - BIDDER INFORMATION FORMS

4.A. INFORMATION ABOUT BIDDER

1.0 Name of Bidder: _____

2.0 Type of Entity: _____

3.0 Bidder Address: _____

_____ Telex Telephone Telecopier Cable

4.0 How many years has Bidder's organization been in business as a manufacturer? _____

5.0 How many years has Bidder's organization been in business under its present name? _____

5.1 Under what other or former names has Bidder's organization operated? _____

6.0 If Bidder's organization is a corporation answer the following:

6.1 Date of incorporation: _____

6.2 State of incorporation: _____

6.3 President's name: _____

6.4 Vice-president's name(s): _____

6.5 Secretary's name: _____

6.6 Treasurer's name: _____

PROPOSAL/BID REQUIREMENT FORMS

SECTION 4 - BIDDER INFORMATION FORMS

4.A. INFORMATION ABOUT BIDDER (continued)

7.0 If an individual or a partnership answer the following:

7.1 Date of organization:

7.2 Name and address of all partners (State whether general or limited partnership):

8.0 If other than a corporation or partnership, describe organization and name principals:

9.0 List states and categories in which Bidder's organization is legally qualified to do business. Use Standard Industrial Classification codes (SIC codes) wherever possible, to describe categories of work. Indicate registration or license numbers, if applicable.

10.0 What type of work does the Bidder normally perform with its own forces:

PROPOSAL/BID REQUIREMENT FORMS

SECTION 4 - BIDDER INFORMATION FORMS

4.A. INFORMATION ABOUT BIDDER (continued)

11.0 Has Bidder ever failed to complete any work awarded to it? if so, note when, where, and why:

12.0 Within the last five years, has any officer or partner of Bidder's organization ever been an officer or partner of another organization when it failed to complete a contract? If so, attach a separate sheet of explanation:

13.0 On a separate sheet, list the construction experience of the key individuals of Bidder's organization:

14.0 Trade References:

15.0 Bank References (Bank, Branch address, Account number):

16.0 Name of Bonding Company and name and address of agent:

PROPOSAL/BID REQUIREMENT FORMS

SECTION 4 - BIDDER INFORMATION FORMS

4.A. INFORMATION ABOUT BIDDER (continued)

17.0 Attach a financial statement, audited if available, including Bidder's latest balance sheet and income statement showing the following items:

17.1 Current Assets (e.g., cash, joint venture accounts, accounts receivable, notes receivable, accrued income, deposits, materials inventory and prepaid expenses).

17.2 Net Fixed Assets.

17.3 Other Assets.

17.4 Current Liabilities (e.g., accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries, and accrued payroll taxes).

17.5 Other Liabilities (e.g., capital, capital stock, authorized and outstanding shares par values, earned surplus, and retained earnings).

18.0 Name and address of firm preparing financial statement and date thereof:

19.0 Is the financial statement for the identical organization named on the first page of this form?

19.1 If not, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g., parent, subsidiary, etc.):

PROPOSAL/BID REQUIREMENT FORMS

SECTION 4 - BIDDER INFORMATION FORMS

4.A. INFORMATION ABOUT BIDDER (continued)

20.0 Dated at _____

this _____ day of _____, 19 _____

Name of Organization: _____

By: _____

Title: _____

Ms, Mr,
21.0 Miss, Mrs, _____ being duly sworn deposes
and (name)

says that he/she is the _____ of _____,
(title) (company)

Bidder(s), and that answers to the foregoing questions and all other
other statements therein are true and correct.

Subscribed and sworn before me this ____ day of _____, 19__

Notary Public:

My Commission Expires:

NOTE: This form is included for reference only and will be required to be executed by the Bidder to whom the contract is awarded.

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

**FORM OF CONTRACT
OR "CONTRACT AGREEMENT"**

CONTRACT NO. R01-T02-P0861

FOR

**DESIGN AND FURNISH PORTABLE LRV JACKS,
LRV BODY SUPPORTS AND ELECTRIC LIFT PLATFORMS**

BETWEEN

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

AND

(Insert name of firm)

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

CONTRACT NO. R01-T02-P0861

**DESIGN AND FURNISH PORTABLE LRV JACKS,
LRV BODY SUPPORTS AND ELECTRIC LIFT PLATFORMS**

FORM OF CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____, 198__, by and between the LOS ANGELES COUNTY TRANSPORTATION COMMISSION, hereinafter called Commission, and _____, hereinafter called Contractor.

Commission, a California county transportation commission, exists under the authority of Section 130050 et seq. of the California Public Utilities Code. The parties, in consideration of the agreements herein contained, contract and agree as follows:

ARTICLE I: Commission hereby employs Contractor to perform the Work according to the terms and conditions of this Contract, and Contractor accepts such employment and agrees to perform the Work according to the terms and conditions of this Contract.

ARTICLE II: CONTRACT: This Contract consists of this Form of Contract and the following Contract Documents, including all exhibits, drawings, specifications, and documents therein, and attachments thereto, all of which are by this reference incorporated herein and made a part of this Contract:

PART "A" - Specifications - Technical Provisions
PART "B" - General Conditions
PART "C" - Special Provisions
PART "D" - Compensation and Payment Provisions
PART "E" - Affirmative Action/Labor Compliance

ARTICLE III: WORK TO BE PERFORMED: Contractor agrees to perform and complete in a workmanlike manner all Work required to complete the Contract in accordance with the Contract Documents. Contractor shall furnish at Contractor's own expense all labor, materials, equipment, tools, services and items of expense necessary to perform the Contract, except such materials, equipment and services as may be required in the Contract to be furnished by Commission. The Work is defined in detail in the Contract Documents, which detailed definitions govern the interpretation and performance of this Contract, but may be generally described as:

Design and Furnish Portable LRV Jacks, LRV Body Supports and Electric Lift Platforms

ARTICLE IV: COMPENSATION: Except as otherwise provided in this Contract, the Commission shall pay to Contractor, as full consideration for the satisfactory performance by the Contractor of this Contract, compensation in accordance with the Compensation and Payment Provisions.

ARTICLE V: PERIOD OF PERFORMANCE: Contractor shall perform and complete all Work under this Contract in accordance with the requirements of the Special Provisions.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed as of the day and year first above written.

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

By: _____
Paul C. Taylor, Acting Executive Director
("Commission")

By: _____
Ed McSpedon
Director, Design & Construction
Long Beach - Los Angeles Rail Transit Project
("Commission")

By: _____
Name

Title ("Contractor")

By: _____
Name

Title ("Contractor")

Approved as to Form:
RICHARDS, WATSON & GERSHON
A Professional Corporation

By: _____
Darold D. Pieper
Special Counsel to the Commission

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PART "A"

TECHNICAL PROVISIONS

CONTRACT NO. R01-T02-P0861

PART A
TECHNICAL PROVISIONS
CONTRACT R01-T02-P0861
PORTABLE LRV JACKS, LRV BODY SUPPORTS
AND ELECTRIC LIFT PLATFORMS
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PART A
TECHNICAL PROVISIONS
CONTRACT R01-T02-P0861
PORTABLE LRV JACKS, LRV BODY SUPPORTS,
AND ELECTRIC LIFT PLATFORMS

SECTION 1 - GENERAL

1.1 DESCRIPTION

These specifications cover the requirements for designing and furnishing nine Portable LRV Jacks, eight LRV Body Supports, and two Electric Lift Platforms including testing and field assistance to the Engineer during the period of performance evaluation and testing.

- A. Furnish fully operable equipment, ancillary control equipment, parts, operator and maintenance manuals.
- B. This equipment will be utilized in connection with the maintenance of Light Rail Vehicles (LRV) on the Long Beach - Los Angeles Light Rail System in California. The procuring agency is the Los Angeles County Transportation Commission (LACTC). The interface between the jacks and the LRV jack pads may require modification to the bidder's production equipment prior to delivery.
- C. Known acceptable products are stated only as a guide to potential bidders, however qualification as an approved equal must be established prior to bidding.

1.2 INCORPORATED DOCUMENTS

- A. United States Occupational Safety and Health Standards (OSHA).
- B. American National Standards Institute (ANSI).
- C. Automobile Lift Institute (ALI).

1.3 QUALITY CONTROL

- A. The Contractor shall maintain a Quality Control Program designed to ensure compliance with the contract requirements and specifications of this section for inspections and tests of materials, equipment, and services supplied. This program shall be submitted to the Commission within 30 days after date of receipt of Notice to Proceed.

- B. The Commission shall reserve the right to inspect the equipment at the Contractor's facility prior to shipment to Los Angeles in order to determine that the equipment complies with these specifications.

1.4 ENVIRONMENTAL CONSIDERATIONS

All equipment specified herein shall be capable of operating and being maintained successfully in the environment of Los Angeles County, California, which is generally described below:

- A. Ambient temperature range 20⁰F to 115⁰F.
- B. Relative humidity range 20 percent to 100 percent.
- C. Heavy concentrations of dust and dirt in the air.

1.5 SUBMITTALS

Contractor shall submit the following (in English):

A. Equipment Catalogues

- 1. Submit to the Engineer within thirty (30) days after Notice to Proceed, manufacturer's specification sheets, dimensioned drawings, brochures, and/or other pertinent data describing all items of standard manufacture. Assemble, bind and label the foregoing articles into two inch wide ring binders.
- 2. Sheets to be in sequence and clearly labeled in lower right-hand corner with equipment list, item number and quantity to be furnished.
- 3. No sheets or drawings larger than 8 1/2" x 11" shall be allowed.
- 4. Where manufacturer's printed sheet covers more than one model or offers alternates, variations, options, or attachments, data applicable to the equipment being provided shall be clearly delineated.

B. Catalog and Parts Manual Updates

The Commission expects to microfilm all documents necessary and appropriate to define configuration, operation, maintenance and repair of the rail transit system, facilities, and equipment.

C. Operation and Maintenance Manuals

At least 10 days prior to the scheduled delivery of the equipment, submit three copies of thoroughly organized operating and maintenance instructions (in English) showing all equipment supplied accompanied by necessary diagrams. Show location of

all safety features. Also show the location of all electrical apparatus, and furnish all information required for proper operation, maintenance and repair of the equipment, including information relative to critical adjustments and consequences of incorrect adjustments. Include proper trouble shooting information to enable transit personnel to analyze, diagnose, and repair commonly occurring electrical, hydraulic, and mechanical servicing.

D. Parts Manual

Submit three copies of a Parts Manual (one reproducible, two copies) for the equipment. At least 10 days prior to delivery. The Contractor shall also deliver to the Engineer for his approval manuals containing information necessary for ordering parts for all components. This manual shall be in the English language and as a minimum shall include manufacturer's recommendations with regards to:

1. Catalog information for any standard manufactured items.
2. Complete parts list with reordering information.

Provide parts lists and parts diagrams for instruments. Provide a "long lead-time" spare parts list for all spare parts not available from the manufacturer within 10 days or for which it is anticipated ordering and delivery time will exceed ten days. Assemble the instructions, parts diagrams, lists, and other information required into two inch ring binder bound volumes, easily readable, indexed and packaged in a manner suitable for use in a transit repair shop environment.

1.6 PAINT AND FINISH

Paint all equipment safety yellow. All appurtenances shall be labelled with their respective rated capacities.

1.7 GENERAL

Only new models in current production which are cataloged by the manufacturer and for which manufacturer's published literature and printed specifications are currently available will be considered.

SECTION 2 - PRODUCTS

2.1 PORTABLE ELECTRIC LRV JACKS (8) - TECHNICAL CHARACTERISTICS

It is the intent of this specification to describe the minimum requirements of 8 portable electric LRV jacks along with 16 portable body stands to support LRV vehicle body while it is off its trucks. Drawings of the jacking pad locations and size on the LACTC LRV vehicle will be provided on request.

Capacity of each jack 22,075 lbs. min.

Capacity per set of 8 176,600 lbs. min.

Distance between lifting pad and floor level

low position	30.875"-15.75"
high position	72"-78.75"

Stroke 63"

Lifting speed 15" per minute min.

Lifting pad dimensions

width	design to suit LRV
height	design to suit LRV

Horsepower 4 horsepower

Weight 1,880 pounds (approx.)

2.1.1 DESCRIPTION OF JACK CONSTRUCTION

2.1.1.1 Frame shall be all welded construction for insuring stiffness and rigidity.

2.1.1.2 Frame shall consist of two flanges which provide pathways for rollers.

2.1.1.3 Frame shall be supported by a welded metal box reinforced by gussets.

2.1.1.4 The frame shall be carrier plate to which will be affixed the bearing support which contains the main lifting screw.

2.1.2 DRIVING MECHANISM

2.1.2.1 Lifting screw

Acme type threaded screw shall be used to insure irreversibility and self locking characteristics.

2.1.2.2 Lifting Pad

The lifting pad shall be welded steel and designed to mate with the LACTC vehicle.

2.1.2.3 Motor

The motor shall be mounted at the frame in a manner appropriate to assure proper alignment of the screw. Motor shall be direct driven to the screw. No chains, belts or other appurtenances shall connect motor to the screw mechanism.

2.1.3 MANEUVERABILITY

2.1.3.1 Each jack shall easily be moved by one person without strain or difficulty. Column weight shall not exceed 1880 lbs.

2.1.3.2 Jack shall be capable of being easily turned 180°.

2.1.4 ELECTRICAL DESIGN/OPERATION

2.1.4.1 Electrical design shall consist of a star or umbrella system to conform to U.L. requirements. The operation of all eight jacks shall be by one person standing at a centrally located control panel.

2.1.4.2 Eight columns shall consist of one master and seven secondaries.

The configurations shall consist of operation:

- Individually
- by pair (A&B) (C&D) (E&F) (G&H)
- by set of 4 (A,B,C,D) or (G,H,E,F)
- by set of 8

2.1.4.3 Controls shall be mounted on a remote control roll-away cart.

2.1.4.4 Provide at least 75' of power cable to reach from control stand to 480 volt power source. Provide proper plug adapter.

2.1.4.4 CONTROL EQUIPMENT

FUNCTION

A. External

- | | |
|-----------------------------|---|
| 1. Lockable Main Switch | To connect and disconnect power. |
| 2. Function Selector Switch | For choosing "individual" or "synchronous" operation of the jacks, or other paired operation. |
| 3. Emergency Stop Button | Emergency stop of total system. Striking mushroom red button shall turn system off. Twist button to reset main power. |

CONTROL EQUIPMENT

FUNCTION

B. Internal

- | | |
|----------------------------|--|
| 1. Power Fuses | Protection of control circuit before (main voltage) and after transformer (control voltage). |
| 2. Phase Relays | Protection against phase reversals. |
| 3. Transformer | Reduction of main voltage to 110 volts for control circuit. |
| 4. Voltage Selector Switch | Shall facilitate easy selection of 230 or 460 voltage (or off) for relocation to an area with different power source voltage. |
| 5. Magneto-thermal relays | Protection of motor against shorts or over heating. |
| 6. Auxiliary relays | Control of "up" and "down" motion. |
| 7. Travel Limit Switches | One upper limit switch and two down limit switches of a heavy duty class shall employed. Wiring to these switches shall be in shielded BX cable. |

2.1.4.5 Iso-levelling

Iso-levelling protection shall be provided by means of a micro-processor to correct for differences in lifting speeds. Variations in lifting speed shall not exceed .40". Micro-processor shall verify, and automatically regulate variations in lifting speed. Variances in position of lifting pads in excess of .40" will cause system to automatically stop. Main disconnect switch shall then disengage.

2.1.4.6 LIFTING BEAMS

Provide four lifting beams which can be used between pairs of jacks to hold carbody with disfigured jack padlocations.

2.2 PORTABLE ADJUSTABLE BODY SUPPORTS

Provide eight portable adjustable body supports each capable of holding approximately 10 tons. The body supports shall be capable of working in concert with the portable jacks described in Article 2.1.

The minimum height of the body supports with adjustable portion fully retracted shall be 48" and the stand shall be capable of extending to a height of at least 78".

The stands may have either three or four legs but in any case shall be easily transportable by one person on level floor and be able to set close enough to the portable electric jack to engage with the LRV body pad.

2.3 ELECTRIC LIFT PLATFORMS

Provide two (2) electric battery powered, self propelled, insulated platforms with manual stabilizers. Include 300 amp hour battery complete with charger and gate for car roof access. Wheels shall be suitable for operation on concrete shop floor.

2.3.1 Characteristics of Lift Platform

- a. Hydraulic operated, battery powered
- b. Capacity 2,000 lbs. main platform
- c. Platform dimensions 4' x 10' minimum.
- d. Offset 8' minimum from mast center including 3 foot manual extension platform (500 lb. capacity)
- e. 340° manual rotation
- f. Up and down controls on base and on platform
- g. Emergency down valve at base
- h. Self-propelling chassis (2 mph)
- i. Hydraulic drive, power steering
- j. "Walk-Along" forward/reverse/right/left controls
- k. Polyurethane wheels
- l. Manual outrigger jacks
- m. Design and load test to four times rated capacity
- n. Pre-set overload relief safety valve.
- o. Emergency relief valve for descent when power fails
- p. Provide built-in levelling gauge
- q. Collapsible guard rails on platform with kickboards

- r. Working height - 25'
- s. Platform height - 19'
- t. Ground clearance - collapsed position 5'
- u. Outriggers extended 8' x 9'
- v. Lift time - 120 seconds
Lower Time - 80 seconds
- w. 40 lifts per battery charge
- x. 36 volt, 180 AH battery, provide charger for battery - 120 V 60 Hz. single phase input
- y. Insulated lift platform to be rated at 5Kv.

2.3.2 Know Acceptable Product

- a - UpUpp Model MM-RE-3 or equal

3.0 EXECUTION OF CONTRACT

3.1 SERVICE REPRESENTATIVE

The Contractor, at his expense, shall provide a qualified factory authorized service representative to be in attendance at the delivery site to make any necessary adjustments to the equipment and to give instructions to the operators to assure correct operation.

3.2 WORKMANSHIP

The equipment and any accessories shall be free from all defects that will affect their appearance or serviceability.

3.3 SCHEDULE

Within 30 days after NTP, the Contractor shall submit for approval of the Engineer, a schedule showing the delivery and installing phases of the Contract. The schedule shall allow at least 30 days for the Engineer to approve.

3.4 DESIGN APPROVAL

The Contractor shall submit within 30 days of NTP a detailed summary of the proposed design of the the jack control system, the body stands, and the lift platforms to be furnished.

3.5 QUALITY ASSURANCE AND PERFORMANCE VERIFICATION

Quality assurance and performance verification testing shall be performed by the Contractor on Commission property to assure the quality level of the equipment and that the equipment meets the specified performance requirements.

3.6 DEMONSTRATION AND TRAINING

3.6.1 Demonstration

The Contractor shall demonstrates to the satisfaction of the Commission quality control representatives that each the equipment meets the specification requirements at the time of delivery.

3.6.2 Training

The Contractor shall provide training to a group of Commission supervisory and operator type personnel for a period not exceeding eight (8) hours. Scheduling for training sessions shall be subject to approval of the Engineer.

3.7 WARRANTY

The warranty for the equipment furnished by the Contractor shall be in accordance with the Article entitled "Warranty for Work" Part B of these Contract Specifications.

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PART "B"

GENERAL CONDITIONS

CONTRACT NO. R01-T02-P0861

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GENERAL CONDITIONS

1. DEFINITIONS

The more common definitions used in the Contract Documents are summarized as follows:

Definitions

- Acceptance:** Written documentation attesting to the act of an authorized representative of the Commission, by which all Work or a specified portion thereof, under the Contract has been identified as complete to the satisfaction of the Commission.
- Change Notice:** A document issued by the Engineer to the Contractor specifying a proposed change to the Contract and directing the Contractor to provide, at Contractor's expense, certain price and/or other information, which information will be furnished by Contractor within the time specified in the Notice. Unless otherwise expressly stated on the face of the Change Notice, a Change Notice is a proposal which may result in a Change Order.
- Change Order:** A written order issued to the Contractor by the Commission unilaterally modifying the Contract. The effective date of the Change Order shall be the issue date of said order.
- Commission:** The Los Angeles County Transportation Commission.
- Conformed Contract Documents:** True copies of the Procurement Documents and Contract Drawings revised to incorporate all changes made by addenda as well as true copies of fully executed Contract Amendments.
- Construction Manager (CM):** The Engineer.
- Contract:** The written agreement executed by the Commission and the Contractor which sets forth the rights and obligations of the parties, including the Contract Documents.
- Contract Amendment:** A document that changes the Contract by alteration in the Specifications, delivery point, rate of delivery, contract period, price, or quantity, whether accomplished by Change Order or by mutual action of the parties to the Contract.

Contract Documents: The documents which collectively constitute the Contract, which may include:

Contract Forms
General Conditions
Special Provisions
Technical Provisions
Contract Drawings
Reference Drawings

Contract Drawings: The plans, profiles, typical cross-sections, general cross-sections, elevations, schedules and details which show location, character, dimensions, and details of the equipment, materials, or the Work.

Contract Milestone: An established event or occurrence that is associated with the contract schedule as defined in the Contract.

Contract Time: The number of calendar days, stated in the Contract Documents, allowed for completion of the Contract, including authorized time extensions. The date specified in the Notice To Proceed shall be the date on which the Contract Time begins.

Contracting Officer: An official of the Commission, authorized and empowered to execute contracts and agreements on behalf of the Commission.

Contractor: The individual, firm, partnership or corporation, or combination thereof, private, municipal or public, including joint ventures, which, as an independent contractor, has entered into this Contract with the Commission.

Days: Unless otherwise designated, days mean calendar days.

Engineer: The General Engineering Consultant retained by the Commission to provide engineering services for the Project or its successor. The Engineer is the Authorized Representative of the Commission to the extent expressly set forth in the Contract.

Equipment: A general term including vehicles, systems, assemblies, sub-assemblies, products, material, fittings, devices, appliances, fixtures, apparatus, supplies and the like used in the performance of a specific function or functions or Contract obligation.

Executive Director: The Executive Director of the Los Angeles County Transportation Commission.

Final Acceptance: The formal written acceptance by the Commission of the completed Work.

Furnishing: Manufacturing, fabricating, procuring and delivering to the designated site, Equipment and Materials required to perform the Contract.

General Engineering Consultant The Engineer.

General Terms: Directed, required, permitted, ordered, designated, selected, prescribed or words of like import shall be understood to mean the direction, requirement, permission, order, designation, selection or prescription of the Engineer. Approved, satisfactory, equal, necessary or words of like import shall be understood to mean approved by, acceptable to, satisfactory to, equal to, or necessary for in the opinion of the Engineer.

Indicated: A term meaning, "as shown on the Contract Drawings, as specified in the Specifications, or as required by the other Contract Documents".

Inspector: An authorized representative of the Engineer or the Commission assigned to make inspections and/or tests of the Equipment, Materials, or the Work performed or being furnished by the Contractor.

Materials: A general term including Equipment, Material, products, and articles incorporated in the Work.

Notice of Completion: Written notice from the Contractor specifying that the Work is fully completed as specified in the Contract.

Notice of Termination: Written notice from the Commission to the Contractor and its surety terminating the Contract completely or partially either for convenience of the Commission or for default due to the Contractor's failure to perform its contractual obligations.

Notice to Proceed (NTP): Written notice from the Commission to the Contractor of the date to proceed with the Work specified by the Contract Documents.

Product Data: Illustrations, standard schedules, performance charts, instructions, brochures, diagrams, instructions, warnings and other information

furnished by the Contractor to illustrate or explain the fabrication, assembly, installation, maintenance or operation of Materials, Equipment, or some portion of the Work.

Project Site: The right-of-way, tracks, maintenance facilities, and all other property of the Commission where Work will be performed under the Contract.

Provide: In reference to Work to be performed by the Contractor, provide means furnish and install complete in place.

Reference Drawings: Those drawings, other than the Contract Drawings, that are provided to the Contractor as part of the Bid Documents, for information which depict the major areas of system interface peculiar to this procurement.

Referenced Standards: Standards for Material, Equipment, Work, procedures or workmanship established by reference to standards or procedures published in a described reference text. Referenced Standards shall have the same force and effect as if they are physically incorporated in the Contract.

Right-of-Way: A term denoting land and property, and interests therein, acquired by the Commission.

Samples: Physical examples which illustrate Materials, Equipment, fixtures and workmanship which establish standards by which the Work may be judged providing the the Work is otherwise in conformity with the Contract.

Shop Drawings: Original drawings, diagrams, schedules and other data specifically prepared and submitted to the Engineer by the Contractor, any of its subcontractors or any lower tier subcontractor pursuant to the Work, showing in detail:

- (a) the proposed fabrication and assembly of structural elements;
- (b) the installation (form, fit, and attachment details) of Materials or Equipment.

Shop Drawings shall be deemed to include Product Data, literature, and performance and test data.

Special Provisions: Provisions specially applicable to this Contract, which invoke, modify and supplement the General

Conditions which are included in the Contract Documents.

Specifications: Specifications are Technical Provisions of the Contract.

Standard Drawings: Drawings part of or referenced in the Contract Documents, developed for use on the Contract to attain uniformity in Materials, geometrics, arrangements, Equipment, details and procedures and, in some instances, to express prior approval thereof be affected governmental agencies, utilities, railroads and pipeline companies.

State: The State of California.

Subcontractor: Any individual, partnership, firm, corporation, or joint venture who contracts with the Contractor to furnish services, labor, Equipment, or Materials under this Contract. As used herein, the terms subcontractor and supplier are synonymous.

Supplemental Agreement: A written contract amendment executed by the Commission and the Contractor.

Supplier: A subcontractor.

Surety: The corporate body bound with and for the Contractor, for the full and complete performance of the Contract and for the payment of all debts pertaining to the Work. When applying to the Bid Bond, it refers to the corporate body which acts as guarantor that the Bidder will enter into a contract with the Commission.

Technical Provisions: Those elements of the Contract that set forth the detail of the Work including design, performance, material, testing, methods of manufacture, and other requirements of the Contract. As used herein the terms Technical Provisions and Specifications are synonymous.

Ton: Two thousand pounds (avoirdupois).

Transit System: The complete fixed guideway rail transportation system, including right-of-way, pavement, tracks, structures, equipment, appurtenances and other property of the Commission.

Work: The furnishing of all Equipment, Materials, labor, tools and services necessary to the Contractor's performance of all duties and obligations imposed by the Contract, including any authorized changes thereto.

2. INTERPRETATION

- A. The individual documents comprising the Contract Documents are complementary and are intended to describe the Work. Anything mentioned in the Specifications and not shown on the Contract Drawings, or shown on the Contract Drawings and not mentioned in the Specifications, shall be of like effect as if shown or mentioned in both.
- B. Where "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the Specifications or Contract Drawings of this Contract unless otherwise stated.
- C. References to Articles include sub-articles under the Article referenced (for example, a reference to Article 8 is also a reference to 8A through 8E) and references to paragraphs similarly include references to sub-paragraphs.
- D. Referenced Standards: Material and workmanship specified by the number, symbol, or title of a Referenced Standard shall comply with the latest edition or revision thereof and amendments and supplements thereto. Municipal, utility and railroad Referenced Standards shall govern except in case of conflict with the Specifications. In case of a conflict between the Specifications and the Referenced Standard, the more stringent, as determined by the Commission, shall govern.
- E. Explanations: Should it appear that the Work to be done or any of the matters relative thereto are not sufficiently detailed or explained in the Contract Documents, the Contractor shall apply to the Engineer for such further written explanations as may be necessary and shall conform to the explanation provided as part of the Contract.
- F. Differences Between Drawings: In case of differences between small and large scale drawings, the large scale drawings shall govern. In the event of discrepancy between any drawing and the figure written thereon, the figures shall govern over scaled dimension.
- G. Omissions and Misdescriptions: Before submitting its price and continuously thereafter, the Contractor shall carefully study and compare all drawings, Specifications and other Contract Documents; shall verify all figures on the Contract Drawings before laying out the Work; shall promptly notify the Engineer of all errors, inconsistencies, or omissions which it may discover; and obtain specific instructions in writing before proceeding with the Work. The Contractor shall not take advantage of any apparent error or omission which may be found in the Contract Drawings or Specifications, but the Engineer shall be entitled to make such corrections therein and

interpretations thereof as he may deem necessary for the fulfillment of their intent as provided in sub-article F above. The Contractor shall be liable to the Commission for all errors in the Work which could have been avoided by such examination and notification, and shall correct at its own expense and without extension of contract time, all Work improperly constructed through failure to notify the Engineer and to request specific instructions. Omission from the Contract Drawings or Specifications or the misdescription of details of Work which are manifestly necessary to carry out the intent of the Contract Drawings and Specifications, or which are customarily performed, shall not relieve the Contractor from performing such omitted work (no matter how extensive) or misdescribed details of the Work, and they shall be performed as if fully and correctly set forth and described in the Contract Drawings and Specifications at no additional expense or delay to the Commission.

- H. Severability: In the event any Article, sub-article, paragraph, sentence, clause or phrase contained in the Contract Documents shall be determined, declared or adjudged invalid, illegal, unconstitutional or otherwise unenforceable, such determination, declaration or adjudication shall in no matter affect the other Articles, sub-articles, paragraphs, sentences, clauses or phrases of the Contract Documents, which shall remain of full force and effect as if the Article, sub-article, paragraph, sentence, clause or phrase declared, determined or adjudged invalid, illegal, unconstitutional or otherwise unenforceable was not originally contained in the Contract Documents.
- I. Headings: The various headings contained in the Contract Documents are inserted for convenience only and shall not affect the meaning or interpretation of the Contract or any provision thereof.

3. PRECEDENCE OF CONTRACT DOCUMENTS

Subject to the provisions of the Article entitled INTERPRETATION any inconsistency in requirements of the documents shall be resolved by giving precedence in the following order:

- A. Contract Amendments
- B. Executed Contract Agreement
- C. Special Provisions
- D. General Conditions
- E. Compensation and Payment Provisions
- F. Technical Provisions

- G. Contract Drawings
- H. Referenced Standards

4. POWERS TO BE EXECUTED BY THE CONTRACTING OFFICER AND THE ENGINEER

- A. The Commission has the final authority in all matters relating to and affecting the Work. Except as expressly provided in the Contract, the Contracting Officer may exercise any powers, rights or privileges which may be exercised by the Commission.
- B. The Contracting Officer has delegated certain powers and duties in connection with the Contract to the Engineer. Within the scope of this delegation, and as may be additionally authorized in writing by the Commission through the Contracting Officer, the Engineer is the authorized representative of the Contracting Officer. The Engineer's powers are limited to the following:
 - 1. The Engineer shall have general supervisory authority over the Work and the Contractor, and the authority to enforce compliance with the Contract. The exercise of or failure to exercise such authority shall not relieve the Contractor of any of its obligations under the Contract;
 - 2. The Engineer shall have the power to suspend the Work or any part thereof by giving notice to the Contractor in writing. Such written notice shall set forth the period of time for which the Work or any part thereof shall be suspended and the basis for such suspension. Notwithstanding the foregoing, the Engineer shall suspend the Work or any part thereof only when it has reasonable cause to believe that such suspension is necessitated by the failure of the Contractor to perform its Work in accordance with the Contract or that failure to suspend would have an adverse impact on the Project or result in damage to the Commission;
 - 3. The Engineer, subject to the review and approval of the Contracting Officer shall negotiate with the Contractor all adjustments of Contract price and/or time;
 - 4. The Engineer shall prepare cost and time estimates for Contract Amendments not initiated by the Contractor and shall review and comment upon estimates for Contract Amendments prepared and initiated by the Contractor. Subject to any express limitations, the Engineer shall have authority to modify the Contract in accordance with the Article entitled CHANGES. Such authority shall not extend to modifications of contract time;
 - 5. The Engineer shall review payment applications for Work performed by the Contractor and shall approve the same for

payment and submit the applications for the concurrence of the Contracting Officer;

6. Review and approval of the Contractor's progress schedule;
 7. Inspection and testing of the Work; and
 8. The Engineer shall have the authority to enforce the requirements of the Commission Safety Manager and any other safety requirements relating to the Work.
- C. In addition to the foregoing, the Engineer shall have those rights and powers expressly set forth in other sections of the Contract. The powers and rights of the Engineer as authorized representative of the Contracting Officer shall not include any right or power specifically reserved for the Commission and/or the Contracting Officer under the Contract. Any power which may be exercised by the Engineer may also be exercised, on a superior basis, by the Contracting Officer. At the time of Contract Award, the Engineer will advise the Contractor regarding the authority level of the Engineer's personnel assigned to this Contract.

5. PERFORMANCE BOND

The contractor's performance bond shall remain in force until all warranty obligations are completed, but the amount of bond may be reduced to 10 percent of the Total Contract Price after Final Acceptance.

6. WARRANTY OF WORK

- A. The Contractor warrants that all Work under the Contract shall be of good quality and free from any defective or faulty Materials, Equipment, Work or workmanship.
- B. The Contractor agrees that for a period of one year (or such longer period of time as may be specified elsewhere in the Contract or in any guarantee or warranty provided by any manufacturer or supplier of Equipment or Materials incorporated into the Work) after the date of Final Acceptance, it shall within 48 hours after being notified in writing by the Commission or Engineer of any defect in the Work or non-conformance of the Work to the Contract commence and prosecute with due diligence all Work, including, without limitation, redesign, repair, or replacement, necessary to fulfill the terms of the warranty at its sole cost and expense.
- C. The Contractor, at its sole cost and expense, shall also restore, repair, or replace damage to Equipment, Materials, the Work, work of other Contractors, buildings, the contents

thereof, or any other property of the Commission which is the result of any failure or defect in the Work.

- D. All warranties and guarantees of Subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by the Contractor for the benefit of the Commission regardless of whether or not such warranties and guarantees have been transferred or assigned to the Commission by separate agreement. The Contractor shall enforce such warranties and guarantees on behalf of the Commission; provided, however, that if directed by the Commission, the Contractor shall require such Subcontractors, manufacturers and suppliers to execute such warranties and guarantees directly to the Commission. The Contractor shall be jointly and severally liable for any such warranties or guarantees. To the extent that any such warranty or guarantee would be voided by reason of the Contractor's negligence in incorporating Material or Equipment into the Work, the Contractor shall be responsible for correcting such defect.
- E. In the event that the Contractor fails to perform its obligations under this Article (or under any other warranty or guarantee under this Contract) to the reasonable satisfaction of the Commission, the Commission shall have the right to correct and replace any defective or non-conforming Work at the Contractor's sole expense. The Contractor shall be obligated to fully reimburse the Commission for any expenses incurred hereunder upon demand.
- F. The Contractor shall perform such tests as the Commission may require to verify that such corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstatement of Equipment and Materials necessary to gain access, shall be borne by Contractor. The Contractor warrants such redesigned, repaired, or replaced Work against defective design, materials, and workmanship for the remainder of the warranty period or a period of one year from and after the date of acceptance thereof, whichever occurs later.
- G. Commission-owned spare parts will not be used for warranty purposes. The Contractor shall maintain a sufficient quantity of replacement parts on hand at or near the Commission repair facility to repair warrantable failures and defects. The security, control, shipping, and disposition of Contractor-owned parts shall be the responsibility of the Contractor.
- H. Contractor personnel will be entitled to use Commission facilities and special equipment to perform warranty work, provided that such work is conducted during normal hours, does not interfere with other Commission activities, and is performed in accordance with Commission policies and directions. Damages

to Commission property caused by Contractor representatives shall be the sole responsibility of the Contractor, and shall be corrected at the Contractor's expense as provided in this Article.

- I. The rights and remedies of the Commission provided in this Article are in addition to and do not limit any rights and remedies afforded by the Contract or by law.
- J. Nothing in the above intends or implies that this warranty shall apply to Work which has been abused or neglected by the Commission to whom ownership has been transferred.
- K. The Surety for the Contractor shall be jointly and severally liable under its Performance Bond to the Commission in the event that the Contractor is in breach of its warranty obligations hereunder.
- L. Notwithstanding the foregoing, in the event of an emergency constituting an immediate hazard to the health or safety of the Public, Commission employees, its property or that of its licensee, the Commission may undertake at the Contractor's expense and without prior notice, all work necessary to correct such hazardous condition when it was caused by Work of the Contractor not being in accordance with requirements of this Contract.

7. FINAL INSPECTION AND ACCEPTANCE OF THE WORK

- A. Final Inspection: When the Contractor notifies the Engineer in writing that the Work has been completed, the Commission and Engineer will make the final inspection for the purpose of ascertaining that the Work has been fully completed in accordance with all of the requirements of the Contract.
- B. Acceptance of the Work: When the Commission has made the final inspection and has determined that the Work has been completed in accordance with the Contract, including all required submittals, the Commission will accept the Work. Immediately upon and after Final Acceptance, the Contractor will be relieved of its responsibility for injury to persons or property or damage to the Work which occurs after Final Acceptance, except that the Contractor will not be relieved of its responsibility for injury to persons or property arising from its duties and obligation under the Article entitled LIABILITY AND INDEMNIFICATION and its obligations under the Article entitled WARRANTY OF WORK.
- C. Final Acceptance shall be final and conclusive, and no further performance of Work shall be required except as regards latent defects, fraud (including but not limited to defects and deficiencies which the Contractor or any of its employees, agents or subcontractors had reason to know of and which were

not disclosed to the Contracting Officer or the Engineer in writing) or such gross mistakes as may amount to fraud, or as regards the Commission's rights under any warranty or guarantee.

- D. If the Commission rejects the notice of completion and specifies defective or uncompleted portions of the Work, the Contractor shall promptly remedy such defective and uncompleted portions of the Work. Thereafter the Contractor shall again give the Commission a written notice of completion of the Work. The foregoing procedure shall apply again and successively thereafter until the Commission has given the Contractor Final Acceptance of the Work.

8. CHANGES

- A. The Commission may, at any time, without notice to the sureties, by written notice or order to the Contractor designated as a Change Notice or Change Order, make any change in the Work within the general scope of the Contract, including but not limited to changes:
 - 1. In the Contract (including specifications, drawings and designs);
 - 2. In the method or manner of performance of the Work;
 - 3. In Commission-furnished facilities, equipment, materials, services, or Work Site;
 - 4. Directing acceleration in performance of the Work; or
- B. Any other order from the Construction Manager or Contracting Officer which causes any change will be treated as a Change Notice under this Article, provided that the Contractor gives the Construction Manager written notice stating the date, circumstances and source of the order, and that the Contractor regards the order as a Change Notice. Nothing in this sub-article B will be construed to bind the Commission for acts of its employees and agents exceeding the delegation of authority under the Article entitled POWERS TO BE EXECUTED BY THE CONTRACTING OFFICER AND THE ENGINEER. The Contractor shall promptly notify the Construction Manager when he receives direction, instruction, interpretation or determination from any source which may cause any change in the Work. Such written notification shall be given to the Construction Manger before the Contractor acts on said direction, instruction, interpretation or determination.

In giving instructions, the Construction Manager shall have authority to make changes in the Work not involving extra cost when such changes are in his opinion necessary or expedient to the satisfactory performance and completion of the Work.

- C. Except as herein expressly provided, no order, statement, or conduct of the Construction Manager, the Contracting Officer or any other person shall be treated as a change under the Contract or entitle the Contractor to an adjustment under the Contract.
- D. If any change under this Article causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the Work under the Contract, an adjustment will be made and the Contract modified accordingly by a written Change Order; provided, however, that except for claims based on errors in the Contract Documents, no claim for change under sub-article B of this Article will be allowed for costs and additional time incurred more than 20 Days before the Contractor gives written notice as herein required; and provided that in the case of errors in the Contract Documents for which the Commission is responsible, the adjustment will include increased cost incurred by the Contractor in attempting to comply with such errors in the Contract Documents. No claim shall be made for the type of errors in the Contract Documents which are set forth in sub-article G of the Article entitled INTERPRETATION.
- E. If the Contractor intends to submit a request for an adjustment under this Article, he shall, within 30 days after receipt of a written Change Notice or Change Order under sub-article A of this Article or the furnishing of a written notice under sub-article B of this Article, submit to the Construction Manager a written statement setting forth the general nature and monetary extent of such claim, including the impact costs of such change, unless this period is extended in writing by the Contracting Officer. The statement of claim hereunder may be included in the notice under sub-article B of this Article.

F. CHANGE ORDERS

1. A written order implementing changes in the Work for which a total cost has been negotiated prior to the issuance of the order is called a CHANGE ORDER. It is issued by the Construction Manager, with the approval required and expressly indicates the intention to treat the items described therein as changes in the Work. It shall also contain the terms and amount of adjustment to the Contract Price. A CHANGE ORDER must be issued and executed before any work is started on the items covered by the order.
2. In any Change Order pursuant to this Article the following shall be used for calculating the components identified herein:
 - (a) Labor costs shall be based on the prevailing wage scale for each craft or type of workman. Labor costs will include payroll tax (FICA), Federal and State unemployment taxes (FUTA and SUTA) and fringe benefits as applicable. FUTA and SUTA will be

calculated on base wage only and not on fringe benefits. Fringe benefits are applied only to straight time component of cost and will not apply to premium time component.

- (b) Material costs shall be the cost of all materials to be used in the work including normal wastage allowance as per industry standards. The material prices shall be supported by valid quotes/invoices from reputable suppliers. The cost shall include sales taxes, freight and delivery charges. The Commission reserves the right to approve materials and sources of supply of materials to be furnished by the Contractor or its subcontractor or if necessary to facilitate the progress of the Work, to furnish the materials to the Contractor.
- (c) Equipment use costs will cover Contractor owned or rented equipment. The rental rate or Contractor Owned Equipment Rate will be calculated at 80 percent of the suggested monthly rental rates listed for such equipment in the Blue Book Rental Rates for Construction Equipment, (published by Dataquest of San Jose), except as modified below, which edition shall be the latest edition in effect at the time of commencement of the work. Hourly rental rates shall be calculated by dividing 80% of the monthly rate by 176. For equipment used in excess of eight hours per day, the rental rate shall be 60 percent of the computed hourly rate. If it is deemed necessary by the Contractor to use equipment not listed in the applicable edition of the Blue Book Rental Rates, the Contractor shall furnish the necessary cost data and paid invoices to the Engineer for his use in establishment of such rental rate.
 - 1. The rates paid as above provided shall include the cost of fuel, oil, lubricants, supplies, small tools, necessary attachments, repairs and maintenance of all kinds, depreciation, storage, insurance and all incidentals.
 - 2. Equipment operators will be paid for as stipulated in sub-article F.2.a above.
 - 3. All equipment shall be in good working condition and suitable for the purpose for which the equipment is to be used.
 - 4. Unless otherwise specified, manufacturer-approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating

recommended by the manufacturer of that equipment.

(d) Contractor's Overhead and Profit

In addition to the added costs as determined in (a), (b), (c) above; the Contractor will be paid markups of twenty (20) percent for labor costs as per (a) above. Fifteen (15) percent for material costs as per (b) above and fifteen (15) percent for equipment use costs as per (c) above. Subject to the following:

1. These markups are full compensation for all overhead and small tools, for added supervision, coordination, and rescheduling of work, and for all other indirect costs of the added or changed work, as well as for profit thereon.
2. The foregoing markups will be paid to the Contractor only for work he performs; in the case of work that is subcontracted, these will be allowed to the subcontractor who actually performs the work.
3. In the case of subcontracted work, an additional markup of five percent of the subcontractor's compensation shall be allowed the Contractor, provided that only one such markup shall be allowed, notwithstanding the actual number of intervening subcontractors.
4. For purposes of the foregoing markups, suppliers of major materials/equipment specially fabricated or modified for use in this Contract (such as steel girders/precast concrete structural members, fully or partially fabricated equipments) shall be considered to be subcontractors. No additional markup for such supplies will be allowed except to the extent of actual cost to the Contractor in handling the material not to exceed five percent of the actual price paid to supplier.
5. No markup will be paid to the Contractor for any material furnished by the Commission.
6. Where the Contractor's or Subcontractor's portions of a change involve credit items, the party performing the Work shall deduct the cost of such items after adding overhead and profit to the added cost of change.
7. Contractor's markup percentages shall be considered to include, among other costs:

material handling and storage, bond premium adjustment, insurance, field and office supervision, cost of estimating and engineering of the Proposed Change including cost of preparation of the Change Proposal, use of small tools, watchman services, incidental job burdens, general home office expenses and all other overhead costs.

G. The Construction Manager and the Contractor (on his own behalf and on behalf of his Subcontractors) shall endeavor to negotiate a reasonable Contract price and the Contractor will be required to submit a detailed price proposal supported with sufficient documentation such that (1) the Construction Manager can determine that the proposal reflects all impacts on the Contract from work additions, deletions and modifications shown in the Change Notice being priced (2) the proposed prices are set out in such a way that a fair evaluation can be made. (3) Contract provisions relating to Contract changes costing over \$100,000 are complied with. If any prices or other aspects are conditional, such as on firm orders being made by a certain date or the occurrence or non-occurrence of an event, the Contractor shall identify these aspects in his proposal. A negotiated Change Order shall set out prices, scheduling requirements, time extensions and all costs of any nature arising out of the issuance of a Change Notice except for those cost and time aspects explicitly reserved on the face of the Change Order. Except for these explicit reservations, the execution of a Change Order by both parties will be deemed accord and satisfaction of all claims of any nature arising from or relating to the issuance of the Change Notice and Change Order negotiated. For administrative purposes of the Commission, estimates of quantity changes and resulting price changes for payments made under Contract price items on account of a change will be listed in the written Change Order.

H. In the event that The Contractor and the Commission are unable to agree:

- (1) that a change has occurred which should result in an adjustment of Contract price and/or Contract Time; or
- (2) on the amount of any adjustment to be made to the Contract price or Time,

the Contracting Officer may order the Contractor to proceed with the performance of the Work in question. Such Work will, at the Commission's option, be paid for;

- (1) under a Cost-Plus Change Notice basis pursuant to sub-article L, of this Article;
- (2) pursuant to a Unilateral Change Order issued by the Commission which may provide for payment to the

Contractor on a lump sum, unit price or other basis;

- (3) under the terms of a Change Order subsequently negotiated and entered into; or
- (4) if the Contractor and Commission disagree as to whether a change has occurred, pursuant to a Disputed Change Order which shall not provide for any adjustment to Contract price or Contract Time, but which shall require Contractor to keep records for any claimed additional costs on the Cost-Plus basis as is set forth in sub-article L hereof.

The Contractor when so ordered shall proceed with the Work and shall not bring any claim on account thereof. The issuance of a Disputed Change Order by the Commission shall not imply that the Contractor is entitled to any additional compensation or time for the work therein designated, but rather said Disputed Change Order shall be processed pursuant to the Article entitled DISPUTES.

- I. For Contract changes, the Commission, or its respective representative shall have the audit and inspection rights as described below:
 1. Where the agreed payment method for any Contract change is to be by cost reimbursement, time and material, labor hours or any combination thereof, the Contractor shall maintain and the Commission or its respective representatives shall have the right to examine books, records, documents, and other evidence and accounting principles and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of the Contract changes under this subarticle.
 2. Contract changes exceeding \$100,000 in cost: For cost and pricing data submitted in connection with pricing a contract modification referred to in this subarticle, unless such pricing is based on Contract unit prices, adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the public, or prices set by law or regulation, the Commission or its representatives shall have the right for a period of three (3) years from the date of final payment under this Contract to examine all books, records, documents and other data of the Contractor related to the negotiation of or performance under the Contract of Change Orders for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted. The right of examination shall extend to all documents deemed necessary by such entity or persons to permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

3. Contract changes exceeding \$10,000 but not \$100,000 in cost: The Commission representatives prior to the execution of any Contract Change Order in this subarticle or for a period of three (3) years from the date of final payment under this Contract shall, unless such pricing is based on Contract unit prices, adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the public, or prices set by law or regulation, have the right to examine all books, records, documents and other data of the Contractor relating to the negotiation of or performance under the Contract of Change Orders for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data it submitted upon which negotiation is or has been based. To the extent the examination reveals inaccurate, incomplete or non-current data, the Contracting Officer may renegotiate the Contract Change Order price based on such data.
4. Contract changes of less than \$10,000 in cost: The Contracting Officer may require from the Contractor appropriate documentation to support the prices being negotiated for contract changes under this subarticle, and may refuse to complete negotiations until satisfactory documentation is submitted. Once a Contract Change Order is executed, the Contracting Officer and his representative may inspect the Contractor's records only with the Contractor's consent.
5. Availability: The materials described in 1 to 4 above shall be available at the office of the Contractor at all reasonable times for inspection, audit or reproduction until three years from the date of Final Payment under this Contract and for records which relate to the Article entitled DISPUTES, or litigation or the settlement of claims arising out of the negotiation or the performance of Contract changes over \$100,000, records shall be made available until such litigations or claims have been disposed of.
6. The Contractor shall insert a clause containing all the provisions in this Article, in all subcontracts hereunder except altered as necessary for proper identification of the contracting parties and Contracting Officer.
7. For the purposes of determining the total cost of a change as provided in this Article, total costs shall include liquidated damages which would be assessed if extension(s) of time were not granted by Contract Change Order.
8. The requirements of this audits and records article are in addition to other audit, inspection and recordkeeping provisions elsewhere in the Contract documents.

J. Changes involving aggregate increases and decreases in excess of \$100,000 shall be subject to the following:

1. A change involves aggregate increases and decreases in excess of \$100,000, if the total value of Work affected, without regard to the arithmetic sign, exceeds \$100,000; for example, a Change Order adding work in the amount of \$75,000 and deleting work in the amount of \$50,000 will be considered to involve aggregate increases and decreases of \$125,000.
2. In addition to requirements for Change Order proposals of this Article, the Contractor shall submit other data supporting his proposal. Submittals under this Article shall be collectively designated "cost or pricing data". The Contractor shall submit a certificate of cost or pricing data as soon as possible after agreement is reached on the Contract price adjustment in the following format:

CERTIFICATE OF CURRENT COST OR PRICING DATA

This is to certify that, to the best of my knowledge and belief, the cost or pricing data submitted, either actually or by specific identification, in writing, to the Commission or to the Commission's representative in support of _____* are accurate, complete and current as of _____**. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the offeror and the Commission that are part of the proposal.

Firm _____
Name _____
Title _____
Date of Execution*** _____

* Identify the proposal, quotation or change order request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., C.O. No.).

** Insert the day, month, and year when price negotiations were concluded and price agreement was reached.

*** Insert the day, month, and year of signing, which should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed to.

(End of Certificate)

3. The Contractor shall submit in support of all items not based upon unit prices or lump sum prices contained in the Contract or upon the established prices at which commercial items are sold in substantial quantities to the public, statements by his vendors that the prices charged to the Contractor are not greater than the prices charged by the respective vendors to their most favored customers for the same items in similar quantities.
4. Price reductions for Defective Cost or Pricing Data - Pricing Adjustments: If any price, including profit and fee, negotiated in connection with any price adjustment was increased by any significant sums because:
 - (a) The Contractor furnished cost or pricing data which were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;
 - (b) A Subcontractor, pursuant to this sub-article J of this Article, or any subcontract provision therein required, furnished cost or pricing data which were not complete, accurate and current as certified in the Subcontractor's Certificate of Current Cost or Pricing Data;
 - (c) The Subcontractor or his prospective Subcontractor furnished cost or pricing data which were required to be complete, accurate, and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which were not complete, accurate, and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or
 - (d) The Contractor or a Subcontractor or his prospective Subcontractor furnished any data, not within clauses 4(a), 4(b), or 4(c) above, which were not complete, accurate, and current as submitted;

the price shall be reduced accordingly and the Contract shall be modified in writing as may be necessary to reflect such reduction. Any reduction in the Contract price due to defective Subcontract data of a prospective Subcontractor, when the Subcontract was not subsequently awarded to such Subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual Subcontract, or actual cost to the Contractor if there was no Subcontract, was less than the prospective Subcontract cost estimate submitted by the Contractor, provided the actual Subcontract price was not affected by defective cost or pricing data.

K. Subcontractor Cost or Pricing Data - Pricing Adjustments:

1. When negotiating a change involving increases or decreases in excess of \$100,000, the Contractor shall require Subcontractors hereunder to submit cost or pricing data under the following circumstances:

Prior to award of any cost-reimbursement type, incentive or price redeterminable subcontract;

Prior to the award of any subcontract the price of which is expected to exceed \$100,000;

Prior to the pricing of any subcontract change modification for which the price is expected to exceed \$100,000; except in the case where the price is based on adequate price competition, established catalog or market prices, commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

2. The Contractor shall require Subcontractors to certify to the best of their knowledge and belief that the cost and pricing data submitted under sub-article J.1 of this Article are accurate, complete, and current as of the date of execution, which date shall be as close as possible to the date of agreement on the negotiated price of the contract Change Order.
3. The Contractor shall insert the substance of sub-article K of this Article, including this sub-article K.3, in each subcontract hereunder which exceeds \$100,000.

L. COST-PLUS CHANGE NOTICE WORK

1. If it is impossible or impractical to ascertain the total cost of changes in the Work to be done before such Work is begun, or if no agreement can be reached on changes in the Work and additions to the Contract price, then the Construction Manager, may issue a COST-PLUS CHANGE NOTICE instructing the Contractor to do the Work, indicating expressly the the intention to treat the items as changes in the Work, and setting forth the kind, character, and limits of the Work as far as can be ascertained, the terms under which changes to the Contract price will be determined and the estimated total change in Contract price anticipated thereunder. The Cost-Plus Change Notice shall be fully executed by the Contracting Officer and accepted by the Contractor before any Work is started on the items covered by the order. Such Cost-Plus Change Notice will become the basis for a Change Order as outlined in this Article, when the amount of adjustment to the Contract Price can be determined. The prior approval of the Cost-Plus Change Notice will be sufficient authority

for the Change Order within the limits of the estimated change in Contract Price. Without additional authority, no costs exceeding the estimated amount will be paid.

2. The Contractor shall maintain such records as the Construction Manager deems sufficient to distinguish the direct cost of cost-plus work from the cost of other operations. He shall furnish daily, on forms approved by the Commission, reports of cost-plus work. The reports shall itemize all costs for labor, materials, and equipment rental and give total of costs to date for the cost-plus work. For workers, the reports shall include hours worked, rates of pay, names and classifications. For equipment, the reports shall include size, type, identification number, rental rate, and hours of operation. All records and reports shall be made immediately available to the Construction Manager upon his request. The cost of furnishing such reports shall be included in Contractor's overhead and fee percentages.
3. All cost-plus reports shall be signed by the Contractor or his authorized representative and signed by the Construction Manager. The Construction Manager will compare his records with the Contractor's reports, make the necessary adjustments and compile the costs of cost-plus work. When such reports are agreed upon and signed by both parties, they will become the basis of payment.
4. Materials cost shall be the cost of all materials purchased by the Contractor and used in cost-plus work and shall be the actual cost of such materials, including sales taxes, freight and delivery charges. The Commission reserves the right to approve materials and sources of supply of materials furnished by the Contractor, or if necessary to facilitate the progress of the Work, to furnish the materials to the Contractor.
5. Equipment. The Contractor will be paid for the use of Contractor-owned or rented equipment at 80 percent of the suggested monthly rental rates listed for such equipment in the Blue Book Rental Rates for Construction Equipment, (published by Dataquest of San Jose), Except as modified below, which edition shall be the latest edition in effect at the time of commencement of the cost plus work. Hourly rental rates shall be calculated by dividing 80% of the listed monthly rate by 176. For equipment used in excess of eight hours per day, the rental rate shall be 60 percent of the computed hourly rate. If it is deemed necessary by the Contractor to use equipment not listed in the applicable edition of the Blue Book Rental Rates, the Contractor shall furnish the necessary cost data and paid invoices to the Construction Manager for his use in establishment of such rental rate.

- (a) The rates paid as above provided shall include the cost of fuel, oil, lubricants, supplies, small tools, necessary attachments, repairs and maintenance of all kinds, depreciation, storage, insurance, and all incidentals.
- (b) Equipment operators will be paid for as stipulated in sub-article F.2.a of this Article.
- (c) All equipment shall be in good working condition and suitable for the purpose for which the equipment is to be used.
- (d) Unless otherwise specified, manufacturer-approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer of that equipment.
- (e) Compensation will not be allowed while equipment is inoperative due to breakdown. Except as specified in paragraph 5(f) of this sub-article, time will be computed in half and full hours. In computing the time for use of equipment, less than 30 minutes shall be considered one-half hour.
- (f) Equipment at the Work Site. The time to be paid for use of equipment on the work site shall be the time the equipment is in operation on the force account work being performed. The time shall include the time required to move the equipment to location of the cost plus work and return it to the original location or to another location requiring no more time than that required to return it to its original location. Moving time will not be paid for if the equipment is also used at the site other than cost plus work. Loading and transporting costs will be allowed, in lieu of moving time, when the equipment is moved by means other than its own power. No payment for loading and transporting will be made if the equipment is also used at the site other than for cost plus work.
- (g) The equipment use period shall begin at the time the equipment is unloaded at the site of the cost plus work, shall include each day that the equipment is at the site of the cost plus work, excluding Saturdays and Sundays and other legal holidays unless such work is performed on those days, and shall terminate at the end of the day on which the Commission instructs the Contractor to discontinue the use of such equipment. The maximum time to be paid per day will not exceed eight hours unless the equipment is in operation for a

longer time. The minimum time to be paid for the entire period of use shall not be less than eight hours. The time which will be paid for per day will be the next highest even numbered hour beyond that for which the equipment was actually in operation.

(h) After submittal and approval by the Construction Manager of the necessity to use rented equipment, the actual rental costs will be the basis for payment by the Commission if such rate exceeds that stipulated in sub-article L.5 of this Article. The basis for approval will be the lack of availability of Contractor-owned equipment to perform the changed work as determined by the Construction Manager.

6. Equipment and tools having a replacement value of \$1000 or less, whether or not consumed or used, shall be considered small tools and no payment will be made therefor.

7. Materials, equipment rental and other costs shall be substantiated by vendor's invoices submitted with the current reports; or, if not then available, shall be submitted with subsequent reports. If vendors' invoices are not submitted within 30 days after completion of the cost-plus work, or if in the opinion of the Construction Manager the cost of materials is excessive, then the cost of such items shall be deemed to be the lowest current wholesale prices at which the items are available in the quantities required, delivered to the Work Site, less cash or trade discounts.

8. Labor costs, overhead and profit shall be determined in accordance with sub-article F of this Article.

9. EXTENSION OF TIME

A. The Contractor will be granted an extension of time for any portion of the delay in completion of the Work, performed under the latest approved schedule, arising from acts of God, acts of governments, acts of the public enemy, fires, floods, epidemics, quarantine restriction, freight embargoes, or strikes, provided that the aforesaid causes were not foreseeable and did not result from the fault or negligence of the Contractor, and provided further that the Contractor has taken reasonable precautions to prevent further delays owing to such causes, and has notified the Engineer in writing of the cause or causes of delay within five days from the beginning of any such delay.

B. Within 30 days after the end of delay, the Contractor shall furnish the Commission with detailed information concerning the causes and circumstances of the delay, the number of days

actually delayed, the appropriate Contract references, and the measures taken to prevent or minimize the delay. Failure to submit all such information within the 30-day period will be sufficient cause for denying the claims for an extension of time. The Commission will ascertain the facts and the extent of the delay and its findings thereon will be final and conclusive subject to provisions of the Article entitled DISPUTES. Neither a delay nor an extension of time granted pursuant to this Article shall be the basis of a claim for additional compensation or damages, and no damages or costs of any kind or nature will be paid for any delay or extension of time. Time extensions must be approved by the Commission prior to any interim or final completion dates being extended.

- C. An extension of time will not be granted for a delay caused by a shortage or Materials, except Commission-furnished Materials, unless the Contractor furnished to the Engineer documented proof that it has made every effort to obtain such Materials from every known source. The Contractor shall also submit proof, in the form of network analysis data, that the inability to obtain such Materials when originally planned, did in fact cause a delay in final completion of the Work which could not be compensated for by revising the sequence of its operations. Only the physical shortage of Material will be considered under these provisions as a cause for extension of time. No consideration will be given to any claim that Material could not be obtained at a reasonable, practical, or economical cost, unless it is shown to the satisfaction of the Engineer that such Material could have been obtained only at exorbitant prices, entirely inconsistent with current rates taking into account the quantities involved and the usual practices in obtaining such quantities and that such fact could not have been known or anticipated at the time the Contract was entered into.
- D. No extension of time will be granted under this Article for any delay to the extent: (1) that performance would have been so delayed by any Contractor induced causes, including but not limited to the fault or negligence of the Contractor or its Subcontractors; or (2) for which any remedy is provided for or excluded by any other provision of the Contract.
- E. A Change Order will be issued to the Contractor within a reasonable period of time after approval of a request for extension of time, specifying the number of days allowed, if any, and the new date for completion of the Work or specified portions of the Work.
- F. An extension of time granted shall not release the Contractor's surety from its obligations. Work shall continue and be carried on in accordance with all the provisions of the Contract and said Contract shall be and shall remain in full force and effect during the continuance and until the completion and Final Acceptance of the Work covered by the Contract unless formally

suspended or annulled in accordance with the terms of the Contract.

- G. Neither the grant of an extension of time beyond the date fixed for the completion of any part of the Work, nor the performance and acceptance of any part of the Work or Materials specified by the Contract after the time specified for the completion of the Work, shall be deemed to be a waiver by the Commission of the Commission's right to abrogate this Contract for abandonment or failure to complete within the time specified or to impose and deduct damages as may be provided.

10. TERMINATION FOR CONVENIENCE

- A. The performance of Work under this Contract may be terminated by the Commission in accordance with this Article in whole, or from time to time in part, whenever such termination is in the best interest of the Commission. Such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of Work under the Contract is terminated, and the date upon which such termination becomes effective.
- B. After receipt of a Notice of Termination, and except as otherwise directed by the Commission, the Contractor shall proceed as directed by the Article entitled RIGHTS AND OBLIGATIONS IN TERMINATION and as directed below:
1. Assign to the Commission in the manner, at the times, and to the extent directed by it, all of the rights, title, and interest of the Contractor under the orders and Subcontracts so terminated, in which case the Commission will have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and Subcontracts;
 2. Settle outstanding liabilities and claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Commission, to the extent it may require, which approval or ratification shall be final for the purposes of this Article;
 3. Use its best efforts to sell material, in the manner, at the times, to the extent and at the price or prices directed or authorized by the Commission, provided, however, that the Contractor (a) shall not be required to extend credit to any purchaser, and (b) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Commission; provided, further, that the proceeds of any such transfer or disposition will be applied in reduction of any payments to be made by the Commission to the Contractor under this Contract or will otherwise be credited to the price or cost

of the Work covered by this Contract or paid in such other manner as the Commission may direct;

4. Complete performance of each part of the Work not terminated by the Notice of Termination; and
 5. Take such action as may be necessary, or as the Engineer may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the Commission has or may acquire an interest.
- C. After receipt of a Notice of Termination, the Contractor shall submit to the Engineer its termination claim, in the form and with certification prescribed by the Commission. Such claim shall be submitted promptly but in no event later than six months from the effective date of termination, unless one or more extensions in writing are granted by the Commission, upon request of the Contractor made in writing within such six months period or authorized extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, the Commission may determine, on the basis of information available, the amount, if any, due the Contractor by reason of the termination and will thereupon pay the Contractor the amount so determined.
- D. Subject to the provisions of sub-article C above, the Contractor and the Commission may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of Work pursuant to this Article, which amount or amounts may include an allowance for profit on Work done; provided that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the Total Contract Price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of Work not terminated.
- E. In the event of failure of the Contractor and the Commission to agree, as provided in sub-article D, upon the whole amount to be paid the Contractor by reason of the termination of Work pursuant to this Article, the Commission will pay the Contractor the amounts determined by the Commission as follows.
1. With respect to Contract Work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of:
 - (a) The costs of such Work;
 - (b) The cost of settling any paying claims arising out of the termination of Work under Subcontracts or orders as provided in sub-article B.5 above, exclusive of the amounts paid or payable on account of supplies or Materials delivered or services furnished by the

Subcontractor prior to the effective date of the Notice of Termination of Work under this Contract, which amounts shall be included in the costs on account of which payment is made under (a) above;

- (c) A sum, as profit on (a) above, determined by the Commission to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this sub-article E.1 (c) and an appropriate adjustment shall be made by reducing the amount of the settlement to reflect the indicated rate of loss; and
 - (d) The reasonable cost of the preservation and protection of property incurred pursuant to sub-article B.5 and any other reasonable cost incidental to termination of Work under this Contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of Work under this Contract.
- F. The total sum to be paid to the Contractor under sub-article E.1 above will not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of Work not terminated. Except for normal spoilage, and except to the extent that the Commission will have otherwise expressly assumed the risk of loss, there will be excluded from the amounts payable to the Contractor under sub-article E.1 above, the fair value, as determined by the Commission, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Commission, or to a buyer pursuant to sub-article B.3 of this Article.
- G. In arriving at the amount due the Contractor under this Article, there will be deducted:
- 1. The amount of any claim which the Commission has against the Contractor in connection with the Contract; and
 - 2. The agreed price for, or the proceeds of sale of materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this Article, and not otherwise recovered by or credited to the Commission.
- H. If the termination hereunder is partial, prior to the settlement of the terminated portion of the Contract, the Contractor may file with the Commission a written request for an adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract (the portion not terminated by the Notice of Termination), and such adjustment as may be agreed upon will be made in the price or prices.

- I. Under no circumstances is the Contractor entitled to anticipatory, unearned profits or consequential damages as a result of a termination or partial termination under this Article. The payment to the Contractor determined in accordance with this Article constitutes exclusive remedy for a termination hereunder.
- J. Anything contained in the Contract to the contrary notwithstanding, a termination under this Article shall not waive any right or claim to damages which the Commission may have and the Commission may pursue any cause of action which it may have under the Contract.

11. TERMINATION FOR DEFAULT - DAMAGES FOR DELAY

- A. If the Contractor refuses or fails to prosecute Work, or any separable part thereof, with such diligence as will insure its completion within the time specified in this Contract, or any extension thereof, or refuses or fails to complete said Work within such time, the Commission may, by written notice to the Contractor, terminate for default its right to proceed with the Work or such part of the Work as to which there has been delay. In such event the Commission may take over the Work and prosecute the same to completion, by contract or otherwise and may take possession of and utilize in completing the Work Site and necessary therefor. Whether or not the Contractor's right to proceed with the Work is terminated, the Contractor and its surety shall be liable for any damage to the Commission resulting from the Contractor's refusals or failure to complete the Work in the specified time.
- B. If the Commission so terminates the Contractor's right to proceed, the resulting damage will include but not be limited to liquidated damages until such time as may be required for final completion of the Work, any increased costs incurred by the Commission in completing the Work and any claims made by third parties against the Commission relating to the Work.

12. TERMINATION OF RIGHT TO PROCEED FOR CERTAIN DEFAULTS

- A. In addition to the Commission's right to terminate for default under other Articles of the Contract, the Commission will have the right to terminate the Contractor's performance of Work in whole or in part for default for any of the following reasons:
 - 1. The Contractor's or Subcontractor's performance of Work is in violation of the terms of the Contract.
 - 2. The Contractor or Subcontractor has violated an authorized order or requirement of the Commission, the Contracting Officer or the Engineer.

3. Abandonment of the Contract.
 4. Assignment or subcontracting of the Contract or any Work under the Contract without approval of the Commission.
 5. Bankruptcy or appointment of a receiver for the Contractor's property.
 6. Performance by the Contractor in bad faith.
 7. Contractor allowing any final judgment to stand (unsatisfied) for a period of 48 hours (excluding weekends and legal holidays).
 8. Material failure to comply with any law, ordinance, rule, regulation or order of a legal authority applicable to the Contractor, the Work, the Contract or the Project.
 9. Failure to indemnify any party which the Contractor is obligated to indemnify under the Article entitled LIABILITY AND INDEMNIFICATION or elsewhere under the Contract.
- B. If, in the opinion of the Commission, the Contractor is in default of the Contract, the Commission will so notify the Contractor. If the Contractor fails to remedy or commence to remedy the default within five days after receipt of such notice, the Commission may terminate the Contractor's right to proceed with the Work or that portion of the Work which the Commission determines is most directly affected by the default.

13. RIGHTS AND OBLIGATIONS IN TERMINATION FOR DEFAULT

- A. This Article shall apply to termination for any default covered in these General Conditions.
- B. On the receipt of a Notice of Termination from the Commission the Contractor shall:
 1. Stop Work on the date of, and to the extent specified in, the Notice of Termination;
 2. Place no further orders or Subcontracts for materials, equipment, services, or facilities except that which is necessary to complete the portion of the Work which is expressly not terminated under the Notice of Termination.
 3. Terminate all orders or Subcontracts to the extent that they relate to the performance of Work terminated by the Notice of Termination;

4. Comply with all other requirements of the Commission specified in the Notice of Termination.
- C. If the Contract is terminated as provided in this Article, the Commission may require the Contractor to transfer title and deliver to the Commission, as directed by the Engineer, the following:
1. Any completed supplies or Commission-Furnished Equipment, and;
 2. Such partially completed supplies and materials, installations, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing materials") that the Contractor has specifically produced or acquired for the terminated portion of this Contract. The Contractor shall also protect and preserve property in its possession in which the Commission has an interest at the Contractor's sole expose.
- D. Upon the Commission's termination of the Contractor's right to proceed with the Work because of the Contractor's default under the Contract, the Commission will have the right to complete the Work by whatever means and method it deems advisable. The Commission will not be required to obtain the lowest prices for completing the Work but shall make such expenditures as, in the Commission's sole judgement, best accomplish such completion.
- E. The expense of completing the Work, together with a reasonable charge for engineering, managerial and administrative services, as certified by the Commission, will be charged will be deducted by the Commission out of such monies as may be due or may at any time thereafter become due to the Contractor. In case such expense is in excess of the sum which otherwise would have been payable to the Contractor or its surety shall promptly pay the amount of such excess to the Commission upon notice of the excess so due. The Commission may, of any progress payments otherwise due the Contractor until completion and final settlement of the Work covered by the Notice of Termination of Contractor's right to proceed.
- F. The Contractor shall insert in all Subcontracts that the Subcontractor will stop Work on the date of or to the extent specified in a Notice of Termination from the Commission and shall require the Subcontractors to insert the same provision in any of their Subcontracts.
- G. The Contractor shall immediately upon receipt communicate any Notice of Termination issued by the Commission to the affected Subcontractors and suppliers at any tier.
- H. Rights of Surety: The Surety on the Contractor's Performance Bond provided for in this Contract shall not be entitled to take

over the Contractor's performance of Work in case of termination under this Article, except with the consent of the Commission.

14. NOTICE OF POTENTIAL CLAIM

- A. It is an express condition of Contractor's right to make a claim or to receive any recovery or relief under or in connection with the Contract, that Contractor submit a written notice of potential claim to the Engineer in accordance with the provisions of this Article. Failure to comply with the provisions hereof shall constitute a waiver by the Contractor of any right, equitable or otherwise, to bring any such claim against the Commission.
- B. The written notice of potential claim shall set forth the reasons for which the Contractor believes additional compensation will or may be due, the nature of the costs involved, Contractor's plan for mitigating such costs and if ascertainable the amount of the potential claim. The Notice provided above shall be given within seven days after the happening of the event or occurrence giving rise to the potential claim; provided, however, if the event or occurrence is claimed to be an act or omission of the Contracting Officer or Engineer notice shall be given prior to the time for performance of the portion of the Work to which such alleged act or omission relates. The notice requirements of this Article are in addition to any other notice requirements set forth in the Contract.

15. SUBMITTAL OF CLAIMS

- A. Claims shall be filed by the Contractor within 60 days of the occurrence of the event or occurrence giving rise to the claim, in sufficient detail to ascertain the basis and amount of said claims. It will be the responsibility of the Contractor to furnish, when requested by the Engineer, such further information and details as may be required to determine the facts or contentions involved in said claim. The Contractor agrees that it shall give the Engineer access to its books, records and other materials relating to the Work, and shall cause its Subcontractors to do the same, so that the Engineer can investigate such claim. The Contractor's failure to submit any claim in writing within the relevant time and in the manner prescribed above shall waive any relief that might otherwise be due with respect to such claim.
- B. Each claim the Contractor may make for adjustment on account of delay for any cause shall be accompanied by a revised progress schedule reflecting the effects of the delay and proposals to minimize these effects. If no progress schedule has been submitted to the Engineer reflecting conditions prior to the delay for which relief is sought, then a progress schedule so

reflecting these conditions shall be prepared and submitted with the claim.

- C. Supporting data for any claim involving time extensions shall be submitted to the Commission within 45 days after filing a written notice of potential claim as specified in the Article entitled NOTICE OF POTENTIAL CLAIM, and shall be updated at intervals not to exceed 30 days thereafter. The updated data shall reflect excess time expenditures to date and excess time expenditures anticipated for completion of the activity(s) for which the time extension is claimed.
- D. The Commission shall be entitled to a reasonable time, in no case less than 90 days, after it receives each claim, in writing and accompanied by supporting documents and evidence, in which to investigate, review, and evaluate such claim. When the Commission has completed its investigation, review, and evaluation, it will advise the Contractor of the relief, if any, to which it has found the Contractor to be entitled. If the Contractor is not satisfied with the Commission's findings, it shall, within 30 days next after being advised thereof, request the Commission to reconsider. The Contractor's failure within the time to request reconsideration shall waive any relief other than or in addition to that, if any, which the Commission has found to be due. Within 30 days after the Commission receives such a request to reconsider, it will advise the Contractor of its final determination with respect to the claim that is subject of such request.
- E. In no event shall claims be made after final payment is made under the Article entitled FINAL PAYMENT which is included in the Compensation and Payment Provisions.

16. DISPUTES

- A. Except as otherwise expressly provided in the Contract, any dispute concerning a question of fact or a mixed question of fact and law arising under the Contract and which is not resolved by agreement, shall be decided by the Contracting Officer.
- B. The Contracting Officer shall issue his decision in written form and furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and binding upon the Contractor. The Contractor agrees to accept the decision of the Contracting Officer as final, binding and conclusive unless by law the Contractor is entitled to judicial review of such decisions.
- C. The Contracting Officer may require the Contractor to furnish additional information to substantiate its claim. The Contractor shall give the Contracting Officer such access to its books, records and other Materials, and shall cause its

Subcontractors to do the same, as may be deemed necessary by the Contracting Officer to resolve such appeal. In connection with any proceeding under the Article, Contractor shall be afforded an opportunity to be heard and offer evidence in support of its claim.

- D. The pendency of a dispute shall not relieve the Contractor of its duty diligently to perform its obligations under the Contract pending resolution of said dispute.

17. TITLE AND RISK OF LOSS

- A. As a security for partial, progress, or other payments, title to Work for which such payments are made shall pass to the Commission at the time of payment. To the extent that title has not previously been vested in the Commission by reason of payments, full title shall pass to the Commission at delivery of the Work at the destination specified in this Contract. Work to which the Commission has received title by reason of progress or partial payments shall be segregated from other Contractor or subcontractor materials and clearly identified as Commission property.
- B. Notwithstanding passage of title in whole or in part to the Commission, the risk of loss or damage shall remain with the Contractor until installation in the Commission facilities (when installation is in the Contractor's Scope of Work), or delivery of the Work to the Commission at the destination specified in this Contract. At that event, the risk of loss shall pass to the Commission.

18. GOVERNING LAW

- A. The Contract shall be governed by and interpreted in accordance with the laws of the State of California. The Contractor shall also abide by all applicable city and county ordinances.
- B. The Contractor, by entering into the Contract, consents and submits to the jurisdiction of the Courts of the State of California, over any action at law, suit in equity or other proceeding that may arise out of the Contract.
- C. The Contractor acknowledges that it has familiarized itself with the requirements of any and all applicable Federal, State, County and Municipal laws, codes, rules and regulations and the conditions of any required licenses and permits prior to entering into this Contract. Contractor shall be responsible for complying with any and all of the foregoing at its sole cost and expense and without any increase in Contract price or Contract Time on account of such compliance regardless of whether such compliance would require additional labor,

Equipment and/or Materials not expressly provided for in the Contract or the Contractor's Bid.

19. ASSIGNMENT

- A. The Contractor or its surety shall not assign, transfer, convey, sublet or otherwise dispose of this Contract, or right, title or interest in or to the same of any part thereof, without the previous consent in writing of the Contracting Officer endorsed upon or attached to the copies of this Contract filed in the Commission offices.
- B. No right under this Contract shall be asserted against the Commission, in law or in equity, by reason of any so-called assignment of this Contract, or any part thereof, unless authorized as aforesaid by the written consent of the Contracting Officer.
- C. Any assignment of money shall be subject to all proper setoffs and withholdings in favor of the Commission and to all deductions provided for in the Contract. All money withheld, whether assigned or not, shall be subject to being used by the Commission for completion of the Work pursuant to the terms of this Contract.

20. PAYMENT OF TAXES

The Contractor is responsible for paying all retail sales and use, transportation, export, import, special, or other taxes and duties applicable to, and assessable against any Work, Materials, Equipment, Services, processes and operations incidental to or involved in the Contract. The Contractor is responsible for ascertaining and acquainting itself with such taxes and making all necessary arrangements to pay them. The prices established in the Contract shall include compensation for any taxes the Contractor is required to pay by laws and regulations in effect on the Bid Opening date.

21. LIABILITY AND INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall, at its sole cost and expense, fully defend, indemnify and hold harmless, the Commission, the Engineer, the Construction Manager and any of their respective members, officers, employees and agents, from and against any and all claims, actions, demands, costs, judgements, liens, penalties, liabilities, damages, losses, anticipated loss of revenues, and expenses, including any fees of accountants, attorneys or other professionals, arising out of, in connection with, resulting from or related to, any act or omission by the Contractor or any of its officers, agents, employees, Subcontractors, or individual entities comprising the Contractor in connection with or relating to or claimed to be in connection with or relating to the Work, the

Contract, or the Project, including but not limited to any costs or liability arising out of or in connection with:

1. failure to comply with any applicable law, statute, code, ordinance, regulation, permit or orders;
2. any misrepresentation, misstatement or omission with respect to any statement made in the Contract or any document furnished by the Contractor in connection therewith;
3. any breach of any duty, obligation or requirement under the Contract;
4. any failure to coordinate Work with other Contractors;
5. any failure to provide notice to any party as required under the Contract;
6. any failure to act in such a manner as to protect the Commission and the Project from loss, cost, expense or liability; or
7. any failure to protect the property of any utility company or property owner.

This indemnity shall survive termination of the Contract or final payment thereunder. This indemnity is in addition to any other rights or remedies which the Commission and the Engineer may have under the law or under the Contract. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, the Commission in its sole discretion reserve, retain or apply any monies due to the Contractor under the Contract for the purpose of resolving such claims, provided, however, that the Commission may release such funds if the Contractor provides the Commission with reasonable assurance of protection of the Commission's interests. The Commission in its sole discretion determine whether such assurances are reasonable.

22. GRATUITIES AND CONFLICTS OF INTEREST

- A. The Commission may, by written notice to the Contractor, terminate as a default the right of the Contractor to proceed under this Contract if it is found that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor to any director, officer or employee of the Commission or its Engineer.
- B. In the event this Contract is terminated as provided herein, the Commission shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the Contract by the Contractor.

- C. The Contractor shall not permit any member, officer or employee of the Commission or of a local public body during his tenure or for one year thereafter to have any interest, direct or indirect, in this Contract or the proceeds thereof, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit. "Local public body" means the State or any political subdivision thereof, or any agency of the State or any political subdivision thereof.
- D. The Contractor or its employees shall not enter into any Contract involving services or property with a person or business prohibited from transacting such business with the Commission pursuant to Sections 1090 et seq. and 87100 et seq. of the California Government Code. To the Commission's or Contractor's knowledge, no Commission member, officer, or employee of the Commission has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction or in the business of the Contractor. If any such transaction comes to the knowledge of either party at any time, a full and complete disclosure of such information shall be made to the other party, even if such interest would not be considered a conflict under Sections 1090 et seq. and 87100 et seq. of the California Government Code.
- E. Neither the Contractor nor its employees or Subcontractors shall provide or offer to provide any campaign contribution to any member of the Commission in violation of California Government Code Section 87308. Further, to the Commission's or Contractor's knowledge, neither the Contractor nor any of its employees or Subcontractors has provided a campaign contribution of \$250.00 or more to any member of the Commission within 12 months prior to the award of this Contract or any Subcontract of this Contract.
- F. In the event the Contractor, or any of its officers, partners, principals or employees are convicted of a crime arising out of, or in connection with, the Work to be done or payment to be made under this Contract, this Contract in whole or any part thereof may, at the discretion of the Commission, be terminated.
- G. The rights and remedies of the Commission provided in this Article are not exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

23. SUPERINTENDENCE BY CONTRACTOR

- A. The Contractor shall supervise and direct the work, using the best skill and attention. It shall be solely responsible for coordinating all portions of the work under this Contract.
- B. Before starting work, the Contractor shall designate in writing the name, qualifications and experience of its proposed representative who, on approval of the Engineer, shall have full

authority to represent and act for the Contractor. A facsimile of the authorized representative's signature shall be submitted to the Engineer. The authorized representative or his designated substitute, acceptable to the Engineer, shall be present at the Project Site at all times any work is in progress and at any time that any employee or Subcontractor of Contractor is present at the Project Site. Arrangements for responsible supervision, acceptable to the Engineer, shall be made for emergency work which may be required during periods when the Work is suspended.

- C. The Contractor shall notify the Engineer, in writing, when the Contractor desires to change his representative, and shall provide the information specified above for the Engineer's approval of the new representative.

24. PERMITS

Except for those permits furnished by the Commission as listed in the Special Provisions, the Contractor shall be fully responsible for identifying and obtaining, at its own expense, all necessary licences and permits in connection with the prosecution of the Work.

END OF GENERAL CONDITIONS

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PART "C"

SPECIAL PROVISIONS

CONTRACT NO. R01-T02-P0861

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

CONTRACT No. R01-T02-P0861

PART "C"

SPECIAL PROVISIONS

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LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PART "C"

SPECIAL PROVISIONS

SP-1 INSURANCE REQUIREMENTS

A. Contractor-Furnished Insurance During Work at its Facility

Contractor, from the time of commencement of Work hereunder until delivery of the Work to the Project Site, shall provide and maintain in effect the types and amounts of insurance coverages indicated in this Section, with insurance companies satisfactory to the Commission.

1. Worker's Compensation including Employer's Liability, in the minimum amount of \$1,000,000, in states where employees under this Contract are working.
2. Comprehensive General Liability, including Contractual Liability, and Projects Liability covering bodily injury, including death, and property damage in the single limit per occurrence amount of \$5,000,000.

The policy of insurance which affords Comprehensive General Liability shall contain a provision or endorsement stating that such insurance applies to the liability assumed by the Contractor under this Contract, subject to all the terms and provisions of such insurance.

3. Comprehensive Automobile Liability including owned, nonowned, and hired vehicles covering bodily injury, including death, and property damage in the single limit per occurrence amount of \$1,000,000.

B. Insurance Certificates

1. Certificates of Insurance satisfactory in form to the Commission shall be supplied by the Contractor to the Commission prior to beginning Work on the Contract evidencing that the above insurance is in full force and the Commission and the Commission's authorized representative have been made additional insureds on or are indemnified under said policies in respect of liabilities to third parties and that not less than sixty (60) days prior written notice will be given the Commission prior to any cancellation or restrictive modification of the policies.
2. The Certificate of Insurance shall include statement that said insurance is primary over which may be obtained by Commission. The certificate shall include the Commission, its members, directors, officers, representatives, agents and

employees including the Engineer, (and other applicable jurisdictions and representatives) as additional insureds as respects work or operations in connection with this Contract.

- C. None of the requirements contained herein as to types, limits and the Commission's approval of insurance coverage to be maintained by Contractor are intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under this Contract.

SP-2 COOPERATION WITH OTHERS

There will be other contractors, subcontractors, or employees of the Commission and its authorized representatives working at or adjacent to the Project Site during the performance of this Contract by Contractor. Contractor must anticipate in its schedule and expenses that its Work may be interfered with or temporarily delayed from time to time on account of the concurrent activities of others, and Contractor shall fully cooperate with the Commission and other contractors and subcontractors to avoid any delay or hindrance of their activities and to assure the orderly completion of the Work as a whole. The Commission may also require that certain facilities and areas be used concurrently by Contractor and other persons. No extension of time for completion will be granted and no additional payment will be made to Contractor by the Commission as a result of such temporary interferences or delays arising from the activities of others at or adjacent to the Project Site.

SP-3 PROSECUTION & COMPLETION OF WORK

Contractor shall commence performance of the Work upon the date specified in the formal Notice to Proceed issued to Contractor hereunder and shall furnish sufficient forces, and shall work such hours, including extra shifts and overtime operations, so as to prosecute the Work to completion in accordance with the following Major Contract Dates:

(Major Contract Dates for this Contract are listed in terms of number of weeks or days after the commencement date specified in the formal Notice to Proceed, or prior to vehicle delivery dates, and shall include at least the following dates, plus other intermediate dates as appropriate:)

<u>Contractor to Submit</u>	<u>Date</u>
Delivery Schedule	NLT 30 days after NTP
Quality Control Program	NLT 30 days after NTP

<u>Contractor to Submit</u>	<u>Date</u>
Schedule of Values of Lump Sum Bid Items	NLT 30 days after NTP
Equipment Catalogs	NLT 30 days after NTP
Test Plan describing all testing to be performed	NLT 30 days after NTP
Test Reports	NLT 15 days after completion of any tests
Design Report	NLT 30 days after NTP
Listing of Subcontractors/Suppliers	NLT 30 days after NTP
Outline of Training Program	30 days prior to delivery of each vehicle
Operations and Maintenance Instructions	10 days prior to delivery of each vehicle
Parts Manual	10 days prior to delivery of each vehicle

VEHICLE DELIVERY DATES ARE AS FOLLOWS:

<u>Bid Item</u>	<u>Vehicle Name</u>	<u>Delivery Date</u>
1	Portable Electric Jacks	05/15/89
2	Portable Body Stands	05/15/89
3	Electric Lift Platforms	05/15/89

SP-4 NOTICE AND SERVICE THEREOF

Any notice required or given by one party to the other under the Contract shall be in writing and shall be dated and signed by the party giving such notice or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatever unless served in the following manner:

Notice shall be given to the Commission by personal delivery thereof to the Engineer or by depositing the same in the United States mail enclosed in a sealed envelope, registered and with postage prepaid, addressed to:

Los Angeles County Transportation Commission
403 West 8th Street, Suite 500
Los Angeles, California 90014

Attention: Mr. Albert V. Scala
Manager, Contracts

Notice shall be given to the Contractor by personal delivery thereof to the Contractor by depositing the same in the United States Mail, enclosed in a sealed envelope addressed to the Legal Address of the Contractor, registered with postage prepaid.

Notice shall be given to the Surety, or any other person, by personal delivery to the Surety or other person, or by depositing the same in the United States Mail, enclosed in a sealed envelope addressed to the Surety or other person at the address last communicated thereby to the party giving the notice, registered with postage prepaid.

SP-5 CONTRACTOR'S INTERACTION WITH THE MEDIA AND PUBLIC

A. CONTACT WITH NEWS MEDIA

The Contractor will not respond to inquires from the news media, but shall refer all questions to the Engineer.

B. COORDINATING WITH THE PUBLIC

The Contractor shall designate a staff person to keep the Engineer informed of all impacts on the community resulting from construction. This designated staff person may be the project superintendent or the project engineer; there need not be a full time staff person responsible for this.

C. COMPLAINTS

If the Contractor receives a complaint from a citizen or the community, he shall inform the Engineer and advise what action has been taken to alleviate the situation.

SP-6 PROJECT CORRESPONDENCE

Notwithstanding the Article entitled Notice and Service Thereof included herein, every letter, progress report, change order, transmittal, and all other documents exchanged between the Contractor and the Commission shall be assigned a unique correspondence number by the Contractor. The Contractor shall maintain a correspondence index and assign correspondence numbers consecutively for all Contractor documents. The Commission will maintain a similar correspondence numbering scheme identifying documents and correspondence initiated by the Commission. Project Correspondence shall be addressed to the Engineer and submitted with a transmittal form to:

Transit Consultants of Southern California
403 West 8th Street, Suite 1100
Los Angeles, California 90014

Attention: Mr. William Volkmer
Engineer, Maintenance Equipment

END OF SPECIAL PROVISIONS

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PART "D"
COMPENSATION AND PAYMENT PROVISIONS
LUMP SUM/UNIT PRICE

CONTRACT NO. R01-T02-P0861

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

**PART "D"
COMPENSATION AND PAYMENT PROVISIONS**

CONTENTS

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LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PART "D"

COMPENSATION & PAYMENT PROVISIONS

CP-1 COMPENSATION

In accordance with the provisions of the Contract to which this Part "D" is attached, the Commission shall pay to Contractor the Total Contract Price set forth below as compensation in full for performance of the Work, for all responsibilities and obligations of Contractor under this Contract, for all loss or damage arising out of the performance of the Work, and for all risks of every description connected with the Work, except as may be otherwise expressly provided in this Contract.

The Total Contract Price shall consist of a lump sum amount of _____

(in words)

_____ DOLLARS

(\$ _____).
(figures)

CP-2 PROGRESS PAYMENTS

- A. The Commission will make progress payments after delivery and final acceptance of each item described in the Technical Provisions. The Contractor shall, within 30 days after NTP, furnish a detailed Schedule of Values of lump sum bid items, in such detail as the Engineer shall request, showing the amount included therein for each Pay Item of the Work. Each lump sum Pay Item shall show the price of all items of Work required under the Contract entering into each lump sum item. Each item of the detailed estimate shall include its proportionate share of overhead, profit, and all other expenses involved. The summation of these amounts shall total in each case the exact amount of the Total Bid Price.
- B. Vehicles covered by progress payments shall become the sole property of the Commission. This provision shall not be construed as relieving the Contractor from the responsibility for vehicles for which payments have been made, the restoration of damaged work, or as waiving the right of the Commission to require the fulfillment of the terms of the Contract.
- C. Progress payments will be made within 30 days of the receipt of a proper Application for Payment. No progress payments will be made for Work not in accordance with this Contract.

D. Applications for progress payments shall be on the forms supplied by the Commission. These applications shall be supported by evidence which is required by this Article and such other documentation as the Engineer may require. The Contractor shall certify that the vehicle for which payment is requested has been delivered to the site indicated by the Commission. Work under Change Orders negotiated on a cost reimbursable basis will, under procedures of the Contracting Officer, be subject to Commission audit review of the Contractor's records supporting the payment application. Audits will be performed so as not to interfere with timely processing of pay applications. If an audit indicates the Contractor has been overpaid under a previous payment application, that overpayment will be credited against current progress payment applications. For a period of three years from the Final Acceptance of the Contract, the Contractor shall maintain and make available for audit inspection and copying by the Commission and the State and their authorized representatives, all records subject to audit review.

E. Deductions from Progress Payments: In addition to the deductions provided for under sub-provision B hereof, the Commission shall deduct from each progress payment the following:

1. Any liquidated damages which have accrued as of the date of the application for payment.
2. Any sums expended by the Commission in performing any of Contractor's obligations under this Contract which Contractor has failed to perform;
3. Any other sums which the Commission is entitled to recover from Contractor under the terms of this Contract.

The failure by the Commission to deduct any of these sums from a progress payment shall not constitute a waiver of the Commission's right to such sums.

CP-3 CONTRACT PRICE AND PAY ITEMS

A. Payment for the various pay items listed in the Schedule of Prices and Quantities shall constitute full compensation to complete the Work in conformity with the Contract. All costs for Work shown or indicated by the Contract, even if not specifically provided for by a Pay Item in the Schedule of Prices and Quantities, shall be included. The Contractor will not be entitled to additional compensation for providing any activity or material necessary for the completion of the Work in accordance with the Contract even though the activity or material is not included in a specific Pay Item indicated in Contract.

B. Payments for the various pay items listed in the Schedule of Prices and Quantities will constitute full compensation for

restoring loss and repairing damage arising from the nature of the Work, from the action of the elements, from any unforeseen difficulties which may be encountered during the prosecution of the Work or from risks of every description, except as provided in the Article entitled DAMAGE TO THE WORK AND RESPONSIBILITIES FOR MATERIALS of the General Conditions.

- C. Payments for the various pay items listed in the Schedule of Prices and Quantities will constitute full compensation for all expense incurred in consequence of discontinuance of all or any portion of the Work except as provided in the Article entitled TERMINATION FOR CONVENIENCE of the General Conditions.
- D. In the case of any Pay Item for which a fixed amount is predetermined by the Commission, such fixed amount shall be conclusive and binding upon the Contractor and such amount so entered will constitute full compensation for furnishing plant, labor, equipment, appliances, and materials and for performing all operations required to complete the Work relating to such Pay Items as indicated in the Contract.

CP-4 INVOICING

Costs shall be paid to Contractor on the basis of invoices as the Work proceeds. Such invoices shall be prepared by Contractor in the form and manner requested by Commission and shall be submitted to Engineer on a monthly basis or as otherwise directed by Commission. Each such invoice shall set forth all costs incurred by Contractor not previously invoiced and shall reference the Contract Number. Invoicing of Contractor's costs shall be kept current at all times.

Within thirty (30) days after receipt of each such Contractor's invoice, the Commission shall pay to Contractor the invoiced amount of Contractor's costs set forth therein for which payment has not previously been made, less the retained amount and as required by Article CP-3 of these Special Provisions; provided that in the event the Commission should object to any item or statement contained in any invoice, or to the sufficiency of the vouchers or other documents submitted in support thereof, the Commission shall be entitled to withhold that portion of the invoiced amount to which the Commission objects, from the payment of the balance of the invoice, or from payment of any subsequent invoice. The Commission shall promptly notify Contractor thereof, and shall pay Contractor any remaining invoice amount which is due and payable to Contractor. The retention shall be invoiced upon final acceptance of the Work by Commission.

Two (2) original Invoices and one (1) copy shall be sent to the Resident Engineer.

CP-5 MANNER OF PAYMENT

The Contract price shall be paid to the Contractor by the Commission and shall be transmitted to the following address:

Mail Funds to: (Place Designated by Contractor)

CP-6 FINAL PAYMENT

A. After the Work has been accepted by the Commission, subject to the provisions of the Article entitled WARRANTY OF WORK of the General Conditions, and the Article entitled FINAL INSPECTION AND ACCEPTANCE OF THE WORK, of the General Conditions, a final payment will be made as follows:

1. Prior to Final Acceptance of the Work, the Contractor shall prepare and submit a proposed final Application for Payment to the Engineer showing the proposed total amount due the Contractor, segregated as to Contract item quantities, and other bases for payments; deductions made or to be made for prior payment; amounts to be retained, any claims the Contractor intends to file at that time or a statement that no claims will be filed; and any unsettled claims, stating amounts. Prior applications and payments shall be subject to correction in the proposed final Application for Payment. Claims filed with the final Application for Payment must be otherwise timely under the General Conditions. Payments to the Contractor will be made only for the actual quantities of the Contract items delivered in accordance with the Contract Documents.
2. The Contracting Officer and the Engineer will review the Contractor's proposed final Application for Payment, and necessary changes or corrections will be forwarded to the Contractor. Within 10 days thereafter, the Contractor shall submit a final Application for Payment incorporating changes or corrections made by the Contracting Officer and the Engineer together with additional claims resulting therefrom. Upon approval by the Contracting Officer, the corrected proposed final Application for Payment will become the approved final Application for Payment.
3. If the Contractor files no claims with the final Application for Payment and no claims remain unsettled within 30 days after Final Acceptance of the Work by the Engineer and the Contracting Officer, and agreements are reached on all questions regarding the final Application for Payment, the Commission, in exchange for an executed release, satisfactory in form and substance to the Contracting Officer, will pay the entire sum found due on the approved final Application

for Payment, including the amount, if any, allowed on claims.

4. The release from the Contractor shall be from any and all claims arising from the Work under and in connection with the Contract and shall release and waive any claims against the Commission, the Engineer, and their respective agents, officers, members and employees. The release shall be accompanied by a certification by the Contractor: (1) that he has resolved any claims made by Subcontractors, suppliers and others against the Contractor or the Project; (2) that he has no reason to believe that any party has a valid claim against the Contractor or the Project which has not been communicated in writing by the Contractor to the Engineer as of the date of the Certificate; and (3) that all warranties and guarantees are in full force and effect. The release and certificate shall survive Final Payment.
 5. Final Payment will be made within 30 days after approval of the final notice and resolution of Contractor's claims, or 30 days after Final Acceptance of the Work by the Commission, whichever is later. If a final Application for Payment has not been approved within 120 days after Final Acceptance of the Work, the Commission will make payment on account of items not in dispute without prejudice to the rights of the Commission or the Contractor in connection with any disputed items; provided, that with respect to such undisputed items and any unasserted claims, the Contractor shall furnish a release and certificate provided for in subsection 4 above.
 6. Except where inspection of records retained by Contractor under the Article entitled CHANGES of the General Conditions, or the Article entitled TERMINATION FOR CONVENIENCE of the General Conditions, determines that Final Payment was incorrect, Final Payment made in accordance with this Article will be conclusive and binding against both parties to the Contract on all questions relating to the amount of Work done and the compensation paid therefor.
- B. When a Contractor has exceeded the Contract Time and has not yet received an extension of time to complete the Contract so that liquidated damages may be assessed, the Engineer may withhold an additional amount of money to cover the amount of liquidated damages that will accrue based on the Contractor's estimated Contract completion time as confirmed by the Contract Schedule.
- C. No Estoppel: The Commission shall not, nor shall any department or officer thereof, be precluded or estopped by any return of certificate or Final Application for Payment made or given by the Engineer or other officer, agent or employee of the Commission under any provisions of this Contract from showing at any time (either before or after the final completion and acceptance of the Work and payment therefor), pursuant to any such return or

certificate of Final Application of Payment, the true and correct amount and character of the Work done, and materials furnished by the Contractor or any person under this Contract, or from showing at any time that any such return or certificate or Final Application of Payment is untrue and incorrect, or improperly made in any particular, or that the Work and materials, or any part thereof, do not in fact conform to the Contract Documents; and the Commission shall not be precluded or estopped, notwithstanding any such return or certificate or Final Application for Payment and payment in accordance therewith, from demanding and recovering from the Contractor such damages as it may sustain by reason of its failure to comply with the Contract Documents.

CP-7 ACCOUNTING OF COSTS AND AUDIT RIGHT

Contractor shall keep and maintain, and shall cause its subcontractors and outside consultants to keep and maintain, books, records, accounts and other documents (hereinafter collectively referred to as "records") sufficient to accurately and completely reflect all Recoverable Costs incurred pursuant to this Contract and any other costs which are the basis of claim by Contractor hereunder. Such records shall include receipts, memoranda, vouchers, and accounts of every kind and nature pertaining to the performance of the Work, as well as complete summaries and reports setting forth all reimbursable manhours expended, payroll incurred and monthly salary and hourly rate of each and every employee whose payroll costs constitute Recoverable Costs hereunder. All such records shall be kept in a form and manner satisfactory to the Commission and in accordance with a system of accounting acceptable to the Commission.

The Commission, its representatives and any firm of auditors appointed by the Commission shall have access, upon reasonable advance notice in writing, to all such records maintained by Contractor and its subcontractors and consultants, for the purpose of auditing and verifying Contractor's Recoverable Costs or any other costs claimed to be due and payable hereunder. The Commission shall have the right to reproduce any such records, and Contractor and its subcontractors and consultants shall keep and preserve all such records for a period of at least one (1) year from and after completion or termination of the Work.

Contractor shall include in all subcontracts, consulting agreements and similar agreements entered into by Contractor pursuant to the performance of the Work a provision to the effect that its subcontractors, consultant or other party shall observe and comply with all the obligations of Contractor under this Section in the same manner and to the same extent as Contractor.

CP-8 LIQUIDATED DAMAGES

If the Work and specified portions of the Work are not completed and delivered according to the delivery schedule within the number of days set forth in SP-3 of these Special Provisions, damage will be sustained by the Commission. It is and will be impracticable to ascertain the actual damage which the Commission will sustain. Damage to the Commission in the case of failure by the Contractor to complete specified portions of Work within the time as required therefor by the terms of this Contract will include but not be limited to, the following:

1. Delays in the completion and operation of the Commission's Transit System;
2. Unreasonable inconvenience to the public;
3. Loss of revenue;
4. Increased costs of Contract administration; and
5. Delays and increased costs to other Contractors.

In the event of and by reason of such delay the Contractor shall pay to the Commission the amount set forth in these Special Provisions as liquidated damages for each day's delay or fraction thereof in completion of the Work and specified in the Special Provisions. The Commission may deduct the sum of liquidated damages from any monies due or that may become due the Contractor, or if such monies are insufficient, the Contractor or its surety shall pay to the Commission any deficiency. The remedies provided herein are not exclusive, and are in addition to other rights and remedies provided by law or under this Contract.

A. Just Compensation

In lieu of actual damages, in the event of late delivery, the Contractor agrees to pay the Commission an amount of money as a reasonable estimate of just compensation for damages contemplated in this Article. The value agreed shall be five hundred dollars (\$500.00) per day per item that any Item of equipment is late relative to the requirements of these Special Provisions.

B. Payments

The Contractor agrees to make payment in the above amounts in the event of late delivery and agrees that the Commission may withhold monies for such from any funds due.

C. Limitations of Liability

Liquidated Damages will be limited, for all causes, to a maximum of ten percent (10%) of the total price of the Contract.

D. Commission Rights

Application of the "Liquidated Damages" provisions of the Contract in no way alters the Commission's rights under the TERMINATION FOR DEFAULT - DAMAGES FOR DELAY Article of the General Conditions.

END OF COMPENSATION AND PAYMENT PROVISIONS

LOS ANGELES COUNTY TRANSPORTATION COMMISSION

PART "E"

AFFIRMATIVE ACTION/LABOR COMPLIANCE

CONTRACT NO. R01-T02-P0861

**LOS ANGELES COUNTY TRANSPORTATION COMMISSION
LONG BEACH - LOS ANGELES RAIL TRANSIT PROJECT**

CONTRACT NO. R01-T02-P0861

**DISADVANTAGED/WOMEN-OWNED BUSINESS
ENTERPRISE REQUIREMENTS**

1. POLICY AND OBLIGATION

This procurement has been determined to be exempt from a DBE/WBE participation goal.

HE 4491 .L7 P67 1989

Los Angeles County **12302**
Transportation Commission

Portable LRV jacks, LRV body
supports and electric lift

