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## **RFP HR4000, Amendment No. 11**

Date Issued: December 18, 2015  
Attention: Prospective Proposer  
Subject: RFP No.HR4000, Purchase of New Heavy Rail Vehicles

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In accordance with Instructions to Proposers section IP-07 entitled "Amendment", Metro hereby issues **Amendment No. 11**, with clarifications/changes as indicated below.

Acknowledge receipt of this Amendment including any attachments by inserting its number and date on the Proposal Letter (ProForm 053) of the RFP documents. This Amendment forms a part of the RFP documents and, with respect to the RFP Documents, this Amendment shall govern. The cost of work included or excluded by this amendment shall be reflected in the Proposal.

### **SUMMARY**

The purpose of this Amendment is to provide notification to all Planholders of:

- modifications to the RFP and/or Contract Documents

The following attachments are herewith attached to **Amendment No. 11**:

Attachment No. 1 – provides a summary of changes to the RFP and/or Commercial Terms as of the date of this amendment.

If you have any questions or comments regarding this Amendment please contact the undersigned at (213) 922-7014 or [marzanoj@metro.net](mailto:marzanoj@metro.net).

Issued by: \_\_\_\_\_

Joe Marzano

Contract Administration Manager

Los Angeles County Metropolitan Transportation Authority

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# RFP HR4000 Amendment No. 11, Attachment I

## Summary of Volume I (RFP) Changes

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+Ref #	Amendment #	Paragraph number, Paragraph title, and Paragraph changes. Additions are in bolded Red and deletions are in crossed out bolded Blue
1.	3	<p><b>CP-08 LIQUIDATED DAMAGES, ITEM A.1</b></p> <p>1. From the 1st calendar day <del>to 90 calendar days of delay</del> until the delay is addressed by the Contractor: One Thousand Three Hundred Ten Dollars and Zero Cents (\$1,310.00) per Married Pair or Deliverable (s) for each day of delay.</p>
2.	3	<p><b>SP-20 CONDITIONS OF HRV DELIVERY</b></p> <p>To be considered delivered, each HRV must be in a sound, whole, ready-to-run condition, and with all applicable Qualification Testing, <b>Pre-shipment</b> and <b>on-site Commissioning Acceptance</b> Testing (TS 22) cycle and fully in compliance with the Contract Documents, including successfully completed specified Design and Manufacturing Validation. The Contractor shall be responsible for all Vehicle related costs incurred during the shipment, Delivery and the Vehicle acceptance process Warranty and Reliability*</p>
3.	3	<p><b>PRICE PROPOSAL FORMS, PR 3.2, TAB 2</b></p> <p>TAB 2: Proposer's list and quantities of recommended Spare Parts <b>and Consumable Items</b>, corresponding to those required for in-service support as described in Section TS-24 of the Technical Specification and the delivery requirements stated in Part D Compensation &amp; Payment of the Contract Terms &amp; Conditions, including quantity, unit price and procurement lead time for each item.</p>
4.	3	<p><b>LETTER OF INVITATION, PROPOSAL DUE DATE &amp; QUESTIONS DUE DATE (REVISED)</b></p> <p>The new <b>Proposal Due Date</b> is not later than <del>Thursday</del> <b>Friday, 2:00 p.m. (Pacific Time), October 30, 2015.</b></p> <p>The deadline for <b>questions</b> is not later than <b>Friday, 2:00 p.m. (Pacific Time), September 8, 2015.</b></p>
5.	3	<p><b>PR 2.2.1 (1) TECHNICAL NARRATIVE, PARAGRAPH 5</b></p> <p>The Contractor shall obtain and submit to LACMTA the major systems supplier's certificate confirming the provided equipment is Service Proven and will meet LACMTA's contractual requirements for review and acceptance <b>at the Project review meetings.</b></p>
6.	4	<p><b>CP-09 OPTION PRICES AND ADJUSTMENT, Second Sentence</b></p> <p>The Option price shall not be eligible for price adjustment if the Option is properly exercised in accordance with <del>SP-24</del> <b>25</b>, OPTIONS, and the exercise date of the Option is less than 12 months from the date set forth on the Notice to Proceed for the Base Vehicles."</p>

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7.	4	<p><b>REQUIRED CERTIFICATIONS, PR 4.2 - 1<sup>st</sup> sentence</b></p> <p>TAB 2: List of e-mail/letter/ <del>fax</del> confirmations, of the duly completed reference check form TF-6 mailed <b>(or emailed)</b> directly to LACMTA by the RFP closing date, from three (3) transit agency reference contacts for the Proposer and each key Primary Supplier.</p>
8.	4	<p><b>PR-2.3.1 PROPOSER RESOURCES CAPABILITY &amp; CAPACITY</b></p> <p>PR 2.3.1.3 Provide a letter of commitment from Proposer's Corporate Management to provide Proposers and its Subcontractors' source codes <b>or place in Escrow, per SP-28 and TS 19.02.11</b> for the software proposed to be used on the Project."</p>
9.	4	<p><b>IP-11 PERFORMANCE BOND REQUIREMENT</b></p> <p><b>1. Within 10 days after award, but prior to LACMTA's execution of the Contract, the Contractor shall furnish LACMTA, at its own expense, a Performance Bond satisfactory to LACMTA in the form supplied herein, issued by a surety satisfactory to LACMTA and authorized to issue such bond in the State of California.</b></p> <p><b>2. The Performance Bond shall be for 100 percent of the Total Contract Price as a guarantee of good faith and timely performance on behalf of the Contractor that the terms of the Contract shall be complied with and shall remain in effect from the date of execution of the Contract though the end of the Warranty period.</b></p> <p><del>The Proposer to whom a Contract is awarded shall deliver to LACMTA upon award of Contract, but in any event prior to execution of the Contract by LACMTA and prior to commencing Work, a Performance Bond in the form supplied by LACMTA and executed as surety by a corporation acceptable to LACMTA and authorized to issue such a bond in the jurisdiction where the Contract is to be performed. Such Performance Bond shall be 100% of the Total Contract Price.</del></p>
10.	4	<p><b>IP-12 PARENT COMPANY GUARANTEE</b></p> <p><b>Upon LACMTA's determination that a Parent Company Guaranty is required of the Proposer, the Contractor shall furnish LACMTA, within 10 days after award, but prior to LACMTA's execution of the Contract at its own expense, a Parent Company Guaranty in the form supplied herein. This Guarantee shall be in effect until the total number of rail cars, including any Option Vehicles, to be furnished under the Contract has been accepted and LACMTA has issued Final Acceptance.</b> <del>The Proposer to whom a Contract is awarded shall deliver to LACMTA upon award of Contract, but in any event prior to execution of the Contract by LACMTA and prior to commencing Work, a Parent Company Guarantee, in the form attached as Exhibit F in the Special</del></p>

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		<del>Provisions. This guarantee shall be in effect until the total number of Rail cars to be furnished under the Contract has been accepted, at which time no further guarantee is required.</del>
11.	4	<p><b>SUPPLEMENTAL INSTRUCTIONS TO PROPOSERS</b></p> <p><del><b>A. PERFORMANCE BOND REQUIREMENTS</b></del></p> <p><del>1. Within 10 days after award, but prior to LACMTA's execution of the Contract, the Contractor shall furnish LACMTA, at its own expense, a Performance Bond satisfactory to LACMTA in the form supplied herein, issued by a surety satisfactory to LACMTA and authorized to issue such bond in the State of California.</del></p> <p><del>2. The Performance Bond shall be for 100 percent of the Total Contract Price as a guarantee of good faith and timely performance on behalf of the Contractor that the terms of the Contract shall be complied with in every particular.</del></p> <p><del><b>B. PARENT COMPANY GUARANTY REQUIREMENTS</b></del></p> <p><del>1. Within 10 days after award, but prior to LACMTA's execution of the Contract, the Contractor shall furnish LACMTA, at its own expense, a Parent Company Guaranty satisfactory to LACMTA in the form supplied herein, issued by a surety satisfactory to LACMTA and authorized to issue such bond in the State of California. This guarantee shall be in effect until the total number of rail cars, including Option Vehicles to be furnished under the Contract has been accepted, at which time no further guarantee is required.</del></p> <p><del><b>C.A. IRREVOCABLE LETTER(S) OF CREDIT REQUIREMENTS</b></del></p> <p><del>1. In order to avoid the loss of use of the Vehicles due to delays in the completion of Warranty Claim work, LACMTA requires, Concurrent with execution of the Contract, the Contractor shall furnish LACMTA, at its own expense, an Irrevocable Letter(s) of Credit for Warranty in accordance with Special Provisions SP-21- Contract Warranty Provisions – Irrevocable Letter of Credit.</del></p> <p><i>Note: As a result of the above change, the remaining items are renumbered as follows:</i></p> <p><del><b>D.B. PROCESS FOR REQUEST FOR APPROVAL OF ALTERNATE MINIMUM QUALIFICATIONS</b></del></p> <p><del><b>E.C. APPEALS RELATED TO LACMTA'S DETERMINATION OF MINIMUM QUALIFICATIONS</b></del></p>
12.	4	<b>PR 1.0 GENERAL, paragraph 7</b>

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		LACMTA requires one hard copy marked of the entire proposal marked "Original", seven (7) additional hard copies of the Technical Proposal, and two (2) additional hard copies of the Price Proposal <b>and Local Employment Program</b> , one (1) electronic version of the Technical Proposal in PDF format on a flash drive and one (1) electronic version of the Price Proposal in in the form of Microsoft Office Excel 2010 on a separate flash drive. <b>LACMTA requires one (1) electronic version of the Local Employment Program narrative in PDF format and spreadsheets in Microsoft Office Excel 2010 on a separate flash drive labeled Local Employment Program.</b>
13.	4	<b>FORM PS-1 PROPOSAL SUBMITTAL CHECKLIST, TAB 1, SCHEDULE B</b>  Schedule B: Detailed schedule for spare parts <b>and consumables</b> (Price Proposal Form PF-3)
14.	4	<b>FORM PS-1 PROPOSAL SUBMITTAL CHECKLIST, TAB 2</b>  Proposer's list and quantities of recommended Spare Parts <b>and Consumable Items</b> , including quantity, unit price and procurement lead time for each item.
15.	4	<b>FORM PS-1 FORMS &amp; REQUIRED CERTIFICATIONS (VOLUME 3), TAB 2</b>  <b>TAB 2:</b> List of e-mail/letter/ <del>fax</del> confirmations, of the duly completed reference check form TF-6, from three (3) transit agency reference contacts for the Proposer and each key Supplier mailed directly to LACMTA by the RFP closing date.
16.	4	<b>PR 3.1 TAB 1 PRICING FORM, ITEM C, SCHEDULE B</b>  C) Schedule B: Detailed schedule for Spare Parts <b>and consumables</b> (Price Proposal Form PF-3).  <del>Note: Metro will release Pricing Form PF-3-Spare Parts to all Proposers after Metro completes its review of the Contractor's Draft Spare Parts List "CDRL 24-12" for recommended spare parts and consumables per PR 3.2 below.</del>
17.	4	<b>PR-2.0 TECHNICAL PROPOSAL (VOLUME 1), TAB 4</b>  TAB 4: Experience & Past Performance Section – Add the following sentence to the end of the paragraph – <b>including narrative / list to address Proposer's Minimum Qualifications pass / fail requirement in IP-14 (Page 2-6).</b>
18.	4	<b>PROPOSAL REQUIREMENTS, FORM TF-5 – PROPOSAL EXCEPTION / DEVIATION, INSTRUCTIONS AT THE BOTTOM OF THE FORM</b>  PLACE ONE COPY WITHOUT ANY PRICE/COST INFORMATION IN THE TECHNICAL PROPOSAL TAB <b>79</b>
19.	4	<b>INSTRUCTIONS TO PROPOSERS, IP-14, PROPOSAL EVALUATION CRITERIA,</b>

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		<p><b>ITEM 2 – PRICE PROPOSAL EVALUATION SUB CRITERIA OPTION 1 THROUGH OPTION 5</b></p> <p>2. Price Proposal Evaluation Sub-Criteria (300 points) Proposers will be evaluated on the total proposed price including Options on the pricing form PF-1. All price sub-factors are of equal importance. The total evaluation price will consist of the following main factors and sub-factors:</p> <p>Option 1 for 24 Cars Sub-Criteria</p> <ul style="list-style-type: none"> <li>• Option 1 Heavy Rail Vehicles (From Schedule A, Form PF-2)</li> <li>• <del>Spare Parts (From Schedule B, Form PF-3)</del></li> <li>• <del>Special Tools (From Schedule C, Form PF-4)</del></li> <li>• <del>Diagnostic &amp; Test Equipment (From Schedule D, Form PF-5)</del></li> <li>• Performance Bond</li> </ul> <p>Option 2 for 84 Cars Sub-Criteria</p> <ul style="list-style-type: none"> <li>• Option 2 Heavy Rail Vehicles (From Schedule A, Form PF-2)</li> <li>• <del>Spare Parts (From Schedule B, Form PF-3)</del></li> <li>• <del>Special Tools (From Schedule C, Form PF-4)</del></li> <li>• <del>Diagnostic &amp; Test Equipment (From Schedule D, Form PF-5)</del></li> <li>• Performance Bond</li> </ul> <p>Option 3 for 20 Cars Sub-Criteria</p> <ul style="list-style-type: none"> <li>• Option 3 Heavy Rail Vehicles (From Schedule A, Form PF-2)</li> <li>• <del>Spare Parts (From Schedule B, Form PF-3)</del></li> <li>• <del>Special Tools (From Schedule C, Form PF-4)</del></li> <li>• <del>Diagnostic &amp; Test Equipment (From Schedule D, Form PF-5)</del></li> <li>• Performance Bond</li> </ul> <p>Option 4 for 16 Cars Sub-Criteria</p> <ul style="list-style-type: none"> <li>• Option 4 Heavy Rail Vehicles (From Schedule A, Form PF-2)</li> <li>• <del>Spare Parts (From Schedule B, Form PF-3)</del></li> <li>• <del>Special Tools (From Schedule C, Form PF-4)</del></li> <li>• <del>Diagnostic &amp; Test Equipment (From Schedule D, Form PF-5)</del></li> <li>• Performance Bond</li> </ul> <p>Option 5 for 74 Cars Sub-Criteria</p> <ul style="list-style-type: none"> <li>• Option 5 Heavy Rail Vehicles (From Schedule A, Form PF-2)</li> <li>• <del>Spare Parts (From Schedule B, Form PF-3)</del></li> <li>• <del>Special Tools (From Schedule C, Form PF-4)</del></li> <li>• <del>Diagnostic &amp; Test Equipment (From Schedule D, Form PF-5)</del></li> <li>• Performance Bond</li> </ul>
20.	4	<p>The Pricing Forms PF-1, PF-3, PF-4 and PF-5 are hereby replaced in their entirety and replaced with the revised pricing forms found in Amendment No. 4, Attachment 3:</p> <p><i>Note: There were no revisions to Pricing Forms PF-2, PF-6 and PF-7.</i></p>

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21.	4	<p><b>SP-10 PERFORMANCE BOND</b></p> <p><b>1.</b> Within ten (10) working days after execution of Contract or <b>the exercise of any</b> Option, Contractor shall provide LACMTA with a <b>pPerformance bBond</b>, guaranteeing the faithful performance of the Contract, <b>including the Warranty period</b> in the amount of 100% of the Contract Base Order Price, <b>minus the Price of Warranty, within ten working days after execution of Contract. A separate Performance Bond shall be required for any Option HRV's ordered under this Contract.</b> At the time of issuance, the provider of the <b>pPerformance Bbond</b> must have a long-term credit rating of "A2" or better and a short-term credit rating of "Prime-1", as assigned by Moody's Investor Services.</p> <p><b>2.</b> <del>A separate Performance Bond shall be required for any Option HRV's ordered under this Contract.</del> Provided the Contractor has received approval <b>from LACMTA of the following substitute security prior to award</b>, Contractor may substitute a <b>Ccertified Ccheck</b>, Irrevocable Letter of Credit, or other negotiable instrument in a form acceptable to LACMTA in its sole discretion, to secure fulfillment of all Contractor's obligations under the Contract. If the Contractor has not received LACMTA's approval of substituted security prior to award, it shall submit the Performance Bond as provided herein. <del>The Performance Bond shall not apply to the warranty provisions of this Contract to the extent that warranties apply to the HRV's after they have been Accepted by LACMTA, and such bond shall be returned to the Contractor upon final Acceptance of all of the HRV's for each portion of the Contract, including any options exercised.</del> Contractor may use LACMTA Performance Bond form or its own form provided that the terms are substantially the same as LACMTA Performance Bond form. (See Exhibit "A") The Performance Bond amount may be reduced as follows for the Base Order and for any Option Orders:</p> <ol style="list-style-type: none"> <li>1. To sixty-five (65) percent of the original Bond Value when fifty (50) percent of the required number of HRVs are delivered and Accepted;</li> <li>2. To thirty (30) percent of the original Bond Value when seventy-five (75) percent of the required number of HRVs are delivered and Accepted; and</li> <li>3. To ten (10) percent of the original Bond Value when one hundred (100) percent of the required number of HRVs are delivered and Accepted.</li> <li>4. To zero (0) percent at Final Acceptance.</li> </ol> <p>In the event the surety provider's credit ratings, as assigned by Moody's Investors Service, fall below either Baa3 or Prime-3, Contractor shall immediately notify LACMTA and shall expeditiously locate a replacement surety. The replacement surety provider shall have a long-term credit rating of A2 or better and a short-term credit rating of Prime-1, as assigned by Moody's Investor Services. LACMTA will suspend payments on the Contract and they shall not be due or payable until a properly rated replacement performance bond is delivered by the Contractor to LACMTA. The Contractor shall pay all costs of compliance with this Section. Subject to LACMTA approval and sole discretion, Contractor may engage separate sureties for Option orders.</p>



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22.	4	<p><b>LETTER OF INVITATION, PROPOSAL DUE DATE &amp; QUESTIONS DUE DATE (REVISED)</b></p> <p>The new <b>Proposal Due Date</b> is not later than <del>Thursday</del> <b>Monday</b>, 2:00 p.m. (Pacific Time), <del>October</del> <b>November 30</b>, 2015.</p> <p>The deadline for <b>questions</b> is not later than <del>Friday</del> <b>Monday</b>, 2:00 p.m. (Pacific Time), <del>September 8</del> <b>28</b>, 2015.</p>
23.	4	<p><b>CP-02 Milestone Payments, Item E 13 -15, 18-20, 23-25, 28-30 are herewith deleted in their entirety.</b></p> <p><i>Note: all other items in CP-02 will be renumbered in the final Form of Contract.</i></p>
24.	5	<p><b>Pricing PF-5 is hereby replaced in its entirety and replaced with the revised PF-5 found in Amendment No. 5, Attachment 3</b></p>
25.	5	<p><b>PR-2.2.2.1 CAR OVERALL SYSTEM DESIGN, ITEM G</b></p> <p>g) Provide color renderings and/or computer simulations/animations (on video) of exterior and interior views, <b>including high and low ceiling arrangement</b>, of the proposed Married <del>pair</del>. The renderings and/or video shall reflect the conceptual vehicle configuration and proportions currently envisioned by the Proposer. It is understood that, the appearance of the vehicle may be modified from the submitted concept during the proposal review stage.</p>
26.	6	<p><b>LETTER OF INVITATION, PAGE 1-1, LAST PARAGRAPH</b></p> <p>Proposers are encouraged to offer comments and submit questions via email to clarify the requirements of the RFP by using the form provided herein as Attachment A to this Letter of Invitation. <b>The deadline for questions is Monday, 2:00 p.m. (Pacific Time), September 28, 2015.</b> Questions regarding this RFP shall <u>only</u> be addressed to Joe Marzano, Contract Administration Manager, at 213-922-7014 or by email at <a href="mailto:marzanoj@metro.net">marzanoj@metro.net</a>. Prospective Proposers are advised that until the award of any contract, pursuant to this RFP, they are not permitted to contact a LACMTA employees about any matter related to this solicitation unless they have received the permission of the Contract Administrator. <b>The only exception to this rule is for inquiries related to Diversity &amp; Equal Opportunity Development (DEOD), Ethics or Pre-Qualification.</b></p>
27.	6	<p><b>IP-04 INTERPRETATION OF RFP DOCUMENTS, ITEM B</b></p> <p>B. To ensure that responses to all written inquiries are provided to all Plan holders, inquiries shall be received <del>at least ten (10) working days prior to the submittal due date</del> <b>no later than the Questions due date specified in the Letter of Invitation.</b> Where such interpretation or clarification requires a change in the solicitation documents, LACMTA will issue an Amendment.</p>



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28.	8	<p><b>IP-14 PROPOSAL EVALUATION PROCESS, EVALUATION CRITERIA</b></p> <p><u>Proposal Evaluation Criteria</u></p> <p>All proposals will be evaluated on the Criteria and their sub-criteria described below. In order to be properly evaluated, Proposers must respond to all defined elements in the Submittal Requirements section (s) PR-1.0 through PR-4.6 of this RFP. The Evaluation Criteria consists of the following main factors in descending order of importance: Criterion #1 Experience &amp; Past Performance, Criterion #2 Price, Criterion #3 Technical Compliance to Specifications Sections, Criterion #4 <del>Local Employment Plan, Criterion #5</del> Project Management Experience. The total points available for all evaluation factors when combined is 1,000 points. The primary criteria and sub-criteria, other than Price, shall be evaluated on the point values listed below. All Price factors shall be of equal importance. Pricing Form PF-6, Schedule of Prices LACMTA Travel Costs is for evaluation purposes only and will not be included in the Contract Not to Exceed Amount.</p> <p><u>Proposal Evaluation Criteria</u></p> <ol style="list-style-type: none"> <li>1. Experience &amp; Past Performance (<del>350</del><b>375</b> points)</li> <li>2. Price (300 points)</li> <li>3. Technical Compliance to Specification Sections (<del>200</del><b>250</b> points)</li> <li><del>4. Local Employment Plan (100 points)</del></li> <li><b>5.4.</b> Project Management Experience (<del>50</del><b>75</b> points)</li> </ol>
29.	8	<p><b>IP-14 PROPOSAL EVALUATION CRITERIA, EXPERIENCE AND PAST PERFORMANCE</b></p> <ol style="list-style-type: none"> <li>1. <u>Experience and Past Performance (<del>350</del><b>375</b> points)</u> <ul style="list-style-type: none"> <li>• Schedule Adherence (<del>140</del><b>150</b> points)</li> <li>• HRV &amp; Key Systems Reliability (60 points)</li> <li>• Proposed Suppliers' Work History for Furnishing Similar Equipment (50 points)</li> <li>• Weight Compliance (35 points)</li> <li>• Quality (30 points)</li> <li>• CDRL's Delivery / Acceptance (20 points)</li> <li>• Spare Parts , Manuals &amp; Training Delivery / Acceptance (<del>10</del><b>20</b> points)</li> <li>• Change Orders (<del>5</del><b>10</b> points)</li> </ul> </li> </ol>

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30.	8	<p><b>IP-14 PROPOSAL EVALUATION CRITERIA, TECHNICAL COMPLIANCE</b></p> <p><b>3. <u>Technical Compliance with Specification Sections Sub-Criteria (200-250 points)</u></b></p> <p><u>Sub-Factor</u></p> <ul style="list-style-type: none"> <li>• Overall Car Design (<del>25</del><b>35</b> points)</li> <li>• Reliability Requirements (<del>20</del><b>30</b> points)</li> <li>• Vehicle System Integration (<del>20</del><b>25</b> points)</li> <li>• Trucks (<del>15</del><b>20</b> points)</li> <li>• Propulsion and Dynamic Braking (<del>40</del><b>15</b> points)</li> <li>• Automatic Train Control and Train-to-Wayside Communication (<del>40</del><b>15</b> points)</li> <li>• Friction Brakes and Pneumatic Systems (<del>40</del><b>15</b> points)</li> <li>• Auxiliary Power Equipment (<del>40</del><b>15</b> points)</li> <li>• Monitoring and Diagnostic System (5 points)</li> <li>• Carbody and Gangway (5 points)</li> <li>• Coupler and Draft Gears (5 points)</li> <li>• Operator's Cab Equipment and Controls (5 points)</li> <li>• Passenger Doors and Controls (5 points)</li> <li>• Heating, Ventilation and Air Conditioning (5 points)</li> <li>• Lighting (5 points)</li> <li>• Communication and Passenger Information Systems (5 points)</li> <li>• Interior and Exterior Appointments (5 points)</li> <li>• Software Systems (5 points)</li> <li>• Event Recorder, Trainline and Networks (5 points)</li> <li>• Safety, Security and Regulatory Requirements (5 points)</li> <li>• Quality Assurance and Quality Control (5 points)</li> <li>• Validation and Testing (5 points)</li> <li>• Alternative Technologies (5 points)</li> <li>• Materials and Workmanship (5 points)</li> </ul>
31.	8	<p><b>IP-14 DOT PILOT – LOCAL EMPLOYMENT PLAN</b></p> <p><del>4. DOT Pilot – Local Employment Program (100 points)</del></p> <p><del>In March 2015, the U.S. Department of Transportation (DOT) announced an initiative to permit, on a trial basis, Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) recipients and subrecipients the ability to include local/geographic-based labor hiring preferences and economic-based labor hiring preferences. This initiative will be carried out as a pilot program for a period of 1 year unless extended under the FHWA and FTA's existing authorities. LACMTA has requested approval from DOT and FTA for approval to incorporate both a local labor hiring preference and</del></p>

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		<p><del>economic-based labor hiring preference into the proposal requirements for this procurement. LACTMA shall inform all Proposers of the DOT and FTA's decision in the form of a RFP amendment. Approval will result in the awarded contract being completed with the LACMTA Local Employment Program requirement.</del></p> <p><b>LACMTA LOCAL EMPLOYMENT PROGRAM</b></p> <p><del>LACMTA's Local Employment Program will be implemented in this procurement by establishing an RFP evaluation factor that will evaluate and score the Local Employment Plans submitted by Proposers that are designed to maximize jobs in the manufacturing, final assembly and testing of Heavy Rail Vehicles. Each Proposer's Local Employment Plan will be scored under a scoring criterion that measures wages and benefits of Local Workers as well as the Proposer's investments in local facility construction. "Local Workers" are defined as any portion of the Contractor's workforce that resides within Los Angeles County. "Local Facility Investment" is defined as Contractor facility improvements, upgrades, or repairs performed within Los Angeles County for performance of HR4000 work. Proposers' Local Employment Plans must also include recruitment and hiring plans that identify how they will develop a diverse workforce that includes Disadvantaged Workers (as defined in the Proposal Requirements).</del></p> <p><del>LACMTA will perform a Technical Acceptability review of each Proposer's Local Employment Plan to assure that it contains adequate information (as described in the Proposal Requirements) to allow LACMTA to make a reliable assessment of the commitment being made by the Proposer and the completeness of the Proposer's Local Employment Plan. In order to be considered Technically Acceptable, a Local Employment Plan must meet each of the requirements in the Proposal Requirements, and must also include a minimum of 10% of the total committed wages and benefits for local disadvantaged workers, as defined in the Proposal Requirements.</del></p> <p><del>The Proposer shall provide a Local Employment Plan setting forth its specific commitments for creating employment opportunities for Local Workers in connection with the production, assembly, delivery, acceptance testing, and warranty coverage associated with the heavy rail vehicles purchased by LACMTA. Proposers' Local Employment Plans may also include the costs associated with construction of any new or retrofit facilities used in the performance of HR4000 manufacturing and final assembly. The commitments made by Proposers in their Local Employment Plan for the wages and benefits of Local Workers and Local Facility Investment shall be incorporated into the HR4000 Contract requirements as a Total Local Employment Plan Commitment Value. The Local Employment Plan Commitment Value is subject to all terms and conditions associated with applicable contract performance, remedies and adherence. The Local Employment Program is in addition to the Buy America and Transit Vehicle Manufacturer (TVM) requirements and does not in any way revise or reduce the FTA's Buy</del></p>

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		<p><del>America and TVM requirements.</del></p> <p><del>Proposers, and any of their Subcontractors/Suppliers who wish to participate in the Local Employment Plan, must certify that they are able to segregate direct hours and costs within their internal Cost Accounting Systems to allow for LACMTA to verify and validate allocable hours performed by Local Workers on direct HR4000 work. A certification is provided in Section 5 of the RFP to Proposers and is required with the Proposer's Local Employment Plan submittal.</del></p> <p><del>Only Proposers with Local Employment Plans that meet the requirements defined in the Proposal Requirements will be considered Technically Acceptable and eligible for Contract award.</del></p> <p><del>Local Employment Plan Evaluation Criteria</del></p> <p><del>For the purpose of proposal evaluation and Contract award, only the wages and benefits for Local Workers and commitments made to Local Facility Investments will be used in the evaluation process. All requirements defined above shall be considered elements of Technical Acceptability and shall not be scored.</del></p> <p><del>The Local Employment Plan Commitment for wages, benefits and facility improvements or construction will be scored as a weighted evaluation factor. The total weighted value of the Local Employment Plan is 10% of the total points available for all RFP Evaluation factors. The total value of the Local Employment Plan will be calculated on a dollar for dollar basis as follows:</del></p> <p><del>1) Total value of Local Worker wages and benefits</del></p> <p><del>a. Contractor total value of wages and benefits</del></p> <p><del>b. Subcontractor total value of wages and benefits</del></p> <p><del>2) Total Value of Local Facility Investments</del></p> <p><del>Total Local Employment Plan Evaluation Factors:</del></p> <p><del>Local Worker Wages and Benefits + Local Facility Investments = Total LEP Commitment Value</del></p> <p><del>Proposal scoring for the Local Employment Plan shall be based on the following formula:</del></p> <p><del>(Proposed Local Employment Plan Commitment Value / Highest Proposed Local Employment Plan Commitment Value) X 10% of all Evaluation Factors = Total Local Employment Plan Score</del></p>

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32.	8	<p><b>IP-14 PROPOSAL EVALUATION CRITERIA, PROJECT MANAGEMENT EXPERIENCE</b></p> <p><b><u>5.4. Project Management Experience Sub-Criteria (50-75 points)</u></b></p> <p><u>Sub-Factor</u></p> <ul style="list-style-type: none"> <li>• Resources Capability &amp; Capacity (Names and Total Staff; Org Chart, Resumes) (<del>18-30</del> points) <ul style="list-style-type: none"> <li>➤ Project Management (<del>6-10</del> points)</li> <li>➤ Engineering and Production/Manufacturing (<del>6-10</del> points)</li> <li>➤ Commissioning and Warranty Support (<del>6-10</del> points)</li> </ul> </li> <li>• Facility Capability &amp; Capacity (<del>10-20</del> points) <ul style="list-style-type: none"> <li>➤ Production (<del>3-5</del> points)</li> <li>➤ Manufacturing (<del>3-5</del> points)</li> <li>➤ Final Assembly (<del>2-5</del> points)</li> <li>➤ Testing (<del>2-5</del> points)</li> </ul> </li> <li>• Project Backlog For Proposer &amp; Key Suppliers (4-5 points)</li> <li>• Supplier Resources Capability and Capacity (4-5 points)</li> <li>• Proposed Project Schedule (4-5 points)</li> <li>• Quality Program Plan (3 points)</li> <li>• Configuration Control Plan (2 points)</li> <li>• Interface Control Document (2 points)</li> <li>• System Integration and External Interfaces (2 points)</li> <li>• CDRL(s) Management (1 points)</li> </ul>
33.	8	<p><b>Instructions to Proposers, Incentive Evaluation Criteria (<i>inserted after Project Management Experience</i>)</b></p> <p><b><u>Incentive Evaluation Criteria</u></b></p> <p><b><u>DOT PILOT – LOCAL EMPLOYMENT PROGRAM (LEP)</u></b></p> <p><b>In March 2015, the U.S. Department of Transportation (DOT) announced an initiative to permit, on a trial basis, Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) recipients and subrecipients the ability to include local/geographic-based labor hiring preferences and economic-based labor hiring preferences. This initiative will be carried out as a pilot program for a period of 1 year unless extended under the FHWA and FTA’s existing authorities. In September 2015, LACMTA received approval from DOT and FTA to incorporate a voluntary LEP for new jobs created in the State of California with 10% of those jobs targeted for disadvantaged workers.</b></p>

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		<p><b><u>LOCAL EMPLOYMENT PROGRAM</u></b></p> <p>LACMTA’s Local Employment Program provides Proposers with the opportunity to obtain preferential evaluation scoring by voluntarily participating in the Local Employment Program. Proposers may choose not to participate in the Local Employment Program and may still be considered responsive and eligible for Contract award if they meet all other RFP requirements.</p> <p>Each Proposer that chooses to participate in the voluntary Local Employment Program will be eligible to receive additional preferential evaluation scoring points based on the wages and benefits of new Local Workers as well as the Proposer’s investments in local facility construction. “Local Workers” are defined as any portion of the Contractor’s newly hired workforce that resides within the State of California. “Local Facility Investment” is defined as Contractor facility improvements, upgrades, or repairs performed within the State of California for performance of HR4000 work. Proposers’ Local Employment Plans must also include recruitment and hiring plans that identify how they will develop a diverse workforce that includes newly created jobs for Disadvantaged Workers (as defined in the Proposal Requirements).</p> <p>LACMTA will review of each Proposer’s Local Employment Plan to assure that it contains adequate information (as described in the Proposal Requirements) to allow LACMTA to make a reliable assessment of the commitment being made by the Proposer and the completeness of the Proposer’s Local Employment Plan. In order to be eligible to receive preferential scoring points, a Local Employment Plan must meet each of the requirements in the Proposal Requirements, and must also include a minimum of 10% of the total new committed wages and benefits for local disadvantaged workers, as defined in the Proposal Requirements.</p> <p>Each Proposer that chooses to participate in the voluntary Local Employment Program shall provide a Local Employment Plan setting forth its specific commitments for creating employment opportunities for new Local Workers in connection with the production, assembly, delivery, acceptance testing, and warranty coverage associated with the heavy rail vehicles purchased by LACMTA. Proposers’ Local Employment Plans may also include the costs associated with construction of any new or retrofit facilities used in the performance of HR4000 manufacturing and final assembly. The commitments made by Proposers in its Local Employment Plan for the wages and benefits of Local Workers and Local Facility Investment will be incorporated into the HR4000 Contract requirements as a Total Local Employment Plan Commitment Value. The Local Employment Plan Commitment Value is subject to all terms and conditions associated with applicable contract performance, remedies and adherence. The Local Employment Program is in addition to the Buy America and Transit Vehicle Manufacturer (TVM) requirements and does not in any way revise or reduce the FTA’s Buy</p>

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		<p><b>America and TVM requirements.</b></p> <p><b>Proposers, and any of their Subcontractors/Suppliers who elect to voluntarily participate in the Local Employment Plan, must certify that they are able to segregate direct hours and costs within their internal Cost Accounting Systems to allow for LACMTA to verify and validate allocable hours performed by Local Workers on direct HR4000 work. A certification is provided in Section 5 of the RFP to Proposers and is required with the Proposer’s Local Employment Plan submittal.</b></p> <p><b><u>Only Proposers with Local Employment Plans that meet the requirements defined in the Proposal Requirements will be considered eligible for preferential scoring points. Proposers may choose not to participate in submitting a Local Employment Plan and may still be considered responsive and eligible for Contract award if they meet all other requirements of the RFP.</u></b></p> <p><b>Local Employment Plan Preferential Scoring</b></p> <p><b>For the purpose of evaluating the voluntary Local Employment Plan, only the new wages and benefits for Local Workers and commitments made to Local Facility Investments will be used in the preferential scoring evaluation process. All requirements defined above shall be considered elements of Technical Acceptability to the Local Employment Program and shall not be eligible for preferential scoring.</b></p> <p><b>The Local Employment Plan Commitment for new wages, benefits and facility improvements or construction will be scored as a preferential factor that will provide additional scoring points above all other available RFP evaluation points. There are 1,000 RFP Evaluation points available to all Proposers. The Local Employment Plan is eligible for up to 50 preferential points above the 1,000 points available in all other RFP Evaluation scoring. The total value of the Local Employment Plan will be calculated on a dollar for dollar basis as follows:</b></p> <ol style="list-style-type: none"> <li><b>1) Total value of Local Worker wages and benefits</b> <ol style="list-style-type: none"> <li><b>a. Contractor total value of wages and benefits</b></li> <li><b>b. Subcontractor total value of wages and benefits</b></li> </ol> </li> <li><b>2) Total Value of Local Facility Investments</b></li> </ol> <p><b>Total Local Employment Plan Evaluation Factors:</b></p> <p><b>Local Worker Wages and Benefits + Local Facility Investments = Total LEP Commitment Value</b></p> <p><b><u>Proposal scoring for the Local Employment Plan shall be based on the following formula:</u></b></p>



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		<b>(Proposed Local Employment Plan Commitment/Highest Proposed Local Employment Plan Commitment Value) x 50 Preferential Points= Total Local Preferential Points</b>
34.	8	<p><b>PROPOSAL REQUIREMENTS, PR-2.5 TAB 8 LOCAL EMPLOYMENT PLAN</b></p> <p><b>PR-2.5 TAB 8: LOCAL EMPLOYMENT PLAN</b> <b>(To be submitted in a separately sealed envelope)</b></p> <p><b>In order to receive preferential evaluation points, <del>The</del> Proposers</b> shall provide a Local Employment Plan setting forth its specific commitments for creating new employment opportunities for Local Workers, including any opportunities for hiring Disadvantaged Workers <b>with</b> <del>Los Angeles County</del> <b>the State of California</b> in connection with the production, delivery, acceptance testing, and warranty coverage associated with the heavy rail vehicles, and its specific commitments for Local Facility Investment.</p> <p>Proposers, and any of their Subcontractors/Suppliers who participate in the Local Employment Plan, must certify that they are able to segregate direct hours and costs within their internal Cost Accounting Systems to allow for LACMTA to verify and validate allocable hours expended on direct HR4000 work performed by Local Workers. A certification shall be provided to Proposers and is required with the Proposer's subsequent Local Employment Plan submittal.</p> <p>The Local Employment Plan shall:</p> <ol style="list-style-type: none"> <li>1) Demonstrate the Proposer's understanding of employment and job market conditions in <del>Los Angeles County</del> <b>the State of California</b>, including an understanding of and plans for coordinating with applicable publicly and privately funded workforce development groups in the hiring of <b>new</b> Local Workers, including training programs. Provide the estimated dollar commitment to be made for such workforce development and training programs in <del>Los Angeles County</del> <b>the State of California</b>.</li> <li>2) Provide a commitment to hire <b>new</b> Disadvantaged Workers that equals a minimum of 10% of the total <b>of new</b> wages and benefits for all Local Workers. A Disadvantaged Worker is defined as: (1) being homeless; (2) being a custodial single parent ;(3) receiving public assistance; (4) lacking a GED or high school diploma; (5) having a criminal record or other involvement with the criminal justice system; (6) suffering from chronic unemployment; (7) emancipated from the foster care system; or (8) being a veteran of the Iraq/Afghanistan war.</li> <li>3) Using LACMTA's Employment Value form, provide the estimated number of <b>new Los Angeles County State of California</b> Resident Full-Time Equivalent (FTE) jobs proposed in the Local Employment Plan, its direct dollar value specific to the contract, and the contractual commitment the Proposer will make to achieve the value of <b>new</b> jobs for Local Workers.</li> </ol>

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		<p>Include an identification of the estimated number, type (by trade or craft), and duration of the jobs to be located in <del>Los Angeles County</del> <b>the State of California</b> and performed by <del>Los Angeles County</del> <b>California</b> Residents. The Proposer's Local Employment Plan may <b>only</b> include newly <b>created</b> or jobs already in existence within <del>Los Angeles County</del> <b>the State of California</b>.</p> <p>4) Only work performed specifically by Local Workers for the HR4000 Contract shall be used to measure and evaluate wages and benefits. Local Workers that also work on other projects may only be credited for the work performed on the HR4000 Contract. A worker may be expressed as a percentage of one FTE. (For example, if a worker will allocate 50% of his or her work hours to the HR4000 order and 50% to another vehicle order, the Proposer may count that worker as ½ FTE for purposes of its Local Employment Plan. Each Proposer shall define the direct HR4000 hours to be expended and FTE's to work on the order using forms provided by LACMTA. Subcontractors who wish to participate in the program must file separate forms.</p> <p>5) Describe the quality and range of <del>Los Angeles County</del> <b>State of California</b> employment opportunities included in the proposed Local Employment Plan. Include the minimum requirements for each job/skill category proposed on the Jobs Labor Value Form and the extent to which the plan is likely to produce long-term employment in skilled or trade labor in <del>Los Angeles County</del> <b>the State of California</b>.</p> <p>6) Identify the locations of assembly and manufacture of the vehicles, including any evidence of the Proposer's commitment to these locations such as a letter of intent, lease, purchase agreement or existing ownership of the site, if available. Describe any plans to build a new facility in <del>Los Angeles County</del> <b>the State of California</b> or invest in upgrades, repairs and renovations to an existing facility in <del>Los Angeles County</del> <b>the State of California</b>. Include in this description a detailed explanation of the work that will be performed at this <del>LA County</del> <b>State of California</b> facility and the value of the Proposer's Local Facility Investment.</p> <p>7) Describe outreach and recruitment plans for the Local Employment Plan, including strategies and plans for the recruitment of new hires including Disadvantaged Workers as defined above. Describe any special outreach for entry level positions that will include training in contemporary manufacturing skills. Describe the role of workforce development and community groups in the Proposer's outreach and recruitment of a diverse workforce.</p> <p>8) Describe the Proposers approach to encourage subcontractor and supplier participation in the Local Employment Plan. Provide, for the Proposer and for any Subcontractors/Suppliers who participate in the Local Employment Plan, a certification, executed by a corporate officer of the Proposer and of</p>

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		<p>Subcontractors/Suppliers (as applicable), that certifies the firm has the Cost Accounting System (CAS) that can segregate employee labor by project, and that the information provided in the Local Employment Plan is true and correct. Certification forms are provided in Section 5 entitled Certifications.</p> <p>9) Provide a description of the duties to be assigned to an employee of the Proposer or subcontractor for the administration of the Local Employment Plan (the "Plan Administrator"). Provide the name of the Plan Administrator and contact information including name, title/position, company, address, city, state, zip, telephone number and email address.</p> <p><b><u>Only Proposers with Local Employment Plans commitments that meet the requirements defined above will be considered Technically Acceptable and eligible for <del>Contract award</del> preferential scoring points.</u></b></p>
35.	8	<p><b>ARTICLE I: CONTRACT DOCUMENTS ORDER OF PRECEDENCE, ITEM B</b></p> <p>B. Except as otherwise specified herein, in the event of any conflict, the precedence of the Contract Documents shall be as follows:</p> <ol style="list-style-type: none"> <li>1. Form of Contract</li> <li>2. Special Provisions, (Pro Form 089, Dated 6/26/13)</li> <li>3. General Conditions, (Pro Form 038, <b>Dated</b> 7/1/09)</li> <li>4. Statement of Work, (Dated 5/19/15)</li> <li>5. Compensation and Payment Provisions, Firm Fixed Price, (Pro Form 040, Dated 8/23/13)</li> <li>6. Regulatory Requirements, (Pro Form 039, Dated 11/2/09)</li> <li>7. Technical Specification (Dated XX/XX/XX)</li> <li>8. <del>U.S. Employment Plan</del> <b>Local Employment Plan</b> (Exhibit X, Dated XX/XX/XX)</li> <li>9. Enhanced U.S. Component Content Plan, (Exhibit X, Dated XX/XX/XX)</li> </ol>
36.	8	<p><b>SP-26 LOCAL EMPLOYMENT PROGRAM, ITEM B</b></p> <p>B. <del>LOS ANGELES COUNTY</del> <b>STATE OF CALIFORNIA NEW</b> FULL TIME EQUIVALENT (FTE) POSITIONS</p> <p>The <del>State of California Los Angeles County</del> Residents FTE Positions included under the Contractor's Local Employment Plan shall:</p> <ol style="list-style-type: none"> <li>1. Include only <b>new</b> Contractor and Subcontractor/Supplier <del>Los Angeles County State of California</del> Resident employees who provide work hours directly allocable to the HR4000 program in <del>Los Angeles County the State of California</del>. Local Employees that also work on other projects may only be counted to the extent they perform work allocable to the HR4000 Contract. A Local Employee may be expressed as a percentage of one FTE.</li> <li>2. Not include 1) <b>current employees;</b> 2) <b>former, furloughed, and/or laid off</b></li> </ol>

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		<p><b>employees who are separated from employment with the Contractor or Subcontractor/Supplier (if applicable) on or after the date of LACMTA's Notice of Intent to Award Letter; 3)</b> employees who will not be working on the project; <b>24)</b> employees hired by the Contractor or Subcontractor to work on other projects to fill in or replace current employees reassigned to HR4000, <b>5)</b> hours and costs that cannot be segregated and audited pursuant to internal Cost Accounting Systems of the Contractor or Subcontractors; <b>36)</b> Work conducted outside of <del>Los Angeles County</del><b>the State of California</b>; <b>47)</b> Work performed by Non-<del>Los Angeles County</del><b>State of California</b> Residents.</p>
37.	8	<p><b>SP-26 LOCAL EMPLOYMENT PROGRAM, ITEM C</b></p> <p>The Contractor shall submit quarterly progress reports to LACMTA detailing its adherence to the commitments made in the Local Employment Plan. The quarterly report shall summarize the major actions taken during the prior quarter in implementation of the Employment, and shall:</p> <ol style="list-style-type: none"> <li>1. Specify the total number of <b>new</b> Local Employee Full Time Equivalent (FTE) work performed in that quarter by type (trade or craft), duration, and location, and disadvantaged worker status, and the annual value of those jobs (expressed in direct HR4000 hours expended and people hired);</li> <li>2. Describe the workforce development and training programs carried out during that quarter and the amount expended by the Contractor for such programs;</li> <li>3. Describe the quarterly outreach and recruitments coordinated through workforce development and community groups that led to new local hires <b>and</b>;</li> <li>4. Describe the extent to which the Local Employment Plans producing long-term employment in skilled or trade labor;</li> <li>5. <b>Describe</b> the value of construction performed toward the Facility Investment Commitment, include copies of design and construction contracts; <b>and</b></li> </ol> <p><b>5.6. Other ad-hoc reporting required by the LACMTA</b></p>
38.	8	<p><b>CP-07 AUDIT REQUIREMENTS, ITEM 3</b></p> <p><del>3. Verification and validation of adherence to the U.S. Employment Plan, including verification of work hours and Contractor employees allocated to</del></p>

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		<p><del>the HR4000 Contract.</del></p> <p><b>3. Verification and validation of adherence to the Local Employment Plan, including but not limited to verification of employee records that identify allowable, allocable work hours performed by State of California Residents, and Contractor and subcontractor employees allocated to the HR4000 Contract.</b></p>
39.	10	<p><b>SP-28 ESCROW PROPRIETARY DOCUMENTS, ITEM 1.3</b></p> <p>1.3. Escrow Agent is defined as that certain company that LACMTA has selected and the Parties have agreed will be responsible for receiving, retaining and protecting the Proprietary Documents submitted by Contractor in accordance with the terms of the Escrow Agreement. (See Exhibit <b>DC</b>)</p>
40.	10	<p><b>PR 2.2.1 Technical Narrative, ITEM U Quality Assurance and Quality Control</b></p> <p><i>Note: LACMTA previously deleted this section in error per the Q&amp;A released on November 18, 2015. Proposers are still required to provide the section as per below.</i></p> <p><b>u. Quality Assurance and Quality Control</b></p> <p><b>In this section Proposer shall describe the approach to Quality Assurance and Quality Control and how it is incorporated into its Quality Management System (QMS) at a Corporate, Project specific and subsupplier hierarchy.</b></p>
41.	10	<p><b>IP-11 Performance Bond Requirement <i>is hereby replaced in its entirety with the following:</i></b></p> <ol style="list-style-type: none"> <li><b>1. Within 10 days after award, but prior to LACMTA's execution of the Contract, the Contractor shall furnish LACMTA, at its own expense, a Performance Bond satisfactory to LACMTA in the form supplied herein, issued by a surety satisfactory to LACMTA and authorized to issue such bond in the State of California.</b></li> <li><b>2. The Performance Bond shall be for 100 percent of the Contract Base Order Price as a guarantee of good faith and timely performance on behalf of the Contractor that the terms of the Contract shall be complied with and shall remain in effect from the date of execution of the Contract though the end of the Warranty period. A separate Performance Bond covering 100% of the value of each awarded Option shall be required for any Option HRV's ordered under this Contract.</b></li> </ol>
42.	10	<p><b>SP-10 PERFORMANCE BOND <i>is hereby replaced in its entirety with the following:</i></b></p>

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		<p><b>SP-10 PERFORMANCE BOND</b></p> <ol style="list-style-type: none"> <li>1. Within ten (10) days after Contract award, but prior to execution of the Contract or the exercise of any Option, Contractor shall provide LACMTA with a Performance Bond in the amount of 100% of the Contract Base Order Price guaranteeing the faithful performance of the Contract. A separate Performance Bond covering 100% of the value of each awarded Option, shall be required for any Option HRV's ordered under this Contract. At the time of issuance, the provider of the Performance Bond must have a long-term credit rating of "A2" or better and a short-term credit rating of "Prime-1", as assigned by Moody's Investor Services.</li> <li>2. Provided the Contractor has received approval from LACMTA, Contractor may substitute a certified check, irrevocable letter of credit, or other negotiable instrument in a form acceptable to LACMTA in its sole discretion, to secure fulfillment of all Contractor's obligations under the Contract. If the Contractor has not received LACMTA's approval of substituted security prior to award, it shall submit the Performance Bond as provided herein. The Performance Bond shall not apply to the Warranty period of this Contract to the extent, that warranties apply to the HRV's after they have been Accepted by LACMTA. Such Performance Bond shall be returned to the Contractor upon final Acceptance of all of the HRV's for each portion of the Contract, including any Options exercised. Contractor may use LACMTA's Performance Bond form or its own form provided that the terms are substantially the same as LACMTA Performance Bond form and the form is acceptable to the LACMTA. (See Exhibit "A") Contractor and LACMTA understand and agree that the Performance Bond for the Base Order and the Performance Bond for each Option Order shall be separate and distinct, and shall be treated independently. The Performance Bond amount for the Base Order and for any Option Orders may be reduced as follows:             <ol style="list-style-type: none"> <li>a. To sixty-five (65) percent of the original Bond Value when fifty (50) percent of the required number of HRVs are delivered and Accepted;</li> <li>b. To thirty (30) percent of the original Bond Value when seventy-five (75) percent of the required number of HRVs are delivered and Accepted; and</li> <li>c. To zero (0) percent of the original Bond Value when one</li> </ol> </li> </ol>



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		<p style="text-align: center;"><b>hundred (100) percent of the required number of HRVs are delivered and Accepted.</b></p> <p><b>In the event the surety provider’s credit ratings, as assigned by Moody’s Investors Service, fall below either Baa3 or Prime-3, Contractor shall immediately notify LACMTA and shall expeditiously locate a replacement surety. The replacement surety provider shall have a long-term credit rating of A2 or better and a short-term credit rating of Prime-1, as assigned by Moody’s Investor Services. LACMTA will suspend payments on the Contract and they shall not be due or payable until a properly rated replacement performance bond is delivered by the Contractor to LACMTA. The Contractor shall pay all costs of compliance with this Section. Subject to LACMTA approval and sole discretion, Contractor may engage separate sureties for Option orders.</b></p>
43.	10	<p><b>SP-21 CONTRACT WARRANTY PROVISIONS – IRREVOCABLE LETTER OF CREDIT</b> <i>is hereby replaced in its entirety with the following:</i></p> <p style="text-align: center;"><b>SP-11 CONTRACT WARRANTY PROVISIONS – IRREVOCABLE LETTER OF CREDIT</b></p> <p><b><u>Warranty Provisions Irrevocable Letter of Credit or Alternate Security.</u></b> In addition to the guaranty of performance required hereunder pursuant to the provisions of SP-10, Performance Bond, Contractor shall provide LACMTA with either: (i) an irrevocable letter of credit for each of the Warranty Periods, including any Options that are exercised, in compliance with Paragraphs (A) through (F) of this Section ; or (ii) alternate security in the form of funds held in escrow in compliance with Paragraphs (G) through (J) of this Section (the “Alternate Security”), which shall constitute security for performance by Contractor in compliance with the terms, covenants, and conditions of LACMTA Warranty provisions of this Contract.</p> <p><b>A. <u>Amount and Term of Irrevocable Letter of Credit.</u></b> Contractor agrees that within ten (10) days after LACMTA’s authorization to ship the 1<sup>st</sup> Married-Pair from the Contractor’s Plant to LACMTA’s facility, Contractor shall establish and submit to LACMTA an acceptable irrevocable letter of credit in the amount of <b>TBD</b> which is Ten Percent (10%) of the Contractor’s Total Contract Price for the production, delivery, and technical support of the LACMTA Heavy Rail Vehicles (the actual amount shall be incorporated after contract award). The irrevocable letter of credit shall be in favor of LACMTA (the "Letter of Credit"), and shall be maintained from the date of</p>



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		<p>establishment and submission of the Letter of Credit until the last Warranty expires, including any Options that are exercised. The Letter of Credit shall be established with a bank registered to do business in the State of California and having at least one branch office within the City or County of Los Angeles, and the place for LACMTA's presentation of a demand shall be a branch office in the City or County of Los Angeles.</p> <p>B. <u>Payment on Demand.</u> The Letter of Credit shall provide that payment of the entire face amount of the Letter of Credit, or any portion thereof, shall be made to LACMTA, upon presentation of a written demand to the bank signed by LACMTA's Chief Financial Officer on behalf of LACMTA in the form attached hereto as Exhibit "B", <u>Sample Certificate of Beneficiary</u>, accompanied by a copy of the certified-mail-return-receipt-requested form, in accordance with Paragraph C below.</p> <p>C. <u>Option to Demand Payment on Irrevocable Letter of Credit.</u> If Contractor defaults with respect to any provision of this Contract as it relates to Warranty and as described in General Conditions, GC-25 <u>Termination for Default</u>, or if Contractor otherwise fails to perform any of the terms, covenants and conditions of the Warranty provisions, LACMTA may, but shall not be required to, make its demand under the Letter of Credit for all or any portion thereof to compensate LACMTA for any loss or damage which LACMTA may have incurred by reason of Contractor's default or Contractor's failure to perform. LACMTA shall provide notice to Contractor that it will proceed to draw on the Letter of Credit as part of its initial Notice of Default pursuant to General Conditions, GC-25, <u>Termination for Default</u>, or any other notice issued by LACMTA pursuant to this Section. LACMTA need not terminate this Contract in order to receive compensation for its damages hereunder. If any portion of the Letter of Credit is applied for the purpose of or under the terms of this Contract, Contractor shall, within twenty (20) days after written demand therefore, reinstate the Letter of Credit to its original amount, and upon such reinstatement, the excess of the proceeds of the Letter of Credit over the amount of the loss or damage suffered by LACMTA shall be returned to Contractor pursuant to Paragraph E below. Contractor's failure to comply with any of the provisions herein above shall constitute a material breach of this Contract.</p>

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		<p>D. <b><u>Non-extension of Irrevocable Letter of Credit Replacement.</u></b> The Letter of Credit shall provide for sixty (60) calendar days notice by the Issuer to LACMTA and the Contractor in the event of termination of the Letter of Credit. Within ten (10) calendar days of Contractor's receipt of notice from the issuer that the Letter of Credit will not be renewed or extended, Contractor shall notify LACMTA in writing, of the specific actions it will take to rectify the termination or non-renewal of the Letter of Credit. Contractor shall replace the Letter of Credit or furnish a legally binding commitment to issue a replacement Letter of Credit from a financial institution that meets the requirements of Paragraph (A) of this Section within thirty (30) calendar days of notification by the Issuer. The replacement Letter of Credit shall take effect on or before the expiration or date of non-renewal of the existing LOC. If Contractor fails to do so in response to such written demand by LACMTA, LACMTA shall be entitled to present its written demand for payment of the entire face amount of the existing Letter of Credit. Any amounts so received by LACMTA shall be placed into escrow as Alternate Security in accordance with Paragraph (H) of this Section.</p> <p>E. <b><u>Excessive Demand: Return of Receipts.</u></b> LACMTA shall return to Contractor the amount, if any, by which LACMTA's total receipts from Contractor and from the bank under the Letter of Credit or the Alternate Security exceeds the amount to which LACMTA rightfully is entitled, plus interest at the legal rate of interest as set forth in Civil Code Section 3289(b), plus any reasonably related bank fees. LACMTA shall not be liable to Contractor for any damages or penalties beyond the amount of interest owed.</p> <p>F. <b><u>Return Upon Faithful Performance.</u></b> The Letter(s) of Credit, or, if applicable, the funds constituting the Alternate Security, shall be returned to Contractor upon the expiration of the Warranty Period(s) of the Contract, provided that Contractor has faithfully performed throughout the duration of the Warranty Period(s) .</p> <p>G. <b><u>Establishment of Alternate Security by Contractor.</u></b> Subject to the requirements of this Section, Contractor may, at any time, establish an escrow account with a financial institution mutually acceptable to Contractor and LACMTA and deposit therein the amount of <b>\$TBD</b> which is Ten Percent (10%) of the Contractor's Total Contract Price for guaranteed Warranty support of the HR4000 Heavy Rail</p>

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		<p>Vehicles, (the actual amount shall be incorporated after contract award), this amount shall constitute Alternate Security and may serve, at LACMTA’s sole discretion, as a substitute for the Letter of Credit. At no time shall Contractor fail to provide either the Letter of Credit or the Alternate Security and if Contractor should fail to maintain either security it shall be a material breach of the Contract.</p> <p>H. <u>Establishment of Alternate Security by LACMTA.</u> In the event LACMTA receives a disbursement under the Letter of Credit pursuant to Paragraph (D) of this Section, LACMTA may either apply the disbursement for the intended purpose or establish an escrow account with a financial institution and deposit the full proceeds of such disbursement, which shall thereafter be deemed to be the Alternate Security. The financial institution selected by the parties pursuant to Paragraph (G) or (H) of this Section shall be referred to as the “Escrow Agent.”</p> <p>I. <u>Execution of Escrow Agreement.</u> The Alternate Security established under either Paragraph (G) or (H) of this Section shall be held by the Escrow Agent pursuant to the terms of an escrow agreement consistent with this Special Provision and in the form attached hereto as Exhibit “C” (the “Escrow Agreement”).</p> <p>J. <u>Option to Demand Payment from Alternate Security.</u> LACMTA shall be entitled to demand payment from the Escrow Agent under the same circumstances under which it would be entitled to request disbursement under the Letter of Credit. If any portion of the Alternate Security is disbursed, Contractor shall, within twenty (20) calendar days after written demand therefore, deposit funds with the Escrow Agent to increase the Alternate Security to its original amount, and upon such reinstatement, the excess, if any, of the proceeds of the Alternate Security over the amount of the loss or damage suffered by LACMTA shall be returned to Contractor pursuant to Paragraph (E) of this Section. Failure to do so shall constitute a material breach of the Contract.</p>
44.	11	<p><b>SECTION 5 BUY AMERICA CERTIFICATE</b> entitled “<b>CERTIFICATE FOR COMPLIANCE WITH TITLE 49 USC 5323 (J)(1) (FOR PROCUREMENT OF STEEL, IRON, OR MANUFACTURED PRODUCTS) (EXCLUDES ROLLING STOCK)</b>” is hereby <u>deleted</u> in its entirety</p> <p><b>NOTE: Proposers are still required to submit the BUY AMERICA CERTIFICATE entitled “FOR PROCUREMENT OF BUSES, OTHER ROLLING</b></p>

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		<b>STOCK [INCLUDING TRAIN CONTROL, COMMUNICATIONS, AND TRACTION POWER] AND ASSOCIATED EQUIPMENT</b>
45.	11	<p><b>IP-11 PERFORMANCE BOND REQUIREMENT, ITEM 2</b></p> <p>2. The Performance Bond shall be for 100 percent of the Contract Base Order Price as a guarantee of good faith and timely performance on behalf of the Contractor that the terms of the Contract shall be complied with and shall remain in effect from the date of execution of the Contract through <del>the end of the Warranty period</del> <b>final Acceptance of all Vehicles for each portion of the Contract, including any Options exercised</b>. A separate Performance Bond covering 100% of the value of each awarded Option shall be required for any Option HRV's ordered under this Contract.</p>

End of Attachment I