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EXHIBIT 1 - PAYMENT CERTIFICATION | 6-196

* All Articles, Subarticles, or portions of the Contract noted by an asterisk (*) shall be included in (flow-down to) all Subcontracts of any tier.
SECTION 1 – LETTER OF INVITATION
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May 29, 2015

ATTENTION: Prospective Proposer

SUBJECT: REQUEST FOR PROPOSALS (RFP) FOR RFP NO. HR4000, PURCHASE OF NEW HEAVY RAIL VEHICLES

Los Angeles County Metropolitan Transportation Authority (LACMTA) has established a contracting opportunity for a responsible Contractor to provide new Heavy Rail Vehicles (HRV), spare parts, diagnostic test equipment, manuals and training aids in accordance with the Contract and Technical Specifications. The Contract is for a total of 64 Base HRV’s and Five (5) Options totaling an additional 218 HRVs, for a potential total procurement of 282 HRVs. The resultant Contract, if awarded, will be federally funded, and is subject to fiscal year funding availability.

You are requested to submit a Firm Fixed Price proposal to furnish all labor, materials, and other items required for the performance of a contract resulting from RFP NO. HR4000. LACMTA requires one hard copy marked “Original”, seven (7) additional hard copies of the Technical Proposal, and two (2) additional hard copies of the Price Proposal, 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 Excel format on a separate flash drive. Proposals must be submitted in sealed envelopes, by mail or hand delivered to the address below, not later than Thursday, 2:00 p.m. (Pacific Time), October 1, 2015. A Proposal is deemed late if it is received by LACMTA after the deadline stated above. Proposals received after the submission deadline may be rejected. Proposals and subsequent offers shall be valid for a period of 180 days.

Los Angeles County
Metropolitan Transportation Authority (LACMTA)
One Gateway Plaza
Los Angeles, CA 90012-2952
9th Floor Receptionist
RFP NO. HR4000

The RFP documents are available for review and download at “www.metro.net” by clicking the “Metro, About & Contact Us” tab, then “Doing Business with Metro, Current Solicitations”.

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. The deadline for questions is Friday, 2:00 p.m. (Pacific Time), August 7, 2015. Questions regarding this RFP shall only be addressed to Joe Marzano, Contract Administration Manager, at 213-922-7014 or by email at marzanoj@metro.net. 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.
All communications in connection with this RFP shall be provided as follows:

By U.S. Mail, FedEx, UPS, or courier
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012-2952
Attention: Joe Marzano, Contract Administration Manager
RFP NO. HR4000

By Phone to (213) 922 – 7014

By FAX to (213) 922 1005
Attention: Joe Marzano, Contract Administration Manager
RFP NO. HR4000

By e-mail to: marzanoj@metro.net

Diversity & Equal Opportunity, Violeta Aguilos,
(213) 922-2639

Ethics or Lobbyist Registration Information, (213) 922-2900

Pre-Qualification Department, (213) 922-4130

A Pre-Proposal Conference will be held Thursday, 10:00 a.m. (Pacific Time), June 18, 2015, at 320 S. Santa Fe Avenue, Los Angeles CA 90013, 2nd floor, Room 244. Pre-Proposal Conference attendance is not mandatory; however, attendance is highly recommended. The Pre-Proposal Conference will not be broadcast via teleconference.

Prospective Proposers are encouraged to submit written questions to the Contracting Officer, identified above, in advance of the Pre-Proposal Conference. Additional questions may be submitted up to the date specified in the Letter of Invitation for questions on the form for Request for Clarification or Change attached to the Letter of Invitation. Prospective Proposers are reminded that any changes to the RFP will be by written addenda only, and nothing stated at the Pre-Proposal Meeting shall change or qualify in any way any of the provisions in the RFP and shall not be binding on the Agency. Please submit Pre-Proposal questions via email to the undersigned no later than 4:00 p.m., June 15, 2015.

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

Issued by:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

[Signature]

Joe Marzano
Contract Administration Manager
Letter of Invitation - Attachment A
Los Angeles County Metropolitan Transportation Authority
RFP HR4000 – Purchase of New Heavy Rail Vehicles

CLARIFICATION OR CHANGE REQUEST FORM

To be considered, clarifications, or change requests must be submitted using this form. A separate form must be submitted for each individual request. Clarifications or change requests should be submitted by the due date specified in the Letter of Invitation. For serious consideration, requests should be supported with evidence such as technical data, test results, or other pertinent information necessary for LACMTA to evaluate the request.

Where such interpretation or clarification requires a change in the solicitation documents, LACMTA will amend the solicitation in accordance with IP-07, Amendment to all Plan holders.

Intentionally Left Blank
LACMTA RFP HR4000

CLARIFICATION OR CHANGE REQUEST FORM

Request # _______________  Proposer: ______________________

Check only one box:  □ Clarification  □ Change

Specification/Solicitation Article: _______________ Page: ______

Section: _______________________

Request:
SECTION 2 – PROPOSAL DOCUMENTS
INSTRUCTIONS TO PROPOSERS

IP-01 PREQUALIFICATION REQUIREMENTS

A. All Contractors, subcontractors, material suppliers (supplying directly to LACMTA), and any other firm competing for award of contracts or subcontracts of $100,000 or more will be required to complete and submit a Contractor Pre-Qualification Application. Failure to do so may cause your Proposal to be rejected as non-responsive.

B. Contractor Pre-qualification Applications are due to the pre-qualification office no later than the Proposal due date. Do not put copies of pre-qualification documents in your Proposal.

C. For contact information, please refer to the Letter of Invitation. For detailed instructions, refer to the Pre-Qualification Application which can be downloaded from LACMTA website (http://www.Metro.net/EBB/PQA/vprequal.htm), or provided by the Pre-Qualification Office.

IP-02 BIDDERS LIST FORM

A. In accordance with 49 CFR 26.11 (c), Los Angeles County Metropolitan Transportation Authority (LACMTA) is required to maintain a Bidders List, consisting of all firms bidding on prime contracts and bidding or quoting subcontracts, who seek an award or participation on LACMTA contracts funded in whole or in part with Federal funds. Each Bidders List is a compilation of Bidders, Proposers, Quoters, subcontractors, manufacturers, and suppliers of materials who have submitted bids during the advertising period of a specific project.

B. If the Letter of Invitation identifies this RFP as federally funded, all businesses are required to complete and submit a Bidders List Form (PRO FORM 132) when submitting a Bid, Proposal, or Quote directly to LACMTA.

C. All businesses that submit a Bid, Proposal, or Quote directly to LACMTA must also ensure that all of the major system suppliers identified in Form TF-1 by an asterisk (*) have completed and submitted a Bidders List Form (PRO FORM 132).

D. Bidders List Forms (PRO FORM 132) are due at time of Proposal due date as provided in the Letter of Invitation. Failure to submit the Bidders List Form(s) may deem the Proposer non-responsive.

E. LACMTA will use the Bidders List to identify the universe of DBE and non-DBE contractors and subcontractors who seek to work on LACMTA contracts for use in establishing LACMTA overall goals.

IP-03 EXAMINATION OF RFP DOCUMENTS

A. All proposals submitted in response to this RFP shall be in strict accordance with the Request for Proposal (RFP) Documents.
B. Copies of the solicitation, LACMTA responses to all written questions (using the Request for Clarification and Changes Form) will be available for examination and as noted in the Request for Proposal Letter. The Proposer is solely responsible for the examination of solicitation documents; reviewing all Amendments; comprehending all conditions that may impact the proposal, and the performance of the Work should the Proposer be selected. Failure of the Proposer to so examine and inform itself shall be at its sole risk.

IP-04 INTERPRETATION OF RFP DOCUMENTS

A. Requests for interpretation or clarification of the solicitation documents shall be submitted in writing. All written requests shall be forwarded to LACMTA's Contract Administrator identified in the Request for Proposal Letter.

B. To ensure that responses to all written inquiries are provided to all Plan holders, inquiries shall be received at least ten (10) working days prior to the submittal due date. Where such interpretation or clarification requires a change in the solicitation documents, LACMTA will issue an Amendment.

C. LACMTA shall not be bound by, and the Plan holder shall not rely on for any purpose, any oral interpretation or oral clarification of the solicitation documents.

IP-05 COMMUNICATION WITH LACMTA

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

- Questions regarding Pre-qualification shall be addressed directly to LACMTA’s Pre-Qualification Department, and

- The Diversity and Economic Opportunity Department (DEOD) (such as a list of certified firms and the certification status of a particular firm) may be obtained by contacting the responsible party noted in the Request for Proposal Letter.

- Prospective Proposers are advised that until the award of any contract, pursuant to this RFP, they are not permitted to contact any LACMTA employees about a matter related to this solicitation unless they have received the permission of the Contract Administrator shown in the Letter of Invitation.
IP-06  PRE-PROPOSAL CONFERENCE

LACMTA will conduct a Pre-Proposal Conference. Notification of a Pre-Proposal Conference will be as indicated in the Request for Proposal Letter of Invitation or as may be communicated in an amendment to Proposers. The Proposers and Proposer's subcontractors are invited to attend the Pre-Proposal Conference.

LACMTA’s representatives will receive oral inquiries at the Pre-Proposal Conference; however, only a written interpretation or correction issued as an amendment by LACMTA shall be binding on LACMTA and the Proposers.

Proposers should not rely on any representations, statements, or clarifications not made in this RFP or in a formal amendment.

IP-07  AMENDMENT

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

B. Proposers shall acknowledge receipt of all Amendments to the solicitation documents in the Proposal Letter. Failure to acknowledge receipt of all Amendments and to include all the requirements of the Amendments in the proposal may render the proposal non-responsive, unacceptable and cause it to be rejected.

C. Prior to submitting the proposal to LACMTA for consideration, each Proposer is responsible for checking the relevant LACMTA website to ensure that it has received all applicable Amendments.

IP-08  PREPARATION OF SUBMITTAL

A. The proposal shall be formatted in accordance with the requirements specified herein. Proposals shall include the forms provided with the solicitation documents, or on legible photocopies of the forms. Proposers shall complete the forms in accordance with the directions specified in these Instructions and the forms. All required explanatory narratives and the supplementary data are to be included with the proposal forms as indicated.

B. Pencil or erasable ink shall not be accepted. Proposer shall initial all changes made to the Proposer's entries and identify the Proposer's name on the top right of each page. Liquid or dry correction materials shall not be used.

C. Failure to comply with the requirements outlined in these solicitation documents may render the proposal(s) incomplete and may cause rejection of the proposal. This RFP does not commit LACMTA to enter into a contract nor does it obligate LACMTA to pay for any costs incurred in the preparation and submission of proposals.
MODIFICATIONS AND ALTERNATIVE PROPOSALS

A. Proposers are cautioned to limit exceptions, conditions, limitations to the provisions of this RFP as they may be determined to be so fundamental as to cause rejection of the proposal for not responding to the requirements of the RFP.

B. Proposers submitting conforming proposals may submit alternate proposals to this RFP as complete separate offers, if the alternate proposals offer technical improvements or modifications that are to the overall benefit of LACMTA. LACMTA reserves the right to accept or reject any alternate proposal. Oral or telephonic proposals and/or modifications shall not be considered.

SIGNING OF PROPOSAL AND AUTHORIZATION TO NEGOTIATE

A. Proposer or its authorized representative (Proposer’s Representative) shall execute the Proposal and all required solicitation documents. Proposers shall submit evidence of the Proposer’s Representative’s authority. Failure to do so may cause rejection of the proposal for not responding to the requirements of the RFP.

B. If the Proposer is a joint venture or partnership, it shall submit with its proposal a duly notarized Venture or Partner-executed Irrevocable Power of Attorney that designates the Proposer’s Representative along with a copy of the signed Joint Venture or Partnership Agreement. The Proposer's Representative shall be empowered to execute the proposal on behalf of the Proposer and to act for and bind the Proposer in all matters relating to the proposal. The Irrevocable Power of Attorney shall specifically state that each Venture or Partner shall be jointly and severally liable for any and all of the duties and obligations of the Proposer that are assumed under the proposal and under any contract arising therefrom. The Proposer’s Representative shall execute the proposal on behalf of the joint venture or partnership in its legal name.

PERFORMANCE BOND REQUIREMENT

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.

PARENT COMPANY GUARANTEE

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 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.
IP-13 SUBMISSION OF PROPOSAL

A. LACMTA will accept proposals submitted by the Proposer at the address and place shown in the Letter of Invitation, up to the date and time shown therein.

B. It is the Proposer’s sole responsibility to see that its proposal is received as stipulated. LACMTA may leave unopened any proposal received after the date and time for receipt of proposals. Any such unopened proposal will be returned to the Proposer.

IP-14 PROPOSAL EVALUATION PROCESS

A. LACMTA shall review and evaluate the proposals in accordance with the requirements of the solicitation documents and Technical Specification. Following the evaluation period the Notice of Intent to Award will be sent to all Proposers and posted on LACMTA’s website.

B. During the proposal evaluation period, staff shall determine if proposals are complete and Proposers are responsible. Responsibility is defined as the apparent ability of the Proposer to meet and successfully complete the requirements of the Contract. Responsibility includes, but is not limited to; consideration of a Proposer’s trustworthiness, the quality of past performance, financial ability, and fitness and capacity to do the proposed Work in a satisfactory manner. Proposers may be required to present further evidence that it has successfully performed similar Work of comparable magnitude or provide other proof satisfactory to LACMTA that it is competent to successfully perform the Work.

C. The overall evaluation process will be performed by LACMTA’s Proposal Evaluation / Negotiation Committee (“Committee”).

D. The objective of the evaluation is to determine which proposals provide the best value to LACMTA in terms of acceptability of technical and all other evaluation factors, including at a price which is reasonable in relation to the work being performed. Those proposals found to be non-responsive or technically unacceptable may be eliminated from further consideration. (Major items and/or gross omissions which cannot be corrected without major or complete resubmission of proposal may be cause for a proposal to be found unacceptable.) The Proposer is urged to insure that the proposal is submitted on the most favorable pricing terms since less than best pricing could result in exclusion of the proposal from further consideration.

E. In order to be eligible for award of a contract, a Proposer must demonstrate to the satisfaction of LACMTA that (i) it is in all respects a responsible party (ii) that it is otherwise qualified and eligible to receive an award under applicable laws and regulations, and (iii) that its other commitments and contractual obligations will not impair or adversely impact its performance of this Contract.

F. PROPOSAL AND PRICE EVALUATION
Proposals will undergo evaluation by the Evaluation / Negotiation Committee to ensure the following:

1. That the proposed Work is reasonably priced, meets all functional requirements of the Specifications, and is fully compliant with the RFP. For those Proposers determined to be in the competitive range, the Committee may conduct discussions to identify proposal deficiencies and to assure that the Proposer fully understands all requirements of the RFP and has proposed equipment or material that conforms thereto. Those proposals found to be deficient may be rejected as non-compliant.

2. That the Proposer has sufficient personnel, facilities, and experience for the project that will enable successful completion of the Work within the requirements of the schedule if awarded the Contract.

G. Amendments to RFP and BAFOs

1. Determine what changes, if any, should be made to the Specifications and RFP in order to obtain lower prices or greater utilization of reliable, service-proven equipment or software. If changes to the requirements are determined to be beneficial, Amendment(s) to the RFP will be issued.

2. After the Technical Proposal and Price Proposal Evaluation, Proposers may be given the opportunity to modify them by submitting a Best and Final Offer (BAFO). The BAFO shall fully comply with the RFP, including all Amendment(s). Final determination of acceptability of any proposal will be made by the Evaluation Committee on the information contained therein.

MINIMUM QUALIFICATIONS

Evaluation of Minimum Qualifications will be on a Pass/Fail basis. Proposers that do not demonstrate evidence of compliance may not be considered beyond the preliminary review. To be considered, Proposers must demonstrate evidence of compliance with the following minimum qualifications:

Past experience with the successful design, delivery and commissioning of a fleet of at least fifty (50) Light or Heavy Rail Vehicles (LRVs/HRVs), with at least three (3) years and ten (10) million miles of revenue service.

PROPOSAL EVALUATION CRITERIA

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 & Past Performance, Criterion #2 Price, Criterion #3 Technical Compliance to Specifications Sections, Criterion #4 Local Employment Plan, Criterion #5 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.
Proposal Evaluation Criteria

Criteria

1. Experience & Past Performance (350 points)
2. Price (300 points)
3. Technical Compliance to Specification Sections (200 points)
4. Local Employment Plan (100 points)
5. Project Management Experience (50 points)

1. Experience and Past Performance (350 points)

- Schedule Adherence (140 points)
- HRV & Key Systems Reliability (60 points)
- Proposed Suppliers’ Work History for Furnishing Similar Equipment (50 points)
- Weight Compliance (35 points)
- Quality (30 points)
- CDRL’s Delivery / Acceptance (20 points)
- Spare Parts, Manuals & Training Delivery / Acceptance (10 points)
- Change Orders (5 points)

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:

64 Cars Base Buy Sub-Criteria

- 64 Heavy Rail Vehicles (From Schedule A, Form PF-2)
- Spare Parts (From Schedule B, Form PF-3)
- Special Tools (From Schedule C, Form PF-4)
- Diagnostic & Test Equipment (From Schedule D, Form PF-5)
- Training
- Manuals
- Mock-Up
- Performance Bond
- LACMTA Travel Costs (From Schedule E, Form PF-6)
- Alternative Technologies (From Schedule F, Form PF-7)

Option 1 for 24 Cars Sub-Criteria

- Option 1 Heavy Rail Vehicles (From Schedule A, Form PF-2)
- Spare Parts (From Schedule B, Form PF-3)
- Special Tools (From Schedule C, Form PF-4)
- Diagnostic & Test Equipment (From Schedule D, Form PF-5)
- Performance Bond
Option 2 for 84 Cars Sub-Criteria
- Option 2 Heavy Rail Vehicles (From Schedule A, Form PF-2)
- Spare Parts (From Schedule B, Form PF-3)
- Special Tools (From Schedule C, Form PF-4)
- Diagnostic & Test Equipment (From Schedule D, Form PF-5)
- Performance Bond

Option 3 for 20 Cars Sub-Criteria
- Option 3 Heavy Rail Vehicles (From Schedule A, Form PF-2)
- Spare Parts (From Schedule B, Form PF-3)
- Special Tools (From Schedule C, Form PF-4)
- Diagnostic & Test Equipment (From Schedule D, Form PF-5)
- Performance Bond

Option 4 for 16 Cars Sub-Criteria
- Option 4 Heavy Rail Vehicles (From Schedule A, Form PF-2)
- Spare Parts (From Schedule B, Form PF-3)
- Special Tools (From Schedule C, Form PF-4)
- Diagnostic & Test Equipment (From Schedule D, Form PF-5)
- Performance Bond

Option 5 for 74 Cars Sub-Criteria
- Option 5 Heavy Rail Vehicles (From Schedule A, Form PF-2)
- Spare Parts (From Schedule B, Form PF-3)
- Special Tools (From Schedule C, Form PF-4)
- Diagnostic & Test Equipment (From Schedule D, Form PF-5)
- Performance Bond

Total Price Evaluation Factors:
Base Buy + Option 1 + Option 2 + Option 3 + Option 4 + Option 5

Proposal Scoring for Price shall be based on the following formula:

\[
\frac{\text{Lowest Proposed Evaluation Price}}{\text{Proposed Evaluation Price}} \times 300 = \text{Total Price Score}
\]

U.S. Component Content Program Evaluation

LACMTA has provided Proposers with the opportunity to augment their proposal scoring by participating in an additional Evaluation Criteria element by proposing additional U.S. component content greater than the Federal Buy America requirement of 60%. Proposers may choose not to participate in this element and may still be considered responsive if they meet all other requirements of the RFP. The U.S Component Content Program will not be part of any direct evaluation scoring; however,
LACMTA will consider the monetary value of the U.S. Component Content Plan submittal in its Best Value trade-off analysis phase described below.

Each Proposer that offers any additional U.S. component content by cost above that which is required by Contract article RR-15 Buy America shall be reviewed and evaluated as follows:

A. The overall value of U.S. component content by cost for the Heavy Rail Vehicles shall be evaluated for the quality and feasibility of achieving the higher U.S. component content proposed.

B. Based on the value of additional U.S. component content by cost above the requirements defined in RR-15, Buy America, each Proposer’s U.S. Component Content Plan will be scored on a dollar-for-dollar based on the following formula:

\[
\text{Total Price} - \text{(Value of U.S. content greater than 60\%)} = \text{Evaluation Price}
\]

For example:

If the total proposed price before the value of U.S content greater than 60\% is $100 million and the U.S. Content Program value is $10 million, the price used for evaluation purposes only is as follows:

\[
\text{Total price} - \text{(value of U.S. content greater than 60\%)} = \text{Total price for evaluation purposes}
\]

\[
$100,000,000 - $10,000,000 = \text{Total price for evaluation purposes only}
\]

Therefore; $100,000,000 - $10,000,000 = $90,000,000

The U.S. Content Plan offered by each Proposer must include content for Base and Option Vehicles.

C. Only U.S. component content by cost that can be validated by an audit or assessment completed by LACMTA and/or any firm of auditors appointed by LACMTA prior to Contract Award will be eligible for inclusion in the U.S. Component Content Program.

3. **Technical Compliance with Specification Sections Sub-Criteria (200 points)**

   **Sub-Factor**
   - Overall Car Design (25 points)
   - Reliability Requirements (20 points)
   - Vehicle System Integration (20 points)
   - Trucks (15 points)
   - Propulsion and Dynamic Braking (10 points)
   - Automatic Train Control and Train-to-Wayside Communication (10 points)
   - Friction Brakes and Pneumatic Systems (10 points)
   - Auxiliary Power Equipment (10 points)
4. **DOT Pilot - Local Employment Program (100 points)**

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 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.

**LACMTA LOCAL EMPLOYMENT PROGRAM**

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).

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.

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 America and TVM requirements.

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.

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.

Local Employment Plan Evaluation Criteria

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.

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:

1) Total value of Local Worker wages and benefits
   a. Contractor total value of wages and benefits
   b. Subcontractor total value of wages and benefits

2) Total Value of Local Facility Investments
Total Local Employment Plan Evaluation Factors:

Local Worker Wages and Benefits + Local Facility Investments = Total LEP Commitment Value

Proposal scoring for the Local Employment Plan shall be based on the following formula:

| Proposed Local Employment Plan Commitment Value \| Highest Proposed Local Employment Plan Commitment Value | 10% of all Evaluation Factors | Total Local Employment Plan Score |
|-----------------------------------------------------------|-----------------------------|-------------------------------|----------------------------------|

5. **Project Management Experience Sub-Criteria (50 points)**

Sub-Factor

- Resources Capability & Capacity (Names and Total Staff; Org Chart, Resumes) (18 points)
  - Project Management (6 points)
  - Engineering and Production/Manufacturing (6 points)
  - Commissioning and Warranty Support (6 points)

- Facility Capability & Capacity (10 points)
  - Production (3 points)
  - Manufacturing (3 points)
  - Final Assembly (2 points)
  - Testing (2 points)

- Project Backlog For Proposer & Key Suppliers (4 points)
- Supplier Resources Capability and Capacity (4 points)
- Proposed Project Schedule (4 points)
- Quality Program Plan (3 points)
- Configuration Control Plan (2 points)
- Interface Control Document (2 points)
- System Integration and External Interfaces (2 points)
- CDRL(s) Management (1 points)

**IP-15 WITHDRAWAL OF PROPOSALS**

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

**IP-16 UNNECESSARILY ELABORATE PROPOSALS**

Unnecessarily elaborate proposals, brochures or other presentations beyond those sufficient to present a complete and effective response to this RFP are not to be included. Elaborate art work, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor desired.

**IP-17 DISADVANTAGED BUSINESS ENTERPRISE GOAL REQUIREMENTS**
Transit Vehicle Manufacturers, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of the Code of Federal Regulation (49 CFR Part 26.49).

Offerors planning on submitting bids/proposals to the Los Angeles County Metropolitan Transportation Authority (LACMTA) must have an approved or not disapproved Disadvantaged Business Enterprise (DBE) Program on file as a Transit Vehicle Manufacturer (TVM) with the U.S. Department of Transportation, Federal Transit Administration (FTA). If the potential Offerors are not on the list, they must enquire directly with the FTA prior to submitting its bid/proposal. Proposer’s must submit a letter or other document from the FTA showing that it has an approved or not disapproved DBE program in accordance with 49 CFR Part 26.49. Proposer’s must also include a completed TVM Certification found in Section 5 of this RFP.

**IP-18 IDENTIFICATION OF SUBCONTRACTORS**

The Proposer may identify a maximum of three (3) possible subcontractors per subsystem. LACMTA will notify the Proposer, prior to Request for Best and Final Offer (BAFO), of any subcontractors who are not compliant with the contract documents. After the submittal of BAFO, Proposer may not substitute any other subsystem subcontractor than those submitted in the BAFO, and as accepted by LACMTA.

**IP-19 PRE-AWARD AUDIT**

LACMTA or its representatives, upon reasonable advance written notice, shall have the right to examine any books, records, accounts and other documents of any proposer to determine the reasonableness, allowability, and allocability of the proposal.

**IP-20 LACMTA RIGHTS**

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

1. Reject any or all of the proposals, at its discretion;
2. Remedy errors in the RFP;
3. Cancel the entire RFP;
4. Issue subsequent RFP;
5. Appoint evaluation committees to review proposals;
6. Seek the assistance of outside technical experts to review proposals;
7. Approve or disapprove the use of particular subcontractors and suppliers;
8. Establish a short list of proposers eligible for discussions after review of written proposals;
9. Solicit best and final offers (BAFO) from all or some of the proposers;
10. Negotiate with any, all or none of the proposers;
11. Award a contract to one or more proposers, or not award to any of the proposers;
12. Accept other than the lowest priced proposal;
13. Disqualify the proposal(s) upon evidence of collusion with intent to defraud or other illegal practices on the part of the proposer(s);
14. Waive any informalities or irregularities in any proposal, to the extent permitted by law; and
15. Award a Contract without interviews, discussions or negotiations.

This RFP does not commit LACMTA to enter into a contract, nor does it obligate LACMTA to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract.

In the event LACMTA chooses to negotiate with more than one Proposer, it may, following the conclusion of all negotiations, issue a revised RFP or portion thereof containing, among other things, any matter, offer, condition of enhancement elicited from or proposed or suggested by any Proposer during the course of such negotiations, and solicit Best and Final offers from such Proposers, or solicit Best and Final offers utilizing another appropriate procedure. After receipt of Best and Final Offers, LACMTA reserves the right to (a) reopen negotiations; or (b) accept improvements to, enhancements of or other revisions to any proposal or alternate proposal at any time if it deems such to be in its best interest.

No Proposer shall have any rights against LACMTA arising at any stage of the solicitation from any negotiations that take place, or from the fact that LACMTA does not select a Proposer for negotiations.

**IP-21 INSURANCE REQUIREMENTS**

At the time of Contract Award, Proposer shall provide LACMTA with satisfactory evidence that policies and limits of insurance as indicated in the Special Provisions are in full force or may be obtained by the Proposer prior to issuance of Notice to Proceed. Satisfactory evidence may be demonstrated by a Certificate of Insurance or letter issued by Proposer’s Insurance agent or broker. Note that some insurance requirements may be listed as separate Proposal items, and the cost of this insurance is not to be included in other Proposal items.

**IP-22 PUBLIC RECORDS ACT**

A. Responses to this RFP are subject to the provisions of the California Public Records Act (California Code Government Code, §6250 et seq.).

B. Any documents provided by the Contractor to LACMTA marked "Trade Secret," "Confidential," or "Proprietary" or any financial records provided by the Contractor to LACMTA shall be handled in accordance with the General Condition entitled "Public Records".

**IP-23 DISQUALIFICATION OF PROPOSERS**
A. Organizational Conflict of Interest may apply to this procurement. See General Conditions entitled Organizational Conflict of Interest.

B. Any person, firm, corporation, joint venture or partnership, or other interested party that has been compensated by LACMTA or a contractor engaged by LACMTA for assistance in preparing the RFP Documents and/or estimate shall be considered to have gained an unfair competitive advantage in proposing and shall be precluded from submitting a proposal in response to this RFP.

C. After the RFP is issued, any person, firm, corporation, joint venture or partnership, or other interested party that has discussions regarding this RFP with anyone within LACMTA other than the Contract Administrator may be considered to have gained an unfair competitive advantage. The enclosed LACMTA Lobby Ordinance, Certification of Conflict Checklist and LACMTA Code of Conduct shall govern the limits of participation. LACMTA Administrative Code can be found at: http://media.metro.net/about_us/library/images/Administrative%20Code.pdf
Non-compliance with these regulations could lead to disqualification. All communications with LACMTA shall be in accordance with the IP-05, COMMUNICATIONS WITH LACMTA.

IP-24 FILING OF PROTESTS

A. All Protests must be filed and resolved in a manner consistent with the LACMTA, “PROTEST INSTRUCTIONS” (available for download at http://www.metro.net/EBB/protest.pdf).

B. Appeals related to a Pre-Qualification Denial must be filed in accordance with the Pre-Qualification Appeal entitled Contractor Pre-Qualification Program (available for download at http://www.metro.net/EBB/PQA/vprequal.htm).

IP-25 BASIS OF AWARD

Proposals will be rated to determine those offers which are within a competitive range, price and other factors considered. Negotiations may be conducted with all Proposers whose offers are considered to be in the competitive range and are determined to be acceptable.

LACMTA will award a contract resulting from this RFP to a responsive and responsible Proposer whose offer conforms to the RFP and will be most advantageous to LACMTA, with price and other factors specified elsewhere in this RFP being considered.

**Award of contract may or may not be made to the lowest-priced Proposal.** Although technical, project management past performance and experience are considered vital to a successful project, LACMTA may not necessarily make an award to the Proposer with the highest technical ranking nor award to the Proposer with the lowest price proposal if doing so would not be in the overall best interest of LACMTA.

LACMTA may award a contract on the basis of initial proposals received, without discussions. Therefore, each proposal should contain the Proposer’s best terms from
a price and technical standpoint. Exceptions to terms and conditions that materially alter the risk of the project unfavorably toward LACMTA may render an offer non-responsive. Therefore, Proposers are cautioned to minimize exceptions or deviations to the commercial terms required by LACMTA.

A written award or acceptance of offer mailed or otherwise furnished to the successful Proposer within the time for acceptance specified in the RFP shall result in a binding contract without further action by either party. Before the Proposer's specified expiration time, LACMTA may accept a proposal whether or not there are negotiations after its receipt, unless a written request of withdrawal of proposal is received before award.

**IP-26 EXECUTION OF CONTRACT**

The Proposer to whom an award is made shall execute the Contract and furnish the required Performance Bond and Parent Company Guaranty within ten (10) calendar days after being given notice of the award. LACMTA may require appropriate evidence that the person(s) executing the Form of Contract and the bonds for both the Proposer and its surety or sureties are duly empowered to do so. The Bond shall conform to the form provided with the Proposal Documents, and the surety or sureties shall be an admitted surety insurer authorized to act as such in the State of California, and acceptable to LACMTA.

**END OF INSTRUCTIONS TO PROPOSERS**
SUPPLEMENTAL INSTRUCTIONS TO PROPOSERS

A. PERFORMANCE BOND REQUIREMENTS

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.

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.

B. PARENT COMPANY GUARANTY REQUIREMENTS

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.

C. IRREVOCABLE LETTER(S) OF CREDIT REQUIREMENTS

1. 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.

D. PROCESS FOR REQUEST FOR APPROVAL OF ALTERNATE MINIMUM QUALIFICATIONS

Proposers may submit a written request for approval of Alternate Minimum Qualifications described in the Instructions to Proposers, IP-14 Minimum Qualifications. An Alternate Minimum Qualifications approval request shall be submitted on company letterhead to the Contract Administrator no later than thirty (30) calendar days prior to the RFP due date. The written request shall include the following information:

1) Name and address of the Proposer;
2) Description and nature of the Alternate Minimum Qualification request;
3) All supporting documentation necessary for LACMTA to determine technical acceptability of the Alternate Minimum Qualifications request;
4) Name, address and phone number of no more than three (3) Transportation Agency experience references.

LACMTA will make a technical acceptability determination of the request for Alternate Minimum Qualification requirements and issue an Amendment to the Solicitation no later than ten (10) days prior to the RFP due date if changes to the requirements are acceptable to LACMTA. A final determination of the technical acceptability of proposed Alternate Minimum Qualifications will be made at the sole discretion of LACMTA.
E. APPEALS RELATED TO LACMTA’S DETERMINATION OF MINIMUM QUALIFICATIONS

If LACMTA has determined that a Proposal has not met the Minimum Qualifications or a request for an Alternate Minimum Qualification is rejected by LACMTA, Proposers may request an appeal to such determinations.

1) Only a Proposer (excluding individual joint venture members, or individual members of any other business relationship) is eligible to submit an appeal of LACMTA’s determination of Technically Unacceptable for Minimum Qualifications or Alternate Minimum Qualifications.

2) Process to Appeal

The filing and resolution of an appeal of LACMTA’s determination of Technically Unacceptable resulting from the LACMTA’s evaluation of the Proposer’s request for Minimum Qualifications or Alternate Minimum Qualifications will follow the process as set forth herein.

a. A written appeal shall be filed within five (5) calendar days from the date LACMTA issues its determination of Technically Unacceptable to a Proposer. The written appeal shall be submitted by electronic means (with the original copy sent by express mail), or any other return receipt means. LACMTA is not responsible for lost or otherwise delayed deliveries. If a Proposer that has been served with a determination of Technically Unacceptable fails to file a timely written appeal as described herein, the determination of Technically Unacceptable shall become final.

b. The Proposer shall file, with the Director of Contract Administration identified in the Technically Unacceptable notification, the grounds for the appeal in a written submission that must include all of the following:

1. The name and address of the Proposer;
2. Description of the nature of the appeal;
3. All documentation supporting the allegations in the appeal must be attached;
4. The appeal shall only contain factual information directly related to the grounds of the appeal.
5. Factual allegations in the written submission must be supported by an affidavit included with the written submission;
6. A statement of the specific relief requested; and
7. The appeal should also reference any pertinent court, GAO and agency decisions, which are relied upon in support of the appeal, as well as any contrary authority.

3) LACMTA Response

An Appeal Review Panel shall evaluate the appeal, and has the sole discretion to concur with or deny the appeal and issue a written decision within fourteen (14) calendar of the receipt of the appeal. The Appeal Review Panel will consist of three members from LACMTA executive management. The Appeal Review
Panel reserves the right to request additional information from either the Proposer or LACMTA staff. The decision of the Appeal Review Panel is final.

Costs and Damages

All costs of an appeal shall be the responsibility of the Proposer and undertaken at the Proposer's expense. In addition, if the appeal is denied, the Proposer filing the appeal shall be liable for LACMTA's costs reasonably incurred in defending against the appeal, including legal and consultant fees and costs, and any unavoidable damages sustained by LACMTA as a consequence of the appeal. LACMTA shall not be liable for damages to the Proposer filing the appeal or to any participant in the appeal process.

END OF SUPPLEMENTAL INSTRUCTIONS TO PROPOSERS
PROPOSAL REQUIREMENTS

PR-1.0 GENERAL

Proposals will be received and evaluated from firms or joint ventures who will serve as the sole or prime contractor. The prime contractor must propose to assume full responsibility for the execution of the Work, including management of all subcontractor/supplier efforts.

The Proposer shall respond to all topics described below, maintaining the same number sequence, and repeating the direction with the response. The Proposer shall address each of the topics individually and completely, whether or not the same or similar descriptions are provided elsewhere in the proposal. The Proposer should avoid, to the maximum extent practicable, making references to other proposal sections from within one proposal section. The intent of this arrangement is to allow LACMTA to readily partition the proposal documents for review by the Proposal Evaluation/Negotiation Committee (“Committee”). In responding to each topic, the Proposer shall identify specific elements planned for the HRV and its subsystems and the Proposer’s experience with the elements proposed. The proposal shall specify the names of candidate subcontractors and suppliers for major vehicle subsystems. The proposal shall clearly describe the role of the Proposer and detail the interfaces with all potential subcontractors and suppliers.

The proposal shall be clear and concise and explain how the Proposer intends to meet the requirements of this RFP. Legibility, clarity, and completeness of the written description of the technical approach are essential. Statements merely indicating that the Proposer shall meet specific requirements are not sufficient and may result in the submission being found non-responsive. Each proposal shall be fully compliant with the requirements of the solicitation and shall meet all requirements and conditions of the commercial terms and technical specifications. Do not provide unnecessary promotional or advertising information unless specifically requested.

A fully compliant proposal shall consist of the following:


The Proposal Letter (See Proposal Forms section), must be completed and executed by an authorized representative of the Proposer. No other letter may replace or be included in addition to the Proposal Letter. Any Proposer that does not comply with this requirement may find its submittal rejected as non-responsive.

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, 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.
The Price Proposal, Local Employment Plan, Certifications and Technical Proposal are each to be submitted in separate, sealed packages which are clearly marked to indicate their contents.

All charts, drawings, tables, or illustrations as indicated by the proposal submittal requirements contained herein. No charts, drawings, tables, or illustrations shall be greater than 11-inch by 17-inch format unless specifically requested. Digital versions of graphics are to be submitted in JPEG format. Proposals shall be typed in the English language, single spaced on 8½ x 11-inch format. Dimensions shall be in the English standard of weights and measures. Metric equivalents may be provided in parenthesis.

Proposers must include their complete return addresses on the outer envelope or wrapper enclosing any material. Such outer envelope or wrapper should be addressed as follows:

Joe Marzano, Contract Administration Manager  
Los Angeles County Metropolitan Transportation Authority  
One Gateway Plaza, 9th Floor  
Los Angeles, California 90012-2952  
RFP Number and Proposal Title: HR4000, NEW HEAVY RAIL VEHICLES

PR-2.0  
TECHNICAL PROPOSAL (VOLUME 1)

The Technical Proposal shall consist of the following parts:

TAB 1: Cover page with Proposer’s name and completed Proposal Submittal Checklist (Form PS-1).

TAB 2: A fully completed Technical Summary Form TF-1 (blank copy attached to this RFP) identifying for each system/item a Primary Supplier, and up to two additional suppliers as Alternate Supplier 1 and Alternate Supplier 2.

TAB 3: Fully completed System Supplier Information Form TF-2 (blank copy attached to this RFP) for Proposer and each Primary and Alternate supplier listed in the Technical Summary (TAB 2 above).

TAB 4: Experience & Past Performance Section – Narrative to address each question in the Proposal Requirements of this RFP on qualifications of the Proposer and key suppliers for handling similar projects including fully completed Forms TF-3 List of Completed Projects and TF-4 List of Current Projects.

TAB 5: Technical Specifications Section – Narrative to address each question in the Proposal Requirements of this RFP on the Technical Specification & primary supplier experience, and system integration.

TAB 6: Project Management Section – Narrative to address each question in the Proposal Requirements of this RFP on project management capability and capacity of the Proposer and key suppliers. Narrative to address proposed Enhanced U.S. Component Content Plan.

TAB 7: Enhanced U.S. Component Content Program – Narrative describing proposed U.S. Content Components including total material cost and all
individual components (both domestic and foreign) and their individual percentages of the total material cost.

TAB 8: **Local Employment Plan** – Narrative describing Local Employment Plan including Manpower Summary Worksheets and Labor Value Forms. (The Local Employment Plan must be submitted in a separately sealed envelope.)

TAB 9: **List of Exceptions or Deviations to Technical Specifications and Contract Terms & Conditions** to be fully documented on Proposal Exception / Deviation Form TF-5 (blank copy attached to this RFP).

TAB 10: **List of Primary, Alternate Suppliers and Primary, Alternate System Configurations.**  

Proposers are not to submit extensive drawings, annual reports, catalogs, parts lists, or public relations or marketing brochures.

**PR-2.1 TAB 4: EXPERIENCE & PAST PERFORMANCE SECTION**

The Proposer shall demonstrate sufficient experience and satisfactory performance for the successful design, construction, testing, delivery and commissioning of railcars. Proposer’s Experience and Past Performance submittal shall be organized to coincide with the numbered paragraphs below.

Fully completed Forms TF-3, List of Completed Projects (blank copy attached to this RFP) and TF-4, List of Current Projects (blank copy attached to this RFP) must be submitted for the prime contractor. Use of these forms is mandatory; no brochures, catalogs or other marketing materials shall be submitted and will not be reviewed or considered in the evaluation of the proposal. Describe any legal actions and their resolution associated with these projects.

**PR-2.1.1 Proposer’s Experience & Past Performance**

Proposer’s experience and past performance as prime contractor/carbuilder will be evaluated in the following areas:

1) Schedule Adherence  
2) HRV and Key Systems Reliability (See TS-02 for HRV Primary Subsystems)  
3) Proposed Suppliers’ Work History for Furnishing Similar Equipment  
4) Weight Compliance  
5) Quality  
6) Contract Data Requirement List (CDRL) Items Delivery / Acceptance  
7) Spare Parts, Manuals & Training Delivery / Acceptance  
8) Change Orders

For each item (1) through (8) above, provide information on all projects for the past 10 years including the customer contact name, address, and phone number for any follow-up by LACMTA. List projects in chronological order starting with the most recent projects (completed or substantially completed). Describe success stories as well as any problems encountered and how they were resolved for each item (1) through (8) above. The information for each project
must also clearly show the original contractual requirement versus the actual final results achieved. For example:

(1) Schedule Adherence

Schedule information shall include start and completion dates of key design, production, & commissioning activities in the baseline project schedule approved by the customer; and their actual final start and completion dates

(2) HRV and Key Systems Reliability (See TS-02 for HRV Primary Subsystems)

Reliability of the HRV and key systems shall list requirements in the contract Technical Specification and those achieved through reliability performance data

(3) Proposed Suppliers’ Work History for Furnishing Similar Equipment

For subsystems or categories identified in Form TF-1 with an asterisk, Proposer may list up to three Subcontractors for any one portion of the Work.

The Proposer shall use Form TF-2, Proposer & System Supplier Information to provide the information requested therein, for each subcontractor identified with an asterisk in Form TF-1 and clearly identify the primary proposed supplier, alternate supplier 1 and alternate supplier 2.

For each supplier - list previous design, manufacturing and assembly experience for equipment being proposed. Provide customer references to demonstrate that similar work has been successfully performed in the past. Each supplier reference shall include the following information:

- Supplier name and address
- Location of supplier’s design and manufacturing plant(s) and years of facility operation
- Supplier references (limit to five) which will include customer name, address and telephone number of current client employee who is familiar with the Supplier's work. (Customer contact must be fluent in English to respond to LACMTA’s questions; and include a U.S. reference unless the Supplier has had no prior U.S. experience.)
- Project name and location where equipment is in operation; first year of operation; and number and type of equipment supplied (Limit of ten most recent and/or relevant contracts)
- Original amount and the amount of Change Orders of each Contract
- Amount (if any) of claims (by either party)

(4) Weight Compliance

Weight compliance information shall include vehicle weight specified in the contract, contractor’s weight breakdown submittal for the car and system equipment as approved by the customer, and the final actual weight of the vehicle
(5) Quality

Quality information shall include the logs for Field Modification Instructions (FMI), Non-Conformance Reports (NCR) and Audit findings, providing a listing of FMIs, NCRs and corrective actions, including the dates they were initiated and the dates of actual completion.

(6) Contract Data Requirement List (CDRL) Items Delivery / Acceptance

CDRL information shall include the schedule of submittal dates required per contract or as approved by the customer, and their actual delivery & acceptance dates.

(7) Spare Parts, Manuals & Training Delivery / Acceptance

Spare Parts, Manuals & training information shall include submittal dates required per contract or as approved by the customer, and their actual delivery & acceptance dates.

(8) Change Orders

Change Order information shall include the original & final contract prices, and a listing of contractor-initiated and customer-initiated changes including the cost.

PR-2.2 TAB 5: TECHNICAL SPECIFICATIONS SECTION

The Proposer shall demonstrate sufficient understanding of the technical requirements for the successful design, construction, testing, delivery and commissioning of railcars. Proposer’s Technical Specifications submittal shall be organized to coincide with the numbered paragraphs below:

PR-2.2.1 Technical Narrative

For each area and system of the vehicle listed below, the Proposer shall adhere to the following guidelines in preparing the Technical Specifications Section by providing descriptions & explanations in response to items below:

(1) Provide a detailed narrative, including descriptions and explanations as to how the requirements of that section of the Technical Specification will be met.

This shall include, where applicable, a brief functional description of the technical features and significant characteristics of each area or system below, highlighting choices made where alternative technologies exist and stating reasons for selection of specific items or approaches. Support the descriptions with appropriate supportive drawings, data, analyses, etc. and identify the deliverables to be provided.

The Proposer shall highlight the extent to which a proposed vehicle area or system is 1) off-the-shelf, 2) service proven or 3) non-service proven in a rail transit application. Identify what additional design changes, development or testing will be required, any associated risks and how they will be mitigated. If Proposer is submitting an area or system that is
already in service, state the number of units in service and time or miles in service, in warranty and beyond warranty.

In order to validate and verify that a design is Service Proven, the Contractor shall submit the following in order to establish that a Vehicle and all vehicle systems, subsystems, and equipment: reliability/failure data, service time and location, modification information, maintenance records, and comparative data demonstrating that the operating environment is similar to LACMTA’s. LACMTA shall be the sole judge on the acceptability of the Service Proven design.

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 at the Project review meetings.

a. Car Overall System Design
b. Provide actual data of reliability in terms of Mean Miles Between Failures (MMBF), Mean Miles Between All Failures (MMBAF) and maintainability in terms of MTTR, for the vehicle and for each of its major subsystems “d” through “q” below.
c. Integration of past design for Carbody, Trucks, Propulsion and Dynamic Braking, Automatic Train Control (ATC), Friction Brake and Pneumatic Systems, Communications, and Monitoring and Diagnostics.
d. Trucks
e. Propulsion & Dynamic Braking
f. Automatic Train Control (ATC) and Train-to-Wayside Communication (TWC)
g. Friction Brake & Pneumatic Systems
h. Auxiliary Power Equipment
i. Monitoring and Diagnostics
j. Carbody and Gangway
k. Coupler & Draft Gear
l. Operator’s Cab Equipment and Controls
m. Passenger Doors & Controls
n. HVAC
o. Lighting
p. Communications & Passenger Information
q. Interior and Exterior Appointments
r. Software Systems
s. Event Recorder; Trainlines & Networks
t. Safety, Security and Regulatory Requirements
u. Quality Assurance and Quality Control
v. Validation and Testing
w. Alternative Technologies
x. Materials and Workmanship

PR-2.2.2 Additional Technical Sections to Be Addressed
Proposers shall also address each of the items listed below in sections PR 2.2.2.(1a.) through PR 2.2.2.(24f.) as part of the detailed narrative required in Section 2.2.1 above in the relevant proposal narrative.
1) **Car Overall System Design**

a) Provide the following preliminary general arrangement drawings for the proposed vehicle with all pertinent dimensions:

   i) Vehicle & Married Pair Plan View (external)
   ii) Vehicle & Married Pair Side View (external)
   iii) Vehicle Front View (external)
   iv) Vehicle Seating Arrangement (internal plan view including seat width and spacing)
   v) Married Pair Underfloor Equipment Arrangement

Please note that these conceptual design drawings are intended to represent a general understanding of the requirements of the Technical Specifications and are not intended to represent precise design for initiation of the project review process.

b) With reference to Propulsion and Braking, provide performance verification that the systems will be capable of meeting the specified acceleration, braking, and other indicated performance levels for AW3 loading condition on level tangent track, including the following as a minimum:

   i) Plots of car speed vs. time and car speed vs. distance
   ii) Combined tractive effort vs. speed, and propulsion line current vs. speed plots for maximum acceleration at 450 Vdc, 600 Vdc, 750 Vdc, and 900 Vdc supply
   iii) Combined tractive effort vs. speed and regenerative braking line current vs. speed plots for full service dynamic braking at 450 Vdc, 600 Vdc, 750 Vdc, and 900 Vdc supply
   iv) Tractive effort and friction brake effort vs. speed plot for full service dynamic braking from Maximum Design Speed to stop at 450 Vdc, 600 Vdc, 750 Vdc and 900 Vdc
   v) Percent of theoretically available Unit kinetic energy that will be regenerated to the line for a 2.0 mphps stop from 40 mph at AW3, with a fully receptive line at 750 Vdc.

The submitted information shall demonstrate that sufficient consideration has been given to vehicle weight distribution, load transfer between truck axles, and the type and efficiency of the wheel slip control on the vehicle. Indicate if the above plots depict actual performance of an existing vehicle or represent Proposer’s estimate of anticipated performance.

c) Provide braking system performance calculations for the case of service braking at maximum command at AW3 loading condition on level tangent track, including the following as a minimum:

   i) Stop distance and average braking rate from 20 mph, 25 mph, 40 mph, 45 mph, 55 and Maximum Design Speed for Emergency Braking, Full Service Braking, and Full Service Braking with friction only braking.
   ii) Indicate if the above information depicts actual performance of an existing car or represent Proposer’s estimate of anticipated performance.
d) Provide preliminary simulation results and/or calculations of the most onerous normal and abnormal duty cycles as specified in TS-02. Provide the calculated Maximum Design Speed for the friction only braking duty cycle.

e) Describe the weight control program that will be instituted to achieve the required vehicle weight during design and construction.

f) Describe previous experience in meeting the stated emission standards and describe your EMC/EMI control program.

g) Provide color renderings and/or computer simulations/animations (on video) of exterior and interior views of the proposed Married. 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.

h) Describe the approach applied by the Proposer to incorporate serviceability and maintainability considerations in its design.

2) Reliability

a) Describe how the Proposer will meet total car system reliability goal. Submit a preliminary allocation list covering vehicle subsystems indicating the contribution of each towards meeting this overall goal.

3) Vehicle System Integration

a) Describe the Proposer’s approach for the integration of the following systems: Carbody, Trucks, Propulsion and Dynamic Braking, Automatic Train Control (ATC), Friction Brake and Pneumatic Systems, Communications, and Monitoring and Diagnostics.

b) Describe the Proposer’s approach for engineering changes and modifications in the field.

4) Trucks

a) Describe the truck arrangement to be supplied. Provide general arrangement drawings of the proposed truck. Describe the truck/bolster interface and the truck to carbody interface.

b) Indicate the truck weight (preliminary estimates) and the percent of total car weight carried by each truck.

c) Describe the primary and secondary suspension arrangement of the truck. State the natural frequencies of the primary and secondary suspensions. State the lateral and longitudinal spring rates of the primary suspension. State the wheel load redistribution as a result of lifting one wheel two inches above the plane of the other wheels.
d) Describe the load-weigh system and its control sensitivity. Indicate how it complies with the level boarding tolerances of the ADA regulations.

e) Indicate the stress analysis program to be used in truck design and previous experience in its use.

f) Describe how the Proposer’s truck design will comply with the technical requirements and performance criteria of the related Technical Specification.

5) Propulsion and Dynamic Braking

a) Provide a functional block diagram and power circuit schematic for the propulsion system, including circuit protection devices control measurement points and the quantities measured.

b) Describe the motor configuration and control arrangement to be provided. State individual traction motor horsepower and aggregate horsepower for the vehicle as a whole. State the traction motor type. Is this a new traction motor design? If not, where was it or a similar design previously used?

c) Describe the gear unit configuration to be provided. Is this a new gear unit design? If not, where was it or a similar design previously used?

d) Describe the function and capabilities of the propulsion control self-diagnostics to be provided. Describe proposed fault logging and data logging systems.

e) Describe the electronic control system to be provided.

f) Indicate the control philosophy to be followed in maximizing use of dynamic brake and in returning regenerated energy to the supply line.

g) Describe the type, mounting arrangement, and number of axle or wheel speed sensors to be provided.

h) Describe the high voltage propulsion circuit protection scheme, including protection philosophy, types of protective devices, location of protective devices, and method of protective device reset.

i) Indicate how braking effort will be apportioned among axles.

j) Provide a description of the propulsion and friction braking interface signals to be provided.

6) Automatic Train Control (ATC) and Train-To-Wayside Communication

a) Describe the ATC system proposed and how compatibility with the existing signal system will be achieved. Has the proposed system been implemented on other rail transit applications/systems?

b) Provide a description of the following items:

   i. Describe the ATC control modes and operation including: automatic and manual operation modes.

   ii. Provide a description of ATO performance level operation.
iii. Describe the proposed approach to Automatic Train Supervision conceptual design and interface to wayside and operations control.

c) Provide a description of the Wayside Programmed Station Stopping (PSS) and Wayside Berthing Verification System and how compatibility with the existing signaling system will be achieved?

7) Friction Brake & Pneumatic Systems

a) Describe the type of parking brake to be provided and its arrangement. Indicate the method of actuation.

b) Describe how the friction braking system will be integrated with the Propulsion and Automatic Train Protection systems.

c) Describe the proposed air compressor system.

8) Auxiliary Power Equipment

a) Provide a preliminary tabulation of the total auxiliary electric system load.

b) Provide a functional block diagram and power circuit schematic for on-car power distribution, including circuit protection devices, control measurement points, and quantities measured.

c) Describe the primary power to ac, low voltage dc, and battery charging conversion system to be supplied. Is the proposed converter a standard model or will it be designed to suit this application? In what order and after what periods of time will loads be shed in the event that the operating converters cannot support the full load?

d) Provide a functional block diagram of the all primary power conversion systems as installed on a Married Pair. Describe any prior experience with using low voltage dc power converters in parallel with respect to load sharing. Describe how the capacity of the power conversion system will be determined.

e) Describe the auxiliary power supply, low voltage dc converters, and battery chargers to be supplied. Will each unit be supplied separately or will the units be combined? If combined, what components will be common to the separate functions and how will redundancy of the low voltage dc system be met?

f) Provide a functional block diagram and main circuit schematic illustrating three phase 60 Hz voltages and functional relationships among all elements of the three phase 60 Hz power system. Describe how the capacity of the power conversion system will be determined.

g) Indicate the electrical power conversion devices and arrangements to be provided as needed for the air comfort system(s), air compressor and other auxiliary loads. Describe device operation, regulating parameters, outputs and controls.

h) Describe the electrical power conversion arrangement to be provided for battery charging and supply of low voltage loads. Describe its performance parameters including temperature compensation. Provide functional block diagram and main circuit schematic.
i) Describe the Low Voltage Power Supply system to be supplied, including its battery charging features.

j) What methods of transient suppression shall be used on the low voltage dc circuits?

9) Monitoring & Diagnostics Systems

a) Describe the proposed process for selecting, collecting, and reporting fleet and failure data, including the differences between storage in the sub-system control logic, vehicle MDS system, and information available on the train-wide network and available for all vehicles from the active cab.

b) Describe the sub-systems capable of performing self-tests initiated from the MDS system.

10) Carbody

a) Describe expertise and previous experience in developing comprehensive stress analyses of car body designs. Provide sample crashworthiness calculations from a previous car body design. If no sample is available, provide an outline of your procedure.

b) Indicate the stress analysis software to be used in vehicle design and previous experience in its use.

c) Describe approach to ensure that the vehicle design and construction will be in full compliance with ADA requirements. State how the degree of height and gap control necessary to meet ADA requirements, shall be achieved. Include the effects of carbody camber.

d) Describe the feasibility analysis that was done to incorporate the Gangway design and its dynamic operation in the LACMTA environment (right-of-way, shop and yards).

11) Couplers & Draft Gear

a) Describe any proposed modifications to off-the-shelf equipment.

b) What methods will be used to compensate for wear in the coupler assembly and its attachment? How will the design eliminate the degradation in ride quality that usually results from wear and aging?

c) Define and describe the devices used to permit manual uncoupling of the mechanical coupler and manual coupling or uncoupling of the electrical portion.

d) Describe the centering device, if any is proposed.

e) Describe the safety pinning arrangement for emergency towing.

f) Describe the proposed mechanical coupling method to the existing A650 HRVs.

12) Operator’s Cab and Control Equipment

a) Provide color renderings and/or computer simulations/animations (on video) of the operator’s cab area including cab seat, partition, door and windows,
side opening windows, main console, auxiliary consoles, equipment compartments and breaker panels of the proposed vehicle. The renderings and/or video shall reflect the conceptual configuration and proportions currently envisioned by the Proposer. It is understood that the cab area may be modified from the submitted concept during the design development phase.

b) Describe how the Operator’s controls will be applied to the two display screens provided. In the event of a TOD failure, how will the required operating functions be provided on the second TOD?

c) Describe how controls and other cab equipment will be protected from inadvertent operation, physical abuse and vandalism.

13) Passenger Doors & Controls

a) Provide functional block diagram, main circuit schematic for the door actuation and control system. Indicate how it will be accessed.

b) Describe the obstruction sensing technique(s)/equipment.

c) Describe the safety interlocking to be provided between the door control system and the door enable circuits, including No Motion and enable trainlines, and between the Door Closed interlocks and the propulsion system.

d) Indicate how position of the door panel and securement of the mechanical lock are to be sensed. Describe how the interlock will eliminate the need for adjustment following sensor replacement.

e) Describe the visual and audible door warning signals to be provided.

f) Describe the technique to be utilized to match the finish on the door skin-grain with the carbody skin-grain.

14) HVAC

a) Provide a functional block diagram indicating the general arrangement and function of the heating and the cooling systems.

b) Provide a temperature control schedule for the vehicle interior.

c) Provide a heating load and capacity calculation.

d) Provide the fresh air temperature calculations corresponding to providing specified internal conditions at AW3 loading with, and without, solar load.

e) Provide a cooling load and capacity calculation. Show the car body heat gain for cooling design and AW3 passenger load conditions, the proposed cooling capacity for all individual cooling units, proposed air flows associated with fresh air cooling load, maximum solar cooling load, estimated temperature excursions during control cycling, and estimated cooling power consumption.

f) To what extent can cooling capacity be reduced during light load conditions without cycling the compressor?

g) What water eliminating devices are proposed?

h) Describe the rooftop HVAC unit removal and replacement operation.
15) **Lighting**

a) Describe past experience and proposed approach to provide LED lighting.

16) **Communications & Passenger Information**

a) Describe the integration of the various communications functions onto the TODs. Describe each discrete control panel for systems not incorporated into the Operator’s displays.

b) Describe the operational procedure for use of the information signs.

c) Describe the configuration and operation and programming of the Automated Train Announcement and Display System. Describe the workstation and programming software to be supplied.

d) Describe the isolation techniques used in the design, construction, test and operation of the information signs to maintain electrical isolation from the vehicle’s low voltage power supply.

e) Describe the video monitoring and storage system proposed. Has this system been implemented on other rail transit applications/systems?

f) Describe the process proposed to ensure compatibility and functionality of the train to wayside data transfer system. What is the proposed data transfer rate? Has the system with required data rates been previously applied to a rail transit application?

g) Provide a functional block diagram of the Automated Passenger Counting System. Explain how the system determines if a passenger is entering or exiting, and how passengers standing in a crowded doorway are dealt with.

h) Provide a description of the enhanced Automated Passenger Counting System (Alternative Technology). Explain how the system differentiates between bicycles, wheelchairs, strollers, carts, etc. to within 98% accuracy.

17) **Interior and Exterior Appointments**

a) Describe the proposed approach taken in the floor panel design and the ability to remove and replace a panel in 8 hours.

b) Describe the proposed approach to the interior design of the HRV and how that will be consistent with LACMTA’s rail and bus fleets.

c) Will the proposed design include any design elements or features that will be unique to LACMTA?

d) Provide a description of the Fire Suppression System. Describe how inadvertent activation will be prevented.

18) **Software**

a) Provide a detailed description and samples of all software licenses proposed to be included as part of the vehicle systems and Diagnostic Test Equipment. Describe how the proposed licensing meets the requirements of General Conditions GC-37, Software Licensing Agreement and Provisions for Use.

b) Describe the Proposer’s standard practices and experience with regard to software quality assurance and documentation. Provide a copy of Proposer’s
Software Quality Assurance Plan (SQAP). Discuss and/or describe the procedures as they specifically apply to:

i) Minimum documentation requirements such as Software Requirements Specification, Software Design Description, Software Validation and Verification Plan, and Software Validation and Verification Report.

ii) Standards, practices, and conventions: their application to standard software versus custom software; and how they are monitored for compliance.

iii) Organization and management responsibilities.

iv) Software verification and validation.

v) Software configuration management.

vi) Reviews and audits during software development.

vii) Problem reporting and corrective action.

c) For each Subsystem using software, identify the application software proposed and categorize the software as one of the following:

i) Standard: application software that meets LACMTA’s standard requirements without any significant modifications. For standard software, the Proposer shall identify recent projects in which this software has been applied.

ii) Modified Standard: standard application software that requires significant modifications to meet LACMTA’s requirements. A brief description of the required changes shall be provided for each application in this category.

iii) New Applications for which completely new software must be developed and how the new applications will meet LACMTA’s standards.

d) Provide a complete list of software deliverables proposed.

e) Describe your approach for attaining CMMI (Level 2) Software Acquisition for your organization and CMMI (Level 2) Software Development for your suppliers.

19) Event Recorder, Trainlines and Networks

a) Describe the Proposer’s experience with a rail transit Event Recorder and the approach to comply with the parameters outlined in the Technical Specification?

b) Describe and enumerate the trainlined data networks. State the communications standard(s) and data rate that will be used.

c) Describe and enumerate the car network(s). State the communications standard(s) and data rate(s) that will be used.

d) Provide a preliminary analysis listing all trainlined control and data signals and their manner of transmission.

e) Provide a preliminary safety analysis identifying safety critical signals and how their integrity will be assured.
f) For each network, describe how and to what extent fault tolerance is achieved.

20) Safety, Security and Regulatory Requirements

a) Describe Proposer’s personnel, approach and experience on similar projects and systems in conducting system assurance analyses including PHA, FMECA, OHA, SHA, FTA, MMAB, MMABF, MTTR and others. Provide samples, reports or matrices, as appropriate.

b) Describe the approach applied by the Proposer to design practices and safety analyses in developing and integrating Subsystems into the vehicle design.

c) Describe key safety-related systems of the vehicle and the Proposer’s approach to the design of each.

21) Quality Assurance and Quality Control

a) Describe the Proposer’s Quality Assurance and Quality Control program, plan and reporting hierarchy.

b) Describe the Proposer’s approach for First Article Inspection (FAIs).

c) Describe the Proposer’s approach to managing subcontractor quality.

22) Validation and Testing

a) LACMTA may waive testing requirements for components which are identical to those currently being used on similar vehicles. Does the Proposer intend to ask for such a waiver on any of the components or systems to be supplied? If so, identify which components.

23) Alternative Technologies

a) Describe the Proposer’s approach to meeting each Alternative Technology in the Technical Specification.

24) Materials & Workmanship

a) Describe the Proposer’s standard welding practice. Indicate the degree of familiarity and experience with the following standards -- AWS-D1.1; AWS-D1.2; AWS-D1.3; AWS D17.2; ASTM A488; ASTM E94; ASTM E142; MIL-W-6858; ASME Section VIII; ASME Section IX.

b) Describe the Proposer’s standard practice regarding welder qualification levels.

c) Describe the Proposer’s standard practice regarding experience in welding of dissimilar metals and other special welding.

d) Describe the Proposer’s past experience and proposed approach with regard to fire endurance testing of a full-size floor assembly sample up to one (1) hour.

e) Describe the Proposer’s program for controlling torque on safety critical hardware.
f) Describe previous experience in meeting specified smoke, and flammability and toxicity emissions guidelines, as well as the requirements for the floor fire test. Describe Contractor’s approach to comply with the floor fire test requirement in the Technical Specification.

PR-2.3  TAB 6: PROJECT MANAGEMENT SECTION

The Proposer shall demonstrate sufficient understanding of the management techniques required for the successful design, construction, testing, delivery and commissioning of railcars. Proposer’s Project Management submittal shall be organized to coincide with the numbered paragraphs below:

PR-2.3.1  Proposer Resources Capability & Capacity

2.3.1.1 Provide Proposer’s parent corporation information.

2.3.1.2 Provide a letter of commitment from Proposer’s corporate management to provide on-site full-time Project Manager per TS-23.

2.3.1.3 Provide a letter of commitment from Proposer’s corporate management to provide Proposer’s and its subcontractors’ source codes for the software proposed to be used on the project.

2.3.1.4 Indicate Proposer’s total workforce in the areas of contract management, design, system integration, production, assembly, quality, testing/commissioning, system assurance, warranty and field support. Describe in detail, how much of the work force will be available and assigned to successfully complete the proposed work.

2.3.1.5 Provide Proposer’s design, manufacturing and assembly work flow and staffing plans for the proposed work.

2.3.1.6 What, if any, ongoing or already committed work on other projects is likely to impose workforce, facilities or financial constraints that could impact the proposed work? If such constraint exists, what are Proposer’s plans to mitigate them?

2.3.1.7 Proposer shall provide the following organizational charts, identifying, at a minimum, all key staff. Proposer will, at a minimum, provide key staff resumes. If proposer’s organization does not contain any of the positions listed below, provide information as to how these functions will be fulfilled:

Corporate Organization
- President
- Head of Quality
- Head of Engineering
- Head of Production

Project Organization
- Project Manager
- Senior Engineer
- Senior Structural Engineer
- Senior Mechanical Engineer
- Senior Electrical Engineer
Senior Propulsion Design Engineer
Senior Propulsion Software Design Engineer
Senior System Integration Engineer
Senior Test Engineer
Senior System Assurance Engineer
Senior Reliability Engineer
Project Quality Assurance Manager

**Project Production / Manufacturing Organization**
- Production Manager
- Senior Project Production Supervisor
- Senior Production Quality Supervisor
- Senior Project Test Supervisor

**Project Final Assembly Organization**
- Final Assembly Production Manager
- Senior Final Assembly Project Supervisor
- Senior Final Assembly Project Quality Supervisor
- Senior Final Assembly Project Test Supervisor

**Project Commissioning Organization**
- Senior Commissioning Supervisor
- Senior Site Engineer
- Senior Project Field Engineer
- Senior Warranty Support Supervisor

Each resume shall contain, as a minimum, the following information:

a) Corporate title and Project title
b) Relevant project education and experience
c) Brief description of the project function to be fulfilled
d) Decision-making responsibilities
e) Percentage of time dedicated to this project as a function of key project schedule phases
f) Potential assignment to other project(s) and the percentage of time allocated to each

**PR-2.3.2 Facility Capability & Capacity**

2.3.2.1 Provide a listing of the manufacturing facilities and locations where design, manufacture, assembly and testing of the following proposed work will occur:

- Carbody Assembly
- Vehicle Assembly
- Truck And Truck Assembly
- Propulsion and Dynamic Braking System Equipment
- Friction Brake and Pneumatic System Equipment
- Auxiliary Power Equipment
- Coupler System Equipment
- Door Control And Operator System
- HVAC System Equipment
- Lighting System Equipment
- Communications System Equipment
- Passenger Information System Equipment
- Automatic Train Control (ATC) and Train-to-Wayside Communication (TWC) Signaling Equipment
- Monitoring And Diagnostic System Equipment
- Gangway

2.3.2.2 If any of the above work occurs at more than one location, all such manufacturing facilities and location(s) shall be identified.

2.3.2.3 For each manufacturing facility or location proposed above, provide information demonstrating that the manufacturing facility or location is fully equipped with the relevant materials and experiences staff to complete the proposed work. If a manufacturing facility is proposed which does not have sufficient relevant experienced staff or materials (for example, a new manufacturing facility set up for this Contract), provide information, including schedule and staffing plan, detailing how the necessary expertise will be transferred to a new location or manufacturing facility.

2.3.2.4 For Proposer’s manufacturing facility and final assembly facility, provide information on size, layout, equipment therein, water test area (as applicable), parts storage area, climate test room, carbody compression test, truck static and fatigue tests, and static/dynamic testing areas. Show work process lines for ongoing projects and proposed LACMTA work process line for this project to demonstrate the capability & capacity to handle more than one project simultaneously.

2.3.2.5 For Proposer’s manufacturing facility and final assembly facility, provide information on meeting the Buy America Requirements as defined by 49 CFR Part 661. The Proposer shall provide detailed narratives including: 1) component and subcomponent parts of the Vehicle to be purchased identified by manufacturer of the part, its country of origin and cost; 2) the location of the final assembly point for the Vehicle; and 3) a description of the activities that will take place at the final assembly point. To ensure full compliance with the Buy America Requirements, Proposer shall provide details describing the location of its proposed environmental testing and verify that all functional testing and final assembly will be performed at its final assembly plant located in the U.S.

2.3.2.6 If the Pilot vehicles will be assembled at a manufacturing facility that is different than where the balance of the vehicles will be assembled, provide a description of the Proposer’s plan to transfer the knowledge, skill and quality from one facility to the next.

PR-2.3.3 Project Backlog for the Proposer & Key Suppliers

The Proposer, as prime contractor/carbuilder, and suppliers listed in the Form TF-1, with an asterisk, must provide a fully completed Form TF-4 List of Current Projects (blank copy attached to this RFP). Use of this form is mandatory; no brochures, catalogs or other marketing materials shall be submitted.
2.3.4.1 For the subsystems listed below, indicate each supplier’s total workforce in the areas of contract management, design, system integration, production, assembly, quality, testing/commissioning, system assurance, warranty and field support. Describe in detail, how much of the work force will be available and assigned to successfully complete the proposed work.

- Carbody Assembly
- Truck Assembly
- Propulsion System Equipment
- Friction Braking System Equipment
- Auxiliary Electric Equipment
- Coupler System Equipment
- Door Control And Operator System
- HVAC System Equipment
- Communications System Equipment
- Information Signs Equipment
- Cab Signaling Equipment
- Monitoring And Diagnostic System Equipment
- Gangway Assembly

2.3.4.2 Provide each supplier’s design, manufacturing and assembly work flow and staffing plans for the proposed work.

2.3.4.3 What, if any, ongoing or already committed work on other projects is likely to impose workforce, facilities or financial constraints that could impact the proposed work? What are each supplier’s plans to mitigate them?

2.3.4.4 Provide a complete organization chart for each supplier listed in Section 2.3.4.1 above, with the following information identified for the proposed work:

- Individual on supplier’s staff designated as project manager for this project
- Other key individuals, their departments and responsibilities within supplier organization
- Project team(s) and/or responsibilities for contract management, quality, design, production, assembly, system integration, testing, system assurance, warranty and field support work
- Supplier’s staff interfaces in the above work areas with the Proposer

2.3.4.5 For each supplier listed in Section 2.3.4.1 above, provide resumes of project manager and other key personnel listed in the organization chart.

2.3.4.6 Describe each supplier’s (listed in Section 2.3.4.1 above) specific plans and approach to assure timely design deliverables and hardware deliveries to Proposer. Identify any design, delivery and/or quality delays or other problems encountered on past projects and how they were mitigated.

2.3.4.7 Describe Proposer’s specific plans and approach to assure timely design deliverables and hardware deliveries from the above suppliers. Identify any design, delivery and/or quality delays or other problems encountered with the proposed suppliers on past projects and how they were mitigated.
2.3.7.8 Describe Proposer’s approach for timely payments to suppliers upon delivery of their equipment to the Proposer.

PR-2.3.5 Proposed Schedule

2.3.5.1 Provide a Project Schedule for all major phases showing key contract milestone including: project management, design, manufacturing, assembly, testing, delivery and CDRL milestones outlined in the Compensation & Payments provision. For the purpose of developing a proposed schedule only, the Proposer shall assume July 1, 2016 as the start date for the contract award and the NTP. Include in the proposed schedule any contingency time for unexpected delays and LACMTA’s review and approval time durations for Conceptual Proposal Review, Pre-Production Configuration Review, Final Configuration Review and First Article Inspections. The Project Schedule will include a detailed schedule for the first three (3) Married-Pairs from the design through testing / acceptance, and a summary schedule for the remaining vehicles.

2.3.5.2 Describe schedule performance and approach on past projects that demonstrate Proposer’s ability and capability to comply with the Project Schedule and Contract.

PR-2.3.6 Quality Program Plan

Provide Proposer’s draft Project Quality Plan, conforming to TS-21, and an outline of the Proposer’s existing Corporate Quality System Manual.

PR-2.3.7 Configuration Control Plan

Provide Proposer’s draft Configuration Control Plan, conforming to TS-23.

PR-2.3.8 Interface Control Document

Provide Proposer’s draft Interface Control Document, conforming to TS-23.

PR-2.3.9 System Integration & External Interfaces

2.3.9.1 Describe Proposer’s approach and experience in the design and systems integration of vehicles. Indicate Proposer’s and suppliers’ roles and who will take the lead in systems integration efforts.

2.3.9.2 Describe Proposer’s approach and experience in the execution and implementation of technology transfer if its domestic market is not in North America.
PR-2.3.10 CDRL(s) Management

2.3.10.1 Provide a list of all CDRLs identified in Technical Specifications including submittal dates. Include any additional CDRLs that Proposer may deem necessary for the project.

2.3.10.2 Provide suggested changes or deletions in the CDRLs or their submittal dates required in this RFP to ensure the Proposer’s ability to meet the Contract delivery schedule.

PR-2.4 TAB 7: ENHANCED U.S. COMPONENT PROGRAM

The Proposer may provide in its proposal a U.S. Component Plan that augments the U.S. component percentage for rolling stock procurements to be provided in the HRVs above that which is applicable to rolling stock procurements, as mandated by Contract article RR-15 Buy America. This plan shall detail the component value, by cost and percentage, that exceeds the Buy America rolling stock requirement. The plan shall provide detailed information concerning the additional U.S. component content of the HRV by system, including identifying the cost of the component, the manufacturer of the component, the delivery schedule, and where the manufacturing will take place. The requirements of 49 CFR 661.11 governing the determination of component cost and origin shall apply to any additional U.S. component content proposed.

LACMTA reserves the right to audit any Proposer offering any additional U.S. component content to verify the U.S. component content by cost claimed in its proposal. All Proposers shall cooperate in such audits and shall provide supporting documentation for any additional U.S. components by cost proposed.

PR-2.5 TAB 8: LOCAL EMPLOYMENT PLAN
(To be submitted in a separately sealed envelope)

The Proposer 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 in Los Angeles County 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.

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.

The Local Employment Plan shall:

1) Demonstrate the Proposer’s understanding of employment and job market conditions in Los Angeles County, including an understanding of and plans
for coordinating with applicable publicly and privately funded workforce
development groups in the hiring of Local Workers, including training
programs. Provide the estimated dollar commitment to be made for such
workforce development and training programs in Los Angeles County.

2) Provide a commitment to hire Disadvantaged Workers that equals a minimum
of 10% of the total 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.

3) Using LACMTA’s Employment Value form, provide the estimated number of
Los Angeles County 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
jobs for Local Workers. Include an identification of the estimated number,
type (by trade or craft), and duration of the jobs to be located in Los Angeles
County and performed by Los Angeles County Residents. The Proposer’s
Local Employment Plan may include new or jobs already in existence within
Los Angeles County.

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 allocet 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;

5) Describe the quality and range of Los Angeles County 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 Los Angeles County.

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 Los Angeles County or
invest in upgrades, repairs and renovations to an existing facility in Los
Angeles County. Include in this description a detailed explanation of the work
that will be performed at this LA County facility and the value of the
Proposer’s Local Facility Investment.
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.

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 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.

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.

Only Proposers with Local Employment Plans commitments that meet the requirements defined above will be considered Technically Acceptable and eligible for Contract award.

PR-2.6TAB 9: LIST OF EXCEPTIONS, DEVIATIONS OR SUBSTITUTIONS TO TECHNICAL SPECIFICATION AND/OR CONTRACT TERMS & CONDITIONS

The Proposer shall specifically identify every proposed exception or deviation to the Technical Specifications and/or Contract Terms & Conditions, and document it on Proposal Exception / Deviation Form TF-5 (blank copy attached to this RFP). This shall be accomplished in the following manner:

2.6.1 Sequentially number each exception / deviation starting with Number 001.

2.6.2 Identify and reference each exception / deviation, the requirement and RFP section from which the proposed approach deviates.

2.6.3 Describe each exception / deviation, proposed alternate and detailed rationale and reason why an exception/deviation is requested.

2.6.4 Explain the benefits and/or improvements to the Project in granting the exception / deviation.

2.6.5 Include and explain any cost differences between Proposer’s LACMTA RFP compliant offer and the proposed exceptions / deviations in the Price Proposal package (Volume 2) only.

Proposers are cautioned to limit exceptions, conditions, limitations to the provisions of this RFP as they may be determined to be so fundamental as to cause rejection of the proposal for not responding to the requirements of the RFP.
PR-2.7   TAB 10: LIST OF PRIMARY AND ALTERNATE SUPPLIERS AND PRIMARY AND ALTERNATE SYSTEM CONFIGURATIONS

The Proposer shall name one Primary Supplier and system configuration for each major subsystem listed in Form TF-1. Proposers may also list up to two alternate suppliers or alternate system configurations (up to a total of three suppliers for each subsystem) may be proposed for LACMTA's consideration by providing the following information:

2.5.1 Reference to subsystem in question.
2.5.2 Name of Primary Supplier proposed on Form TF-1.
2.5.3 Name of alternate supplier.
2.5.4 Description of proposed alternate Subsystem and reason why alternate is proposed.
2.5.5 All other information required herein with respect to the alternate supplier or configuration.
2.5.6 Explanation of benefits and drawbacks of alternate supplier or configuration as compared to Primary Supplier or configuration.
2.5.7 Cost difference between Primary Supplier or configuration and alternate supplier or configuration, to be placed in the Price Proposal (Volume 2) only.

LACMTA will inform the Proposer during the proposal evaluation process of the acceptability of the alternate supplier(s).

PR-3.0   PRICE PROPOSAL (VOLUME 2)

The Price Proposal shall consist of the completed Contract Price Summary and Schedules as described below:

PR-3.1   TAB 1: Pricing Forms

   a) Contract Price Summary for price of transit vehicles and Options, Spare Parts, Special Tools, Diagnostic Test Equipment, manuals, training, LACMTA travel costs, Field Engineer, and insurance (Price Proposal Form PF-1).

   b) Schedule A: Detailed schedule for Vehicles (Price Proposal Form PF-2).

   c) Schedule B: Detailed schedule for Spare Parts and consumables (Price Proposal Form PF-3).

   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.
d) Schedule C: Detailed schedule for special tools (Price Proposal Form PF-4).

e) Schedule D: Detailed schedule for diagnostic test equipment (Price Proposal Form PF-5).

g) Schedule E: Detailed schedule for LACMTA travel costs (Price Proposal Form PF-6).

Note: LACMTA travel costs are for evaluation purposes only and will not be included in the Contract Not to Exceed amount.

g) Schedule F: Detailed schedule for LACMTA HRV Alternative Technologies (Price Proposal Form PF-7).

In addition, Proposers may be required to submit such certified cost or pricing data as LACMTA may determine necessary to permit full evaluation of the cost of the goods and services required under this Request for Proposals. LACMTA, or its representatives, reserves the right to examine and audit all records and data of the Proposer relating to negotiating and pricing the proposal in order to evaluate whether the data is accurate, complete and current.

PR-3.2 TAB 2: Proposer’s list and quantities of recommended Spare Parts and Consumable Items, 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 & Payment of the Contract Terms & Conditions, including quantity, unit price and procurement lead time for each item.

PR-3.3 TAB 3: Proposer’s list and quantities of recommended Diagnostics & Test Equipment (DTE), 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 & Payment of the Contract Terms & Conditions, including quantity, unit price and procurement lead time for each item.

PR-3.4 TAB 4: Proposer’s list of recommended Special Tools 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 & Payment of the Contract Terms & Conditions, including quantity, unit price and procurement lead time for each item.

PR-3.5 TAB 5: Cost difference between Proposer’s LACMTA RFP compliant offer and proposed list of exceptions / deviations shall be included.

PR-3.6 TAB 6: Cost difference between Proposer’s Primary supplier or configuration offer and proposed alternate supplier or configuration offer shall be included.

PR-4.0 REQUIRED CERTIFICATIONS (VOLUME 3)
The Certifications shall be submitted in a separate sealed opaque envelope and shall consist of the following:
PR-4.1 TAB 1: All Representations and Certifications required in the RFP Volume 3 shall be duly completed, executed and notarized, as required.

PR-4.2 TAB 2: List of e-mail/letter/fax confirmations, of the duly completed reference check form TF-6 mailed directly to LACMTA by the RFP closing date, from three (3) transit agency reference contacts for the Proposer and each key Primary Supplier.

Proposer and each key Primary and Alternate supplier (identified in Form TF-1 with an asterisk) shall provide the Proposer / Supplier Reference Check Worksheet Form TF-6 to its three (3) transit agency reference contacts, who upon completion will directly mail them to LACMTA. It will be the responsibility of the Proposer to obtain from each reference contact of the Proposer and suppliers a confirmation, to be included in TAB 2, of having transmitted the Form TF-6 to LACMTA. (DO NOT INCLUDE THE COMPLETED FORM TF-6 IN THE PROPOSAL.)

PR-4.3 TAB 3: Letter of Intent from a qualified insurance carrier, indicating its willingness to provide insurance coverage for the Proposer in accordance with the RFP requirements.

PR-4.4 TAB 4: Letter of Intent from a qualified bonding company, indicating its willingness to provide a performance bond for the Proposer in accordance with the RFP requirements.

PR-4.5 TAB 5: Letter of Intent from the Proposer’s parent company, indicating its willingness to provide a parent company guarantee for the Proposer in accordance with the RFP requirements.

PR-4.6 TAB 6: Letter of Intent from a qualified financial institution indicating its willingness to provide a Letter of Credit that meets the requirements of Special Provisions SP-22 Contract Warranty Provisions –Irrevocable Letter of Credit.
SECTION 3 – PROPOSAL FORMS
PROPOSAL LETTER

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

SUBJECT: REQUEST FOR PROPOSAL CONTRACT NO. RFP NO. HR4000
PURCHASE OF NEW HEAVY RAIL VEHICLES

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

If recommended for contract award, shall provide to LACMTA all required Certificates of Insurance.

The proposal submitted in response to subject RFP shall be in effect for 180 days after the proposal due date.

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

<table>
<thead>
<tr>
<th>Printed Name</th>
<th>Title</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

In addition to the formal certifications provided, the Proposer certifies that it has:

A. Examined and is fully familiar with all of the provisions of the RFP Documents and any amendment thereto;

B. Satisfied itself as to the requirements of the Contract;

C. Carefully reviewed the accuracy of all statements shown in this Proposal;

D. Examined the experience, skill and certification (if any) requirements specified in the Statement of Work and that the entities (Contractor, Subcontractor, Supplier) performing the work fulfill the specified requirements, and

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

Exceptions (if any):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

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

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

Amendment No(s):

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________
The Proposer further certifies that:

A. The only persons, firms, corporations, joint ventures/partnerships, and/or other parties interested in the Proposal as principals are those listed as such in the Proposal Forms; and

B. The Proposal is made without collusion with any other person, firm, corporation, joint venture/partnership, and/or other party.

C. Joint ventures/partnerships are to provide a signed copy of their agreement with their Proposal.

Proposer's Name: ________________________________

Business Address: ________________________________

Contractor's License No.: __________________________

License Expiration Date: __________________________

Classification Type: ______________________________

Phone:___________ Fax:______________

email ________________________________

Signature of Authorized Official

Type or Print Name

Title

Date
being duly sworn, deposes and says

Name

That he/she is the __________________________ of __________________________

Title

Company

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

Subscribed and sworn before me before this ___________ day of ___________ , 20___.

Notary Public:

______________________________________________

My Commission expires: ________________________
The Los Angeles County Metropolitan Transportation Authority (LACMTA) is required per 49 CFR 26.11 (c) to create and maintain a comprehensive Bidders List. The Bidders List Form (PRO FORM 132) will be used to determine the relative availability of Disadvantaged Business Enterprise (DBE) and non-DBEs, and will assist with establishing the agency’s annual DBE goal. Each Bidders List is a compilation of bidders, proposers, quoters, subcontractors, manufacturers, and suppliers of materials and services who have submitted bids during the advertising period of a specific acquisition. Please provide the following mandatory data:

### Part A: Business Data

1. Business Name: ______________________________________________________________

2. Business Address: ________________________________________________________________________________________
   Street	City	State	Zip

3. County Business is located in: ____________________________________________________________

4. Name of Contact Person: ______________________________________________________________

5. Phone: ( ) ________________________ 6. Fax: ( ) ________________________

7. Email Address: ______________________________________________________________

8. Is this business certified as a Disadvantaged Business Enterprise? a. □ Yes  b. □ No

   a. □ Less than $500,000  b. □ $500,000 to $1,000,000  c. □ $1,000,000 to $2,000,000
   d. □ $2,000,000 to $5,000,000  e. □ Over $5,000,000

### Part B: Project and Work Description

11. RFIQ, IFB, or RFP # ______________________________________________________________

12. Project Name: _________________________________________________________________

13. Provide brief description of scope of work, services, and/or materials to be performed/furnished:
   ________________________________________________________________________________

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

### Part C: Signature

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

Authorized Signature: _____________________________ Date: _____________________________
Printed Name: _____________________________ Title: _____________________________
# FORM PS-1 – PROPOSAL SUBMITTAL CHECKLIST

**NAME OF PROPOSER:** ______________________________________________

**NAME OF CONTACT PERSON:** ______________________________________________

**TELEPHONE NUMBER:** ______________________________________________

<table>
<thead>
<tr>
<th>Tab</th>
<th>Required Documents Submitted?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TECHNICAL PROPOSAL (VOLUME 1)</strong></td>
<td></td>
</tr>
<tr>
<td>1: Cover page with Proposer’s name and completed Proposal Submittal Checklist (Form PS-1)</td>
<td>Yes</td>
</tr>
<tr>
<td>2: A fully completed Technical Summary Form TF-1</td>
<td></td>
</tr>
<tr>
<td>3: Fully completed System Supplier Information Form TF-2 for Proposer and each primary supplier listed in the Technical Summary</td>
<td></td>
</tr>
<tr>
<td>4: Experience &amp; Past Performance Section – Narrative to address each question including fully completed Forms TF-3 List of Completed Projects and TF-4 List of Current Projects</td>
<td></td>
</tr>
<tr>
<td>5: Technical Specifications Section – Narrative to address each question on the Technical Specification &amp; base supplier experience, and system integration</td>
<td></td>
</tr>
<tr>
<td>6: Project Management Section – Narrative to address each question on Proposer’s project management capability and capacity</td>
<td></td>
</tr>
<tr>
<td>7: Enhanced U.S. Component Content Program – Narrative describing proposed U.S. Content Components including total material cost and all individual components (both domestic and foreign) and their individual percentages of the total material cost.</td>
<td></td>
</tr>
<tr>
<td>8: Local Employment Plan – Narrative describing Local Employment Plan including Manpower Summary Worksheets and Labor Value Forms. <strong>TO BE SUBMITTED IN A SEALED ENVELOPE</strong></td>
<td></td>
</tr>
<tr>
<td>9: List of Exceptions or Deviations to Technical Specifications and Contract Terms &amp; Conditions to be fully documented on Proposal Exception / Deviation Form TF-5 (blank copy attached to this RFP).</td>
<td></td>
</tr>
<tr>
<td>10: List Of Primary, Alternate Suppliers and Primary, Alternate System Configurations</td>
<td></td>
</tr>
</tbody>
</table>

**PRICE PROPOSAL (VOLUME 2)**

**TO BE SUBMITTED IN A SEPARATELY SEALED ENVELOPE**

<table>
<thead>
<tr>
<th>Tab</th>
<th>Required Documents Submitted?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1: Contract Price Summary (Price Proposal Form PF-1)</td>
<td>Yes</td>
</tr>
<tr>
<td>Schedule A: Detailed schedule for Vehicles (Price Proposal Form PF-2)</td>
<td></td>
</tr>
<tr>
<td>Schedule B: Detailed schedule for spare parts and consumables (Price Proposal Form PF-3)</td>
<td></td>
</tr>
<tr>
<td>Schedule C: Detailed schedule for special tools (Price Proposal Form PF-4)</td>
<td></td>
</tr>
</tbody>
</table>
**Schedule D:** Detailed schedule for diagnostic test equipment (Price Proposal Form PF-5)

**Schedule E:** Detailed schedule for LACMTA travel costs (Price Proposal Form PF-6)

**Schedule F:** Detailed schedule for Alternative Technologies (Price Proposal Form PF-7)

**TAB 2:** Proposer’s list and quantities of recommended Spare Parts and Consumable Items, including quantity, unit price and procurement lead time for each item.

**TAB 3:** Proposer’s list and quantities of recommended Diagnostics & Test Equipment (DTE), including quantity, unit price and procurement lead time for each item.

**TAB 4:** Proposer’s list of recommended Special Tools including quantity, unit price and procurement lead time for each item.

**TAB 5:** Proposer’s price proposal for difference between LACMTA RFP compliant offer and proposed list of exceptions / deviations.

**TAB 6:** Proposer’s price proposal for difference between base supplier or configuration offer and proposed alternate supplier or alternate configuration offer.

---

### Forms & Required Certifications (VOLUME 3)

<table>
<thead>
<tr>
<th>TAB 1</th>
<th>All Representations and Certifications duly executed as required.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contractor Pre-Qualification Application</td>
</tr>
<tr>
<td></td>
<td><em>Note: The Pre-Qualification Application should be submitted directly to LACMTA’s Pre-Qualification Department. See the Pre-Qualification Application Instructions for details.</em></td>
</tr>
<tr>
<td></td>
<td>Proposal Letter</td>
</tr>
<tr>
<td></td>
<td>Bidder’s List Form</td>
</tr>
<tr>
<td></td>
<td>Ethics Declaration</td>
</tr>
<tr>
<td></td>
<td>General Certifications</td>
</tr>
<tr>
<td></td>
<td>Buy America Certificate for Compliance with Title 49 USC 5323</td>
</tr>
<tr>
<td></td>
<td>Certification of Compliance with Federal Lobbying Requirements (49 CFR Part 20)</td>
</tr>
<tr>
<td></td>
<td>Certification of Restriction on Lobbying</td>
</tr>
<tr>
<td></td>
<td>Disclosure of Lobbying Activities</td>
</tr>
<tr>
<td></td>
<td>Certification of Prospective Contractor Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</td>
</tr>
<tr>
<td></td>
<td>Certification of Prospective Lower Tier Participant Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion</td>
</tr>
<tr>
<td></td>
<td>Local Employment Plan Proposer Certification</td>
</tr>
<tr>
<td></td>
<td>Local Employment Plan Subcontractor Certification</td>
</tr>
<tr>
<td></td>
<td>Enhanced U.S. Component Content Certification</td>
</tr>
<tr>
<td></td>
<td>TVM Certification and Letter or other document from the FTA stating that it has an approved or not disapproved DBE program at the time of proposal.</td>
</tr>
</tbody>
</table>

**Were Required Documents Submitted?**

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

---

**FORMS & REQUIRED CERTIFICATIONS**

**TAB 1:** All Representations and Certifications duly executed as required.

- Contractor Pre-Qualification Application
- Proposal Letter
- Bidder’s List Form
- Ethics Declaration
- General Certifications
- Buy America Certificate for Compliance with Title 49 USC 5323
- Certification of Compliance with Federal Lobbying Requirements (49 CFR Part 20)
- Certification of Restriction on Lobbying
- Disclosure of Lobbying Activities
- Certification of Prospective Contractor Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- Certification of Prospective Lower Tier Participant Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- Local Employment Plan Proposer Certification
- Local Employment Plan Subcontractor Certification
- Enhanced U.S. Component Content Certification
- TVM Certification and Letter or other document from the FTA stating that it has an approved or not disapproved DBE program at the time of proposal.
<table>
<thead>
<tr>
<th>TAB 2:</th>
<th>List of e-mail/letter/fax 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.</th>
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<tr>
<td>TAB 3:</td>
<td>Letter of Intent from a qualified insurance carrier, indicating its willingness to provide insurance coverage for the Proposer in accordance with the RFP requirements.</td>
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<td>TAB 4:</td>
<td>Letter of Intent from a qualified bonding company, indicating its willingness to provide a performance bond for the Proposer in accordance with the RFP requirements.</td>
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<td>TAB 5:</td>
<td>Letter of Intent from the Proposer’s parent company, indicating its willingness to provide a parent company guarantee for the Proposer in accordance with the RFP requirements.</td>
</tr>
<tr>
<td>TAB 6:</td>
<td>Letter of Intent from a qualified provider from a financial institution that meets the requirements of Special Provisions SP-22 Contract Warranty Provisions –Irrevocable Letter of Credit.</td>
</tr>
</tbody>
</table>
## FORM TF-1 - TECHNICAL SUMMARY & PROPOSED PRIMARY SUPPLIERS

Proposers Name: ________________________________

### 2.0 DATA AND DIMENSIONS (AT AWO WEIGHT, EXCEPT AS SPECIFIED)

1. Car length over coupler faces _______ ft. _______ in.
2. Width of car body over thresholds _______ ft. _______ in.
3. Floor height, top of rail to top of threshold _______ ft. _______ in.
4. Interior ceiling height _______ ft. _______ in.
5. Seat width _______ ft. _______ in.
6. Aisle width _______ ft. _______ in.
7. Coupler height (centerline) above top of rail _______ ft. _______ in.
8. Anti-climber height (centerline) above top of rail _______ ft. _______ in.
9. Coupler face to C/L front door _______ ft. _______ in.
10. Coupler face to C/L rear door _______ ft. _______ in.
11. Clear side door opening width with doors fully opened _______ ft. _______ in.
12. Clear side door height with doors fully opened _______ ft. _______ in.
13. Equipment height above top of rail with new wheels and empty car _______ ft. _______ in.
14. Corner height difference at end sills with inflated and deflated air bags _______ ft. _______ in.
15. Undercar running clearance, level track _______ ft. _______ in.
16. Contact shoe height above top of rail _______ ft. _______ in.
17. Truck spacing centerline-to-centerline _______ ft. _______ in.
18. Truck minimum under clearance _______ ft. _______ in.
19. Gangway opening – minimum width _______ ft. _______ in.
20. Gangway ceiling height _______ ft. _______ in.
21. Number of seats  
   A car _______  
   B Car _______

---

**METAO GA15-50**  
RFP NO. HR4000  
ISSUE DATE: 5-29-15  
TECHNICAL SUMMARY
21. Car weight as proposed:

<table>
<thead>
<tr>
<th></th>
<th>A Car</th>
<th>B Car</th>
<th>Total Pair</th>
</tr>
</thead>
<tbody>
<tr>
<td>AW0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AW1</td>
<td></td>
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<td></td>
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<tr>
<td>AW2</td>
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</tr>
<tr>
<td>AW3</td>
<td></td>
<td></td>
<td></td>
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### 3.0 CARBODY

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<tr>
<th>1.</th>
<th>Underframe</th>
<th>Supplier</th>
<th>Material</th>
<th>Alternate Supplier 1</th>
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</thead>
<tbody>
<tr>
<td>2.</td>
<td>End frame</td>
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<td>3.</td>
<td>Side frame</td>
<td>Supplier</td>
<td>Material</td>
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<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td>5.</td>
<td>*Gangway Section</td>
<td>Supplier</td>
<td>Type</td>
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</tr>
<tr>
<td>6.</td>
<td>*Carbody</td>
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<td>Type</td>
<td>Alternate Supplier 1</td>
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<tr>
<td>7.</td>
<td>*Floor Covering</td>
<td>Supplier</td>
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<tr>
<td>8.</td>
<td>Thresholds</td>
<td>Supplier</td>
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<tr>
<td>9.</td>
<td>Interior Linings</td>
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<tr>
<td>10.</td>
<td>Side Windows</td>
<td>Supplier</td>
<td>Type</td>
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<td>Alternate Supplier 2</td>
</tr>
<tr>
<td>11.</td>
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<td>Type</td>
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<td>Alternate Supplier 2</td>
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<tr>
<td>12.</td>
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<tr>
<td>13.</td>
<td>Cab Windows</td>
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<td>Alternate Supplier 2</td>
</tr>
<tr>
<td>14.</td>
<td>*Destination Signs</td>
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<td>Alternate Supplier 2</td>
</tr>
<tr>
<td></td>
<td><strong>Primary Supplier</strong></td>
<td></td>
<td><strong>Alternate Supplier 1</strong></td>
<td></td>
<td><strong>Alternate Supplier 2</strong></td>
</tr>
<tr>
<td>---</td>
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<td>---</td>
<td>---------------------------</td>
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<td>---------------------------</td>
</tr>
<tr>
<td>15.</td>
<td><em>Passenger Seats</em></td>
<td>Supplier</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Type</td>
<td></td>
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<tr>
<td>16.</td>
<td><em>Flip-up Passenger Seats</em></td>
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<tr>
<td></td>
<td></td>
<td>Type</td>
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</tbody>
</table>

### 4.0 COUPLER AND DRAFT GEAR

<table>
<thead>
<tr>
<th></th>
<th><strong>Primary Supplier</strong></th>
<th></th>
<th><strong>Alternate Supplier 1</strong></th>
<th></th>
<th><strong>Alternate Supplier 2</strong></th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td><em>Mechanical &amp; Electric Coupler</em></td>
<td>Supplier</td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Type</td>
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</tr>
</tbody>
</table>

### 5.0 OPERATOR’S CAB EQUIPMENT AND CONTROLS

<table>
<thead>
<tr>
<th></th>
<th><strong>Primary Supplier</strong></th>
<th></th>
<th><strong>Alternate Supplier 1</strong></th>
<th></th>
<th><strong>Alternate Supplier 2</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
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<td>Supplier</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Type</td>
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</tr>
<tr>
<td>2.</td>
<td>Operator’s Console</td>
<td>Supplier</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Type</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Train Operator Display</td>
<td>Supplier</td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Type</td>
<td></td>
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<tr>
<td>4.</td>
<td><em>Manual controller group</em></td>
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<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>Type</td>
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</tr>
</tbody>
</table>

### 6.0 PASSENGER DOORS & CONTROLS

<table>
<thead>
<tr>
<th></th>
<th><strong>Primary Supplier</strong></th>
<th></th>
<th><strong>Alternate Supplier 1</strong></th>
<th></th>
<th><strong>Alternate Supplier 2</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Type of door system</td>
<td>Supplier</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
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<tr>
<td>2.</td>
<td><em>Door panels</em></td>
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<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Material</td>
<td></td>
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</tr>
<tr>
<td>3.</td>
<td><em>Door operator &amp; controller</em></td>
<td>Supplier</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Type</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>4.</td>
<td><em>Automated Passenger Counting</em></td>
<td>Supplier</td>
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### 7.0 HEATING, VENTILATING AND AIR CONDITIONING

<table>
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<th></th>
<th><strong>Primary Supplier</strong></th>
<th></th>
<th><strong>Alternate Supplier 1</strong></th>
<th></th>
<th><strong>Alternate Supplier 2</strong></th>
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<tbody>
<tr>
<td>1.</td>
<td><em>Car HVAC system</em></td>
<td>Supplier</td>
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<td></td>
<td>Air conditioning system capacity</td>
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<tr>
<td></td>
<td>(per car)</td>
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</table>
2. Cab heater & blower assembly
   Supplier ____________________
   Type ________________________

3. HVAC unit inverter (Option)
   Supplier ____________________
   Type ________________________

8.0 LIGHTING

1. *Interior Lighting
   Supplier ____________________
   Type ________________________

2. Headlights
   Supplier ____________________
   Type ________________________

3. Marker lights
   Supplier ____________________
   Type ________________________

9.0 AUXILIARY POWER EQUIPMENT

1. *High Speed Circuit Breaker
   Supplier ____________________
   Type ________________________

2. Knife switch
   Supplier ____________________
   Type ________________________

3. Ground brushes
   Supplier ____________________
   Type ________________________

4. Input filter
   Supplier ____________________
   Type ________________________

5. *Auxiliary inverter
   Supplier ____________________
   Type ________________________

6. *Low Voltage power supply
   Supplier ____________________
   Type ________________________

7. *Storage battery
   Supplier ____________________
   Type ________________________

10.0 PROPULSION AND DYNAMIC BRAKING

1. *Traction AC inverter
   Supplier ____________________
   No. of inverter drives per car ____________________
   Voltage or current source ________________________

   Primary Supplier (for evaluation) Alternate Supplier 1 Alternate Supplier 2
   ____________________ ____________________ ____________________
   ____________________ ____________________ ____________________
   ____________________ ____________________ ____________________
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inverter

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<td>Motor Model No.</td>
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<tr>
<td></td>
<td>No. of motors per powered truck</td>
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<td></td>
<td>Motor speed, maximum</td>
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<td></td>
<td>Motor rating (1 hour)</td>
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<td>3.</td>
<td>*Braking resistor</td>
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<td>Type</td>
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<tr>
<td>4.</td>
<td>*Knife Switch</td>
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<td></td>
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<td>5.</td>
<td>*Gear Unit</td>
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<td>6.</td>
<td>Gear Ratio</td>
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<td>7.</td>
<td>Input filter</td>
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<td>8.</td>
<td>*Speed sensor</td>
<td>Supplier</td>
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<td>9.</td>
<td>Odometer</td>
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<td>10.</td>
<td>Control logic</td>
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<td>No. of control logic units per car</td>
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<td>Load Weight or Rate Feedback</td>
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<td>11.</td>
<td>*Collector Shoe Assembly</td>
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<td>12.</td>
<td>Minimum operating line voltage</td>
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11.0 **TRUCKS**

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<tr>
<td>1.</td>
<td>*Truck frame</td>
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<td>Truck assembly</td>
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<td></td>
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<tr>
<td>3.</td>
<td>*Primary suspension</td>
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<td>4.</td>
<td>*Secondary suspension</td>
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<td>Type</td>
<td>Supplier</td>
<td>Primary Supplier (for evaluation)</td>
<td>Alternate Supplier 1</td>
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<td>5.</td>
<td>Leveling valves</td>
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<td>6.</td>
<td>*Journal bearings</td>
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<td>7.</td>
<td>*Wheels</td>
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<td>8.</td>
<td>*Axles</td>
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<td>*Wheel/Axle assembly</td>
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<td>10.</td>
<td>Wheel Tread &amp; Flange Lubricators</td>
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<td>Type</td>
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<td>11.</td>
<td>*Journal bearing temperature system</td>
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### 12.0 FRICTION BRAKE AND PNEUMATIC SYSTEMS

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<th>Type</th>
<th>Supplier</th>
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<tr>
<td>1.</td>
<td>*Friction Brake System</td>
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<td>2.</td>
<td>Wheel temperature, maximum rated</td>
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<td>3.</td>
<td>Brake Control Unit design, separate or part of propulsion</td>
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<td>4.</td>
<td>Tread brake/Disc Unit</td>
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<td>5.</td>
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<td>6.</td>
<td>*Air compressor</td>
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<td>Electronic Control Unit</td>
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<td>8.</td>
<td>Pneumatic Control Unit</td>
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<td>Type</td>
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<td>9.</td>
<td>Main reservoir</td>
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### 13.0 COMMUNICATIONS AND PASSENGER INFORMATION SYSTEM

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<td>1. *Public Address system</td>
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<tr>
<td>2. *Passenger Intercom system</td>
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<tr>
<td>3. *Automatic Announcement and Display System</td>
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<tr>
<td>4. *Interior &amp; Exterior Side Destination Signs</td>
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<td>5. *End Destination Signs</td>
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<td>6. Announcement Signs</td>
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<tr>
<td>7. Train Number Signs</td>
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<tr>
<td>8. *CCTV surveillance system</td>
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<td>9. *Wayside Worker Alert System</td>
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<td>Cab-mounted device</td>
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<tr>
<td>*Wayside Worker Alert System</td>
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<td>Antenna</td>
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<td>10. *Data Communication Networks</td>
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<td>11. *Monitoring and Diagnostic System</td>
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14.0 AUTOMATIC TRAIN CONTROL AND TRAIN-TO-WAYSIDE COMMUNICATION

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<td>2.</td>
<td>*TWC system</td>
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15.0 SOFTWARE SYSTEMS

*Vehicle system:

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<th></th>
<th>Primary Supplier (for evaluation)</th>
<th>Alternate Supplier 1</th>
<th>Alternate Supplier 2</th>
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<td>1.</td>
<td>For</td>
<td>Supplier</td>
<td></td>
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<td></td>
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<tr>
<td>2.</td>
<td>For</td>
<td>Supplier</td>
<td></td>
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<tr>
<td>3.</td>
<td>For</td>
<td>Supplier</td>
<td></td>
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<td>4.</td>
<td>For</td>
<td>Supplier</td>
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<td>5.</td>
<td>For</td>
<td>Supplier</td>
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<tr>
<td>6.</td>
<td>For</td>
<td>Supplier</td>
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<td>7.</td>
<td>For</td>
<td>Supplier</td>
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<td>8.</td>
<td>For</td>
<td>Supplier</td>
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</tr>
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<td>9.</td>
<td>For</td>
<td>Supplier</td>
<td></td>
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<tr>
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</tbody>
</table>

16.0 EVENT RECORDER

<table>
<thead>
<tr>
<th></th>
<th>Primary Supplier (for evaluation)</th>
<th>Alternate Supplier 1</th>
<th>Alternate Supplier 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>*Event Recorder</td>
<td>Supplier</td>
<td></td>
</tr>
</tbody>
</table>
## 17.0 TECHNICAL PUBLICATIONS & USER EDUCATION

<table>
<thead>
<tr>
<th></th>
<th>Primary Supplier (for evaluation)</th>
<th>Alternate Supplier 1</th>
<th>Alternate Supplier 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. *Training Supplier</td>
<td>_____________________</td>
<td>____________________</td>
<td>____________________</td>
</tr>
<tr>
<td>2. Manuals Supplier</td>
<td>_____________________</td>
<td>____________________</td>
<td>____________________</td>
</tr>
</tbody>
</table>

Intentionally left blank
PROPOSAL REQUIREMENTS  
TAB 3: PROPOSER & SYSTEM SUPPLIERS INFORMATION  

FORM TF-2 – PROPOSER & SYSTEM SUPPLIER INFORMATION  

PROPOSER: ________________________________________________________________  
SYSTEM: ___________________________ EQUIPMENT: ____________________________  

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Proposer / Supplier Name &amp; Address</td>
<td>2. Design and Manufacturing Facility Location</td>
<td>3. Years of Facility Operation</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Project Name(s) &amp; Location(s) Where Units proposed are in Operation</td>
<td>5. Customer Contact Person</td>
<td>6. No. in Operation / First Year of Operation</td>
</tr>
<tr>
<td></td>
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</tbody>
</table>

THIS FORM MAY BE DUPLICATED FOR LISTING EACH SUPPLIER PROPOSED IN TECHNICAL PROPOSAL FORM TF-1 IDENTIFIED WITH AN ASTERISK (*).
# PROPOSAL REQUIREMENTS

## TAB 4: EXPERIENCE & PAST PERFORMANCE SECTION

**FORM TF-3: LIST OF ALL COMPLETED LRV/HRV PROJECTS WITHIN THE LAST 10 YEARS**

<table>
<thead>
<tr>
<th>Project Name/Location</th>
<th>Firm's Responsibilities</th>
<th>Manufacturing Facility (Location)</th>
<th>Final Assembly (Location)</th>
<th>Owner/Agency Name</th>
<th>Address/Telephone</th>
<th>Completion Date</th>
<th>Per Contract (C)</th>
<th>Actual (A)</th>
<th>Estimated Cost of Work Performed</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>
# PROPOSAL REQUIREMENTS
## TAB 4: EXPERIENCE & PAST PERFORMANCE SECTION
### FORM TF-4: LIST OF ALL CURRENT LRV/HRV PROJECTS

<table>
<thead>
<tr>
<th>Project Name/Location</th>
<th>Firm's Responsibilities</th>
<th>Manufacturing Facility (Location)</th>
<th>Final Assembly (Location)</th>
<th>Owner/Agency Name/Address/Telephone Contact Person</th>
<th>Anticipated Completion Date Per Contract (C)</th>
<th>Estimated Cost of Work Performed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*This form may be duplicated if needed for listing additional projects.*

[36x63]METRO GA15-50
RFP NO. HR4000
ISSUE DATE: 5-29-15

CURRENT HRV PROJECTS
PROPOSAL REQUIREMENTS
TAB 9: LIST OF EXCEPTIONS OR DEVIATIONS
FORM TF-5 – PROPOSAL EXCEPTION / DEVIATION

PROPOSER: ________________________________________________________________

EXCEPTION / DEVIATION #:___________

PROPOSAL TAB/SECTION REFERENCE #:_______________________________________

RFP SECTION #:___________________________ RFP PAGE #: ___________

Complete Description of Proposed Exception / Deviation

Rationale (Pros & Cons) of Proposed Exception / Deviation

DUPLICATE THIS FORM FOR LISTING EACH PROPOSED EXCEPTION / DEVIATION.
PLACE ONE COPY WITHOUT ANY PRICE/COST INFORMATION IN THE TECHNICAL PROPOSAL TAB 7.
PLACE A SEPARATE COPY WITH ANY PRICE/COST INFORMATION IN THE PRICE PROPOSAL (VOLUME 2).
## PROPOSAL REQUIREMENTS

**FORM TF-6 – PROPOSER / SUPPLIER REFERENCE CHECK WORKSHEET**

PROPOSER: __________________________________________________

PROPOSED SUPPLIER (If applicable): _____________________________________________

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1.</strong></td>
<td>What vehicle and/or equipment did the proposer/supplier provide for you? Did it meet the performance requirements?</td>
</tr>
<tr>
<td><strong>2.</strong></td>
<td>What was the contract/sub-contract amount and was the work completed within the budget? How many contract/sub-contract changes were made and what was the cost?</td>
</tr>
<tr>
<td><strong>3.</strong></td>
<td>Did you encounter any serious problems after the work was completed? If so, what were the nature of the problems, and what was done to fix them? How responsive was the proposer/supplier?</td>
</tr>
<tr>
<td><strong>4.</strong></td>
<td>Was the work completed on time and within the given schedule? If not, what were the reasons for the delays and was any time extension or compensation awarded for these delays?</td>
</tr>
<tr>
<td><strong>5.</strong></td>
<td>Did the proposer/supplier commit the necessary resources for the duration of the project or only in a crisis situation? How would you rate the project management team performance during your program?</td>
</tr>
<tr>
<td></td>
<td>Question</td>
</tr>
<tr>
<td>---</td>
<td>----------</td>
</tr>
<tr>
<td>6.</td>
<td>Did you have easy access to the company top management or president if required to resolve a problem?</td>
</tr>
<tr>
<td>7.</td>
<td>Did any serious warranty issues surface after vehicle acceptance? If so, what were the problems, what was done to resolve them, and how responsive was the proposer/supplier?</td>
</tr>
<tr>
<td>8.</td>
<td>How easy or difficult is it to get Spare Parts from this proposer/supplier?</td>
</tr>
<tr>
<td>9.</td>
<td>Were the training and manuals adequate and delivered to schedule?</td>
</tr>
<tr>
<td>10.</td>
<td>Would you hire this firm again for similar equipment?</td>
</tr>
<tr>
<td>11.</td>
<td>What would you do differently when working with this firm again?</td>
</tr>
</tbody>
</table>
12. Additional comments/questions

Information Completed by: ______________________________________________________________

Name/Title: ___________________________ Telephone No.: _____________________________

Organization/Department: ______________________________________________________________

Signature: ___________________________ Date: ______________

THIS FORM IS CONFIDENTIAL AND TO BE COMPLETED BY PROPOSER’S OR SUPPLIER’S REFERENCE.
UPON COMPLETION, MAIL DIRECTLY IN A SEALED ENVELOPE TO LACMTA, ATTENTION OF:

Joe Marzano, Contract Administration Manager
Los Angeles County Metropolitan Transportation Authority,
One Gateway Plaza, 9th Floor, Los Angeles, California 90012-2952
RFP Number and Proposal Title: HR4000
## FORM PF-1 - CONTRACT PRICE SUMMARY

**Proposer:**

<table>
<thead>
<tr>
<th>No.</th>
<th>Qty.</th>
<th>Description of Item</th>
<th>Unit Price</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>64</td>
<td>Heavy Rail Vehicles (From Schedule A, Form PF-2)</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Lot</td>
<td>Spare Parts (From Schedule B, Form PF-3)</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Lot</td>
<td>Special Tools (Schedule C, Form PF-4)</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Lot</td>
<td>Diagnostic Test Equipment (Schedule D, Form PF-5)</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Lot</td>
<td>Training</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Lot</td>
<td>Manuals</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Lot</td>
<td>Cab Mock Up</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Lot</td>
<td>Performance Bond</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Lot</td>
<td>Reserved</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Lot</td>
<td>Travel Costs for LACMTA (Schedule E, Form PF-6)</td>
<td>Lump Sum</td>
<td></td>
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<tr>
<td>11</td>
<td>Lot</td>
<td>Alternative Technologies (Schedule F, Form PF-7)</td>
<td>Lump Sum</td>
<td></td>
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</tbody>
</table>

**1.0 Total Price for CONTRACT for 64 CARS BASE BUY**

(sum of Items "1" through "11")

to be the BASIS for Price Proposal evaluation

Using Words:  

Using Figures:  

---
<table>
<thead>
<tr>
<th>No.</th>
<th>Qty.</th>
<th>Description of Item</th>
<th>Unit Price</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>24</td>
<td>Option 1 Additional Vehicles</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>Lot</td>
<td>Spare Parts (From Schedule B, Form PF-3)</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Lot</td>
<td>Special Tools (Schedule C, Form PF-4)</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Lot</td>
<td>Diagnostic Test Equipment (Schedule D, Form PF-5)</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>Lot</td>
<td>Performance Bond</td>
<td>Lump Sum</td>
<td></td>
</tr>
</tbody>
</table>

2.0 Total Price for CONTRACT OPTION 1 for 24 CARS (sum of Items "12" through "16")
to be used as a basis for Price Proposal evaluation

Using Words: 

Using Figures: $0
### Proposer:

#### 3.0 OPTION 2 (to be used for the basis of Price Proposal evaluation)

<table>
<thead>
<tr>
<th>No.</th>
<th>Qty</th>
<th>Description of Item</th>
<th>Unit Price</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td>84</td>
<td>Option 2 Additional Vehicles</td>
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<tr>
<td>18</td>
<td>Lot</td>
<td>Spare Parts (From Schedule B, Form PF-3)</td>
<td>Lump Sum</td>
<td></td>
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<td>19</td>
<td>Lot</td>
<td>Special Tools (Schedule C, Form PF-4)</td>
<td>Lump Sum</td>
<td></td>
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<td>20</td>
<td>Lot</td>
<td>Diagnostic Test Equipment (Schedule D, Form PF-5)</td>
<td>Lump Sum</td>
<td></td>
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<tr>
<td>21</td>
<td>Lot</td>
<td>Performance Bond</td>
<td>Lump Sum</td>
<td></td>
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</tbody>
</table>

3.0 Total Price for CONTRACT OPTION 2 for 84 CARS (sum of Items "17" through "21")

To be used as a basis for Price Proposal evaluation

Using Words:  

Using Figures:  

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**PROPOSAL PRICING FORM**
4.0 **OPTION 3** (to be used as the basis for Price Proposal evaluation)

<table>
<thead>
<tr>
<th>No.</th>
<th>Qty.</th>
<th>Description of Item</th>
<th>Unit Price</th>
<th>U.S. Dollars</th>
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</thead>
<tbody>
<tr>
<td>22</td>
<td>20</td>
<td>Option 3 Additional Vehicles</td>
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<tr>
<td>23</td>
<td>Lot</td>
<td>Spare Parts (From Schedule B, Form PF-3)</td>
<td>Lump Sum</td>
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</tr>
<tr>
<td>24</td>
<td>Lot</td>
<td>Special Tools (Schedule C, Form PF-4)</td>
<td>Lump Sum</td>
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<tr>
<td>25</td>
<td>Lot</td>
<td>Diagnostic Test Equipment (Schedule D, Form PF-5)</td>
<td>Lump Sum</td>
<td></td>
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<tr>
<td>26</td>
<td>Lot</td>
<td>Performance Bond</td>
<td>Lump Sum</td>
<td></td>
</tr>
</tbody>
</table>

4.0 **Total Price for CONTRACT OPTION 3 for 20 CARS** (sum of items "22" through "26") to be used as a basis for Price Proposal evaluation

Using Words:

Using Figures:
### Proposer:

#### 5.0 OPTION 4 (to be used as the basis for Price Proposal evaluation)

<table>
<thead>
<tr>
<th>No.</th>
<th>Qty.</th>
<th>Description of Item</th>
<th>Unit Price</th>
<th>Total Price</th>
<th>U.S. Dollars</th>
</tr>
</thead>
<tbody>
<tr>
<td>27</td>
<td>16</td>
<td>Option 4 Additional Vehicles</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Lot</td>
<td>Spare Parts (From Schedule B, Form PF-3)</td>
<td>Lump Sum</td>
<td></td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>Lot</td>
<td>Special Tools (Schedule C, Form PF-4)</td>
<td>Lump Sum</td>
<td></td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Lot</td>
<td>Diagnostic Test Equipment (Schedule D, Form PF-5)</td>
<td>Lump Sum</td>
<td></td>
<td></td>
</tr>
<tr>
<td>31</td>
<td>Lot</td>
<td>Performance Bond</td>
<td>Lump Sum</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### 5.0 Total Price for CONTRACT OPTION 4 for 16 CARS (sum of Items "27" through "31")

To be used as a basis for Price Proposal evaluation

Using Words: 

Using Figures:
### Proposer:

#### 6.0 OPTION 5 (to be the used as a basis for Price Proposal evaluation)

<table>
<thead>
<tr>
<th>No.</th>
<th>Qty.</th>
<th>Description of Item</th>
<th>Unit Price</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>32</td>
<td>74</td>
<td>Option 5 Additional Vehicles</td>
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<tr>
<td>33</td>
<td>Lot</td>
<td>Spare Parts (From Schedule B, Form PF-3)</td>
<td>Lump Sum</td>
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</tr>
<tr>
<td>34</td>
<td>Lot</td>
<td>Special Tools (Schedule C, Form PF-4)</td>
<td>Lump Sum</td>
<td></td>
</tr>
<tr>
<td>35</td>
<td>Lot</td>
<td>Diagnostic Test Equipment (Schedule D, Form PF-5)</td>
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<tr>
<td>36</td>
<td>Lot</td>
<td>Performance Bond</td>
<td>Lump Sum</td>
<td></td>
</tr>
</tbody>
</table>

#### 5.0 Total Price for CONTRACT OPTION 5 for 74 CARS (sum of Items "32" through "36")

to be used as a basis for Price Proposal evaluation

Using Words: 

Using Figures: 

---
FORM PF-2- SCHEDULE A VEHICLE PRICE BREAKDOWN

Proposer:  
Contract No.  
Base Buy or Option:  

(Duplicate this form for each Contract Option)

<table>
<thead>
<tr>
<th>NO.</th>
<th>DESCRIPTION OF ITEM</th>
<th>A-CAR</th>
<th>B-CAR</th>
<th>TOTAL-CAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Purchased Subsystem Equipment (Items 1.1 through 1.19) (Price shall include design, engineering, manufacturing/assembly, testing, shipping, profit, and other associated costs. Price for each subsystem equipment shall include all applicable apparatus)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1</td>
<td>Section 3.0 Carbody</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1A</td>
<td>Section 3.0 Gangway</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.2</td>
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Contract No.: 
Base Buy or Option: 

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(Transfer Total Car Price to Contract Price Summary Form PF-1, Unit Price line Item 1, or Item 12, or Item 17, or item 22, or item 27, or item 32 as applicable)

**Note:** CONTRACT PRICE SUMMARY (Form PF-1) prices for line items 2 through 11 shall not be included in computing price of any of the line items above.

(Signature of Person Executing Proposal) 
(Date)

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METRO GA15-50
RFP NO. HR4000
ISSUE DATE: 5-29-15
3:33
PROPOSAL PRICING FORM
FORM PF-3- SCHEDULE B OF PRICES SPARE PARTS

Metro will release the schedule of quantities and 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 the Proposal Requirements PR 3.2
### FORM PF-4 - SCHEDULE C OF PRICES SPECIAL TOOLS

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**TOTAL BASE BUY**
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OPTION 1 TOTAL
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SPECIAL TOOLS PRICING SUMMARY

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Proposer: _______________________________________
Contract No.: ____________________________________

METRO GA15-50
RFP NO. HR4000
ISSUE DATE: 5-29-15
# FORM PF-5 - SCHEDULE D OF PRICES DIAGNOSTIC TEST EQUIPMENT

## BASE BUY (64) CARS

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### COUPLERS AND DRAFT GEAR

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**COUPLERS AND DRAFT GEAR**

1. **COUPLERS AND DRAFT GEAR**
   - **1 Set** Coupler Trainline signal tester
   - **2 Set** Coupler Electrical Head Tester

**EVENT RECORDER**

1. **Set** Event Recorder portable test equipment hardware (other than Laptop computer)
2. **Set** PC software module(s) for PTU (master copy and licenses)
3. **Set** Event Recorder Bench Test Equipment (per TS-24) (Secure download station)
4. **Set** PTU for testing Bench Test Equipment, if required
5. **Set** Event Recorder Data Review Software (master copy and licenses, per TS-16)

**AUTOMATIC TRAIN PROTECTION**

1. **Set** ATP portable test equipment hardware (other than Laptop computer) Wayside simulator
2. **Set** PC software module(s) for PTU (master copy and licenses)
3. **Set** ATP Bench Test Equipment (per TS-24) (Vital Relay coil & contact resistance tester)
4. **Set** PTU for testing Bench Test Equipment, if required

**TRAIN TO WAYSIDE COMMUNICATIONS**

1. **Set** TWC portable wayside simulator
2. **Set** PC software module(s) for PTU (master copy and licenses)

**MONITORING AND DIAGNOSTICS**

1. **Set** Monitoring & Diagnostic System portable test equipment hardware (other than Laptop computer)
2. **Set** PC software module(s) for PTU (master copy and licenses)

**AUXILIARY POWER EQUIPMENT**

1. **Set** Auxiliary Electric Equipment portable test equipment hardware (other than Laptop computer)
2. **Set** PC software module(s) for PTU (master copy and licenses)
3. **Set** Auxiliary Electric Equipment Bench Test Equipment (per TS-24)
4. **Set** PTU for testing Bench Test Equipment, if required

**PROPULSION AND FRICTION BRAKING**

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*METRO GA15-50*
*RFP NO. HR4000*
*ISSUE DATE: 5-29-15*
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## METRO GA15-50

### RFP NO. HR4000

**ISSUE DATE: 5-29-15**

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### Diagnostic Test Equipment Pricing Summary

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FORM PF-6 - SCHEDULE E OF PRICES LACMTA TRAVEL COSTS  
(Pricing for LACMTA Travel is for evaluation purposes only)

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**Meetings at Seat Supplier - From Los Angeles To _____________________________**

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**Meetings at Coupler Supplier - From Los Angeles To _____________________________**

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**Meetings at HVAC Supplier - From Los Angeles To _____________________________**

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Meetings at Gangway Supplier - From Los Angeles To

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Meetings at Auxiliary Power Equipment Supplier - From Los Angeles To

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Meetings at Propulsion Supplier - From Los Angeles To _____________________________

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**TOTAL LACMTA TRAVEL COSTS:**

(Transfer Total LACMTA Travel price to Schedule of Price Summary Form PF-1, Line Item 10).

Using Words:  

Using Figures:  

**NOTES:**

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(Signature of Person Executing Proposal)  
(Date)
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<td>AT-07-01</td>
<td>HVAC</td>
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<td>Auxiliary Electrical</td>
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SECTION 4 – PRE-QUALIFICATION
Los Angeles County
Metropolitan Transportation Authority
CONTRACTOR PRE-QUALIFICATION APPLICATION

Other Than Construction Projects

If this Application is being submitted in response to a Request For Proposal (RFP), Invitation For Bid (IFB), or other procurement action, please reference the RFP or IFB name and number in the spaces provided below.

If this Application is not in response to a specific contracting action and is being submitted for general purposes, please write “GENERAL” in the “Name of Procurement” space.

Name of Procurement: _______________________________________________________

RFP or IFB Number: _______________________________________________________

Name of Applicant Firm: ___________________________________________________

Date Submitted: ___________________________________________________________

Preparer’s Name: _________________________________________________________

THIS PAGE MUST BE COMPLETED AND INCLUDED WITH THE APPLICATION

READ THE INSTRUCTIONS
BEFORE FILLING OUT THE QUESTIONNAIRE
PRE-QUALIFICATION APPLICATION INSTRUCTIONS

1. This is a Pre-Qualification Application for the Los Angeles County Metropolitan Transportation Authority (LACMTA). There are two different applications to be used for firms seeking contracts of $100,000 or greater with the LACMTA.

2. Which application should you use? Use the Construction Related Projects application if you are a construction company that will be bidding on any type of construction work. Use the Other than Construction Projects application if you are an engineering firm, consultant, legal firm, product vendor, or other business entity seeking a contract with LACMTA for the furnishing of goods or services.

3. The application should be completed by a person in the firm who is knowledgeable of and duly authorized to attest to the past and present operations of the firm and its policies. A corporate officer of the firm, owner or partner, as appropriate, must sign the Pre-Qualification Certification form (or Validation form if the firm is already approved).

4. All questions must be answered completely and any Yes answers must be fully explained. Disclaimers, general statements with global qualifications, or notations of Not Applicable (N/A) are not acceptable. Please note that a Yes answer to any question does not automatically result in denial of pre-qualification for a particular procurement.

DEFINITIONS

1. Affiliate is defined as any one of the following: (1) any Firm other than Applicant Firm which owns 25% or more of Applicant Firm, such as parent companies or holding companies; (2) a subsidiary or a Firm in which Applicant Firm owns 25% or more; (3) a Firm in which a major stockholder or owner of Applicant Firm owns controlling interest; (4) a Firm with which Applicant Firm has or has had an unseverable business or professional identity, and (5) any permanent or temporary common business enterprise relationship in which the parties share operating responsibility and profits such as joint ventures.

2. Key Person – For purposes of pre-qualification a key person is (1) any person in Applicant Firm who owns 10% or more of the Firm and/or those who make decisions with respect to its operations, finances, or policies, such as the President, CEO, CFO, COO, and, in the case of partnerships, the General Partner(s); (2) Corporate Secretaries and Treasurers, as well as Directors, if they meet criteria #1, above; (3) Division or Regional Business Managers who operate away and independently from the Applicant Firm, but only if the division or regional office is bidding directly with the LACMTA.

APPLICATION SUBMITTAL

Do not submit applications with bid or proposal, mail or deliver them to:

LACMTA Pre-Qualification Office
Mail Stop 99-9-1
One Gateway Plaza
Los Angeles, CA 90012-2952

If you have questions, call the Pre-Qualification Office at (213) 922-4130.
SECTION I: IDENTIFICATION

1. Identification Of Applicant Firm

A. _____________________________________________________________________________
   Name of Applicant Firm

B. _____________________________________________________________________________
   Address           City       State       Zip Code

C. _____________________________________________________________________________
   (Mailing Address, if different from above)

D. _____________________________________________________________________________
   (If doing business with the LACMTA under a DBA or other name, include legal name of the
   company and Tax ID No., if different)

E. Primary Company Telephone No. ( )_________________ Fax No. ( )_________________

F. Applicant Firm's Contact Person for Pre-Qualification Office follow-up:
   ____________________________________________________________________________
   Print or Type Name       Position       E-Mail       Telephone Number

G. Has the Applicant Firm changed its address or has the Firm or its owner operated under any
   other name(s) including other DBAs in the past five years? If yes, explain fully on a separate
   sheet of paper.
   ☐ No ☐ Yes

H. Type of business organization: ___________________________________________________
   YEAR organization established: _____________ NUMBER of current employees: __________
   ☐ Sole Proprietor ☐ Corporation
   [Date and State of Incorporation ________________]
   ☐ Limited Liability Corporation (LLC)
     [Date and State of Incorporation _______________________]
   ☐ Limited Partnership (LP) ☐ Limited Liability Partnership (LLP)
   ☐ General Partnership (GP)
   [Date and State of Partnership filing ____________________________]
   ☐ Other (describe) ____________________________________________________________________
Applicant Firm: ____________________________
Tax ID No. or SSN: ____________________________

I. List general type of business in which Applicant Firm is engaged (may include more than one). Attach copies of business licenses, if appropriate:


J. List type of product or service to be provided to the LACMTA.


SECTION II: OWNERSHIP/MANAGEMENT, PROJECT TEAM MEMBERS, AND RELATED ENTITIES

1. Owners/Key Persons (Pres, CEO, COO, CFO, etc)

List Owners and Key Persons of Applicant Firm. For large publicly traded companies, list only Key Persons. (See DEFINITIONS for clarification if necessary.)

<table>
<thead>
<tr>
<th>Full Legal Name</th>
<th>Title</th>
<th>Social Security No. (last four digits only)</th>
<th>% Of Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

[Use additional sheets if necessary]

2. Affiliations

A. List Affiliates, subsidiaries, holding companies, joint ventures, etc., of Applicant Firm. If no affiliates, state NONE. N/A is not an acceptable answer. Provide organizational, geographical or functional chart, if it would assist in clarifying the line(s) of authority. (See DEFINITIONS for clarification if necessary.)

<table>
<thead>
<tr>
<th>Affiliate Name &amp; Address</th>
<th>Tel. #</th>
<th>% Owned</th>
<th>Top Executive’s Name</th>
<th>*Type of Relation</th>
</tr>
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<tbody>
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</table>

Applicant Firm: ____________________________
Tax ID No. or SSN: __________________________

B. At any time during the past five years have any Owners or Key Persons of Applicant Firm (if yes, explain fully):

1. Served as Key Person, Officer or Director, in any other Firm not affiliated with applicant Firm? If so, please explain in a separate sheet.
   ☐ No ☐ Yes

2. Had any ownership interest in any other Firm other than shares of publicly owned companies? If so, please explain in a separate sheet.
   ☐ No ☐ Yes

SECTION III: CIVIL ACTIONS

If “Yes” to Sections III, IV, or V, provide details including a brief summary of cause(s) of action, indicate if Applicant Firm, Key Person or Affiliate Firms were plaintiffs (P) or defendants (D); define charges explicitly, by what authority, court or jurisdiction, etc. In the case of tax liens, please indicate whether the liens were resolved with the tax authorities. Please submit proof of payment or agreements to pay the liens.

Complete details are required.

1. Violations Of Civil Law
   In the past five years has Applicant Firm, any of its Key Persons, or any Affiliate been the subject of an investigation of any alleged violation of a civil antitrust law, or other federal, state or local civil law?
   ☐ No ☐ Yes

2. Lawsuits With Public Agencies
   At the present time is, or during the past five years has the Applicant Firm, any of its Key Persons, or any Affiliate been a plaintiff or defendant in any lawsuit regarding services or goods provided to the LACMTA or to a public agency?
   ☐ No ☐ Yes

3. Bankruptcy
   During the past five years, has the Applicant Firm or any Affiliate filed for bankruptcy or reorganization under the bankruptcy laws?
   ☐ No ☐ Yes

4. Tax Liens
   During the past five years, has the Applicant Firm been the subject of a tax lien by federal, state or any other tax authority?
   ☐ No ☐ Yes
SECTION IV: COMPLIANCE WITH LAWS AND OTHER REGULATIONS

1. Criminal

In the past five years has the Applicant Firm, any of its principals, officers, or Affiliates been convicted or currently charged with any of the following:

A. Fraud in connection with obtaining, attempting to obtain, or performing a public contract, agreement or transaction?  □ No  □ Yes

B. Federal or state antitrust statutes, including price fixing collusion and bid rigging?  □ No  □ Yes

C. Embezzlement, theft, forgery, bribery, making false statements, submitting false information, receiving stolen property, or making false claims to any public agency?  □ No  □ Yes

D. Misrepresenting minority or disadvantaged business entity status with regard to itself or one of its subcontractors?  □ No  □ Yes

E. Non-compliance with the prevailing wage requirements of the California or similar laws of any other state?  □ No  □ Yes

F. Violation of any law, regulation or agreement relating to a conflict of interest with respect to a government funded procurement?  □ No  □ Yes

G. Falsification, concealment, withholding and/or destruction of records relating to a public agreement or transaction?  □ No  □ Yes

H. Violation of a statutory or regulatory provision or requirement applicable to a public or private agreement or transaction?  □ No  □ Yes

I. Do any Key Persons in Applicant Firm have any felony charges pending against them that were filed either before, during, or after their employment with the Applicant Firm?  □ No  □ Yes

2. Regulatory Compliance

In the past five years, has Applicant Firm, any of its Key Persons, or Affiliates:

A. Been cited for a violation of any labor law or regulation, including, but not limited to, child labor violations, failure to pay wages, failure to pay into a trust account, failure to remit or pay withheld taxes to tax authorities or unemployment insurance tax delinquencies?  □ No  □ Yes
Applicant Firm: 
Tax ID No. or SSN: 

B. Failed to comply with California corporate registration, federal, state or local licensing requirements?

☐ No  ☐ Yes

C. Had its corporate status, business entity’s license or any professional certification, suspended, revoked, or had otherwise been prohibited from doing business in the State of California, in the last three years?

☐ No  ☐ Yes

D. During the past five years, has Applicant Firm or any of its Key Persons had any certificates or certifications revoked or suspended, including disadvantaged-, minority-, or woman-owned business certifications?

☐ No  ☐ Yes

E. Been suspended, debarred, disqualified, or otherwise declared ineligible to bid?

☐ No  ☐ Yes

SECTION V: ETHICS

1. Conflict Of Interest

A. Does the Applicant Firm or any of its Key Persons have any existing relationships that could be construed as either personal or organizational conflicts of interest, or which would give rise to a conflict if Applicant Firm should be a recipient of a contract with the LACMTA?

☐ No  ☐ Yes

B. Has any Owner, Key Person or Project Team member of Applicant Firm ever (if yes explain fully):

1. Been an employee of the LACMTA, or served as a Member of the LACMTA Board of Directors or as an Alternate?

☐ No  ☐ Yes

2. Been related by blood or marriage to a LACMTA employee, LACMTA Board Member or Alternate?

☐ No  ☐ Yes

2. Political, Charitable, And Other Contributions

Has the Applicant Firm, any of its Key Persons, or Affiliates ever, regardless of amount:

A. Given (directly or indirectly), or offered to give on behalf of another or through another person, money, contributions (including political contributions), or other benefits, to any current LACMTA Board Member or Alternate?

☐ No  ☐ Yes

B. Given, or offered to give on behalf of another, money, contributions, or other benefits, directly or indirectly, to any current or former LACMTA employee?

☐ No  ☐ Yes
C. Been directed by any LACMTA employee, Board member or Alternate Board member, or contractor to offer or give money, contributions or other benefits, directly or indirectly, to any current or former LACMTA employee, Board member or alternate Board member?

☐ No  ☐ Yes

D. Directed any person, including employees or subcontractors, to give money, contributions or other benefits, directly or indirectly, to any current or former LACMTA employee, Board member, Alternate Board member, or to someone else in order to benefit an LACMTA employee, Board member, or Alternate Board member?

☐ No  ☐ Yes

E. Been solicited by any LACMTA employee, Board member, or Alternate Board member to make a contribution to any charitable nonprofit organization?

☐ No  ☐ Yes

IF YES TO ANY OF THE ABOVE, SUBMIT LIST OF CONTRIBUTIONS AND FULL DETAILS.

SECTION VI: ADDITIONAL DOCUMENTATION REQUIRED

Copies of the following documents are to be submitted with this application:

1. Applicant Firm’s Current Local Business Licenses, if required by city, county or state, and

2. Applicant Firm’s Financial Statements (see specific requirements below):

   A. PUBLICLY TRADED COMPANIES: Financial information will be accessed on-line. However, if additional information is needed, it will be specifically requested from the firm.

   B. NON-PUBLICLY TRADED COMPANIES WITH AUDITED OR REVIEWED FINANCIAL STATEMENTS: Statements, including balance sheet, statement of earnings and retained income, with footnotes, for the most recent three years.

   C. NON-PUBLICLY TRADED COMPANIES WITHOUT AUDITED OR REVIEWED FINANCIAL STATEMENTS: Company generated financial statements, including balance sheet, statement of earnings and retained income for the most recent three years. The Chief Financial Officer of the corporation, a partner, or owner, as appropriate, must certify these financial statements.

   D. SOLE PROPRIETORSHIPS: Refer to C. If financial statements are not generated, please fill out and sign the Financial Statement form (page 9). Submit one form for each of the most recent three years.

NOTE: LACMTA reserves the right to ask for additional documentation if it is reasonably required to make a determination of integrity and responsibility relevant to the goods or services the Applicant Firm will provide to LACMTA if awarded a contract.
FINANCIAL STATEMENT

To be completed by Applicant Firms that do not produce company generated financial statements, including balance sheet, statement of earnings and retained income for the most recent three years (one sheet per year.)

<table>
<thead>
<tr>
<th>ASSETS</th>
<th></th>
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<tbody>
<tr>
<td>Cash on Hand and in Banks</td>
<td></td>
</tr>
<tr>
<td>Account and Notes Receivable</td>
<td></td>
</tr>
<tr>
<td>Fixed Assets (net of depreciation)</td>
<td></td>
</tr>
<tr>
<td>Other Assets</td>
<td></td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIABILITIES</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounts Payable</td>
<td></td>
</tr>
<tr>
<td>Notes Payable to Banks in next twelve months</td>
<td></td>
</tr>
<tr>
<td>Notes Payable to Others</td>
<td></td>
</tr>
<tr>
<td>Taxes Payable</td>
<td></td>
</tr>
<tr>
<td>Long Term Liabilities (More than twelve months)</td>
<td></td>
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<tr>
<td>Other Liabilities</td>
<td></td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Net Worth</strong></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>INCOME FROM OPERATIONS</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Revenue</td>
<td></td>
</tr>
<tr>
<td>Interest from Bank Accounts</td>
<td></td>
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<tr>
<td>Cost of Goods Sold (if appropriate)</td>
<td></td>
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<tr>
<td><strong>Gross Profit</strong></td>
<td></td>
</tr>
<tr>
<td>General &amp; Administrative Expenses</td>
<td></td>
</tr>
<tr>
<td>Depreciation</td>
<td></td>
</tr>
<tr>
<td>Interest Paid</td>
<td></td>
</tr>
<tr>
<td><strong>Net Gain or Loss</strong></td>
<td></td>
</tr>
</tbody>
</table>

This information is provided for pre-qualification purposes only. It is considered a confidential document not subject to public disclosure under California law.

I hereby certify that the above information is true and accurate to the best of my knowledge and belief. I understand false statements may result in denial of pre-qualification, and possible debarment for a period of five years.

_________________________ _______________________________
Signature of Owner or Officer Date Signed

_________________________ _______________________________
Company Name For the Year Ended

_________________________
Federal ID #
PRE-QUALIFICATION CERTIFICATION

A COPY OF THIS CERTIFICATION MUST BE COMPLETED AND SIGNED BY A GENERAL PARTNER, OWNER, PRINCIPAL OR CORPORATE OFFICER AUTHORIZED TO LEGALLY COMMIT THE APPLICANT FIRM, AND SUBMITTED WITH THE APPLICATION.

The signer of this declaration recognizes that the information submitted in the questionnaire herein is for the express purpose of inducing the LACMTA to award a contract, or to allow the Applicant to participate in LACMTA projects as contractor, subcontractor, vendor, supplier, or consultant. The signer has read and understands the requirements of the program, and has read and understands the instructions for completing this form.

DECLARATION

State of: __________________
County of: _________________

I, (printed name)___________________________________, Social Security Number (last four digits) __________, being first duly sworn, state that I am the (title)______________________________________ of Applicant Firm. I certify that I have read and understood the questions contained in the attached Application, and that to the best of my knowledge and belief all information contained herein and submitted concurrently or in supplemental documents with this Application is complete, current, and true. I further acknowledge that any false, deceptive or fraudulent statements on the Application will result in denial of pre-qualification.

I authorize LACMTA to contact any entity named herein, or any other internal or outside resource, for the purpose of verifying information provided in the questionnaire or to develop other information deemed relevant by the LACMTA.

___________________________                          _____________________________
Signature of Certifying Individual                          Date

Subscribed and sworn to (or affirmed) before me this _________day of ____________, 20___,

by ______________ Name of Signer ______________________. ☐ Personally known to me, or ☐ Proved to me on the basis of satisfactory evidence to be the person who appeared before me.

___________________________
Signature of Notary Public

NOTICE TO APPLICANTS

A material false statement, omission or fraudulent inducement made in connection with this pre-qualification application is sufficient cause for denial of the application or revocation of a prior approval, thereby precluding the applicant Firm from doing business with, or performing work for, LACMTA, either as a vendor, prime contractor, subcontractor, consultant or subconsultant for a period of five years. In addition, such false submission may subject the person and/or entity making the false statement to criminal charges. (Title 18 USC 1001, false statements; California Penal Code Section 132, offering altered or antedated or forged documents or records; and Section 134, preparing false documentary evidence).

NOTE: Applicant information submitted to LACMTA in connection with pre-qualification is considered confidential. All such applicant information is confidential business information and will be afforded protection to the fullest extent permitted by law.
LACMTA PRE-QUALIFICATION VALIDATION

A copy of this VALIDATION must be completed and signed by at least one General Partner, Owner, Principal or Officer authorized to legally commit the Applicant Firm.

RFP or IFB Name and Number: ______________________________________________________

DECLARATION

I, (printed full name) ____________________________________________, Social Security Number __________________ being first duly sworn, hereby declare that I am the (position or title) __________________________ of (Firm name) ______________________________, and that I am duly authorized to execute this Validation Statement on behalf of this entity. I acknowledge that any false, deceptive or fraudulent statements on this validation will result in denial of pre-qualification. I hereby state:

☐ the Pre-Qualification Application dated ______________ on file with LACMTA is correct and current as submitted.

OR

☐ the Pre-Qualification Application dated ______________ on file with LACMTA is correct and current as submitted, except as modified by the attached changed pages and/or attachments to said Application. (Applicant may attach additional sheets to describe changes). Attach recent financial statements if previous are more than one year old.

__________________________
Signature of Person Certifying for Applicant Firm
Date

~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~
Subscribed and sworn to before me this ______ day of ______________________________, (Notary Seal or Stamp)

__________________________
Notary Public Signature
My Commission expires ______________________

NOTICE TO APPLICANTS

A material false statement, omission or fraudulent inducement made in connection with this pre-qualification application is sufficient cause for denial of the application or revocation of a prior approval, thereby precluding the applicant Firm from doing business with, or performing work for, LACMTA, either as a vendor, prime contractor, subcontractor, consultant or sub-consultant for a period of three years. In addition, such false submission may subject the person and/or entity making the false statement to criminal charges. (Title 18 USC 1001, false statements; California Penal Code Section 132, offering altered or antedated or forged documents or records; and Section 134, preparing false documentary evidence).

NOTE: Applicant information submitted to LACMTA in connection with pre-qualification is considered confidential. All such applicant information is confidential business information and will be afforded protection to the fullest extent permitted by law.

Validation Submittal Do not submit validations with bid or proposal, mail or deliver them to:
LACMTA Pre-Qualification Office
Mail Stop 99-9-1
One Gateway Plaza
Los Angeles, CA 90012-2952
SECTION 5 – CERTIFICATIONS
PROPOSER: ______________________

ETHICS DECLARATION

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

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

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

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

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

Name of parent: (none)

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

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

<table>
<thead>
<tr>
<th>Questions</th>
<th>Yes/No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Are any of your employees, officers, shareholders, partners, or directors (including your and those of your subcontractors’ and consultants’ collectively “Employees”) formerly a LACMTA board member or employee within the previous 12 months?</td>
<td></td>
</tr>
<tr>
<td>2. Are any of your Employees related to any LACMTA board member or employee?</td>
<td></td>
</tr>
<tr>
<td>3. Are any of your Employees also LACMTA board members or employees?</td>
<td></td>
</tr>
<tr>
<td>4. Do any LACMTA board members or employees own any stock in your company, or that of your consultants or subcontractors?</td>
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</tbody>
</table>
### Questions

<table>
<thead>
<tr>
<th>Questions</th>
<th>Yes/No</th>
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</thead>
<tbody>
<tr>
<td>5. Have you or Employees given any gifts within the previous 12 months</td>
<td></td>
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<tr>
<td>to a LACMTA board member or employee?</td>
<td></td>
</tr>
<tr>
<td>6. Have you, your Employees or their family members of your parent,</td>
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<tr>
<td>subsidiaries and relate business entities as stated above, made any</td>
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<tr>
<td>campaign contributions any present LACMTA Board Member or employee in</td>
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<tr>
<td>the past four years?</td>
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<tr>
<td>7. Have you employed or do you intend to employ as a lobbyist any</td>
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<tr>
<td>former LACMTA board member or employee who has left LACMTA within the</td>
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<tr>
<td>last twelve months?</td>
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<tr>
<td>8. Did you or your Employees receive any confidential information</td>
<td></td>
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<tr>
<td>concerning this contract?</td>
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<tr>
<td>9. Did you or any of your Employees perform work within the last 3 years</td>
<td></td>
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<tr>
<td>relating to the project or services contemplated to be performed under</td>
<td></td>
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<tr>
<td>this contract, including development of the specifications or earlier</td>
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<tr>
<td>phases of the project or services to be provided under this contract?</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>No. of Pages Attached</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. If you answered “yes” to any question 1 through 9 above, explain in</td>
</tr>
<tr>
<td>detail on a separate sheet the facts and information, including names,</td>
</tr>
<tr>
<td>dates, amounts, and other circumstances relevant to the question.</td>
</tr>
</tbody>
</table>

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

C. **DECLARATION**

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

__________________________ ________________________
Signature Date
GENERAL CERTIFICATIONS

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

1.0 CERTIFICATE OF NONDISCRIMINACION

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

A. Establish and observe employment policies that actively promote opportunities for minority persons and women at all job levels.

B. Communicate this policy to all company employees, outside recruiting services, especially those serving minority communities and women, and minority communities and women at large.

C. State in all solicitations or advertisements for employees that the Bidder/Proposer will consider all qualified applicants for employment without regard to race, sex, color, religion, ancestry, national origin, marital status, age (over 40), or disability (including AIDS, and cancer-related medical condition).

2.0 AFFIRMATIVE ACTION

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

Yes ☐ No ☐

Only certified Disadvantaged Business Enterprises are eligible to participate in LACMTA contracts as DBEs. The Bidder/Proposer certifies that it has not knowingly and willfully used “fronts” as defined in section 100.6 of LACMTA’s Contract Compliance Manual (Federal) to meet the DBE goal established for this contract. The use of “fronts” and “pass through” Subcontracts to non-disadvantaged firms may constitute a criminal violation.

4.0 WHISTLEBLOWER REQUIREMENTS

Yes ☐ No ☐

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

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

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

Executed on ____________, 20___, at ________________, ______, (Date) (City) (State)

Typewritten or Printed Name __________________________ Signature of Authorized Official __________________________ Title __________________________

---

1 Any indication of fraud, waste, abuse, or mismanagement of these funds should be immediately reported to the LACMTA Small Business Diversity and Labor Compliance Office, at (213) 922-6000; the LACMTA Inspector General Office at (213) 344-7300 or the toll free hotline number (800) 221-1142; or to the Office of Inspector General, U.S. Department of Transportation at the toll-free hotline number (800) 424-9071; or to the following field office: 201 Mission Street, Suite 2210; San Francisco, CA 94105-1926; (415) 744-3133.
CERTIFICATE OF COMPLIANCE WITH 49 CFR PART 655, PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE IN TRANSIT OPERATIONS

Bidder/Proposer hereby certifies that:

A. Anti-drug Use and Alcohol Misuse Program

(Choose one Alternative with “X” in the box)

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

OR

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

B. Drug and Alcohol Testing Program

(Choose one alternative with “X” in the box)

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

OR

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

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

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

OR

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

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

Bidder/Proposer: 

Authorized Representative: 

Signature of Authorized Representative: 

Title: 

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

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

Executed on ____________, 20___, at ________________
(Date) (City) (State)

Typewritten or Printed Name ____________________________
Signature of Authorized Official ____________________________
Title ____________________________

BUY AMERICA CERTIFICATE FOR NON-COMPLIANCE WITH TITLE 49 USC § 5323(J)(1)

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

Executed on ____________, 20___, at ________________
(Date) (City) (State)

Typewritten or Printed Name ____________________________
Signature of Authorized Official ____________________________
Title ____________________________
BUY AMERICA CERTIFICATE
FOR COMPLIANCE WITH TITLE 49 USC § 5323(J)(2)(C)
(For Procurement of Buses, Other Rolling Stock and Associated Equipment)

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

Executed on ________________, 20___, at __________________, ____________
(Date) (City) (State)

Typewritten or Printed Name __ Signature of Authorized Official __ Title __

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

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

Executed on ________________, 20___, at __________________, ____________
(Date) (City) (State)

Typewritten or Printed Name __ Signature of Authorized Official __ Title __
PROPOSER: ______________________

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

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

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

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency; a member of Congress, an officer or employee of Congress, an employee of a member of Congress; or any Board member or employee of LACMTA in connection with the awarding of any federal contract; any federally funded contract; or the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any federal contract, federally funded contract grant, loan or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts, or influencing or attempting to influence; an officer or employee of any agency; a member of Congress; an officer or employee of Congress; an employee of a member of Congress or a Board member or employee of LACMTA in connection with this federally funded contract, grant, loan, or cooperative agreement, the undersigned shall register and comply with all federal disclosure requirements.

3. The undersigned shall require that the language of this certification be included in the solicitation and award documents for all subawards at all tiers including but not limited to subcontracts, subgrants and contracts under grants, loans and cooperative agreements and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 USC § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any offeror who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Executed on ____________, 20___, at ____________________, ____________

(Date) (City) (State)

__________________________________
Typewritten or Printed Name

__________________________________
Signature of Authorized Official

__________________________________
Title
RESTRICTIONS ON LOBBYING

(a) Definitions, as used in this clause:

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

LACMTA means the Los Angeles County Metropolitan Transportation Authority.

Covered Federal action means any of the following federal actions:

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

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

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

Influencing or attempting to influence means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any covered federal action.

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

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

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

Person means an individual, corporation, company, association, authority, firm, partnership, society, state, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization,
or any other Indian organization with respect to expenditures specifically permitted by other federal law.

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

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

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

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

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

(b) Prohibition.

(1) Title 31 USC § 1352 provides in part that no appropriated funds may be expended by the recipient of a federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) The prohibition does not apply as follows:

(i) Agency and legislative liaison by Own Employees.

(A) The prohibition on the use of appropriated funds, in paragraph (b) (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a federal
contract if the payment is for agency and legislative liaison activities not directly related to a covered federal action.

(B) For purposes of paragraph (b) (2) (i) (A) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.

(C) For purposes of paragraph (b) (2) (i) (A) of this section, the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities, and

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(D) For purposes of paragraph (b) (2) (i) (A) of this section, the following agency and legislative liaison activities are allowable only when they are prior to formal solicitation of any covered federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to official submission, and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(E) Only those activities expressly authorized by paragraph (b) (2) (i) of this section are allowable under paragraph (b) (2) (i).

(ii) Professional and technical services by Own Employees.

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

(B) For purposes of paragraph (b) (2) (ii) (A) of this section professional and technical services shall be limited to advice and analysis directly applying any
professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her clients proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered federal action.

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

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

(iii) Reporting for Own Employees.

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

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

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

(B) For purposes of paragraph (b) (2) (iv) (A) of this section professional and technical services shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability
of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client’s proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered federal action.

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

(D) Persons other than officers or employees of a person requesting or receiving a covered federal action include consultants and trade associations.

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

(c) Disclosure.

(1) Each person who requests or receives from LACMTA a contract with federal assistance shall file with LACMTA a certification, set forth in Bid/Submittal Form entitled FEDERAL LOBBYING CERTIFICATION, that the person has not made, and will not make, any payment prohibited by paragraph (b) of this clause.

(2) Each person who requests or receives from LACMTA a contract with federal assistance shall file with LACMTA a disclosure form, Standard Form-LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action), which would be prohibited under paragraph (b) of this clause if paid for with appropriated funds.

(3) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph (c) (2) of this section. An event that materially affects the accuracy of the information reported includes:
(i) A cumulative increase of $25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action; or

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

(iii) A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered federal action.

(4) Any person who requests or receives from a person referred to in paragraph (c) (1) of this section a subcontract with a contract value exceeding $100,000 at any tier under a contract with federal assistance shall file a certification, and a disclosure form, if required, to the next tier above. All disclosure forms shall be forwarded from tier to tier until received by the Prime Contractor who will forward it to LACMTA.
EXHIBIT 1
CERTIFICATION OF RESTRICTIONS ON LOBBYING

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

__________________________________________ that:
(Name of contractor or subcontractor)

(1) No federally appropriated funds have been paid or will be paid, by or on behalf of the
undersigned, to any person for influencing or attempting to influence an officer or employee
of any agency, a member of Congress, an officer or employee of Congress, or an employee
of a member of Congress in connection with the awarding of any federal contract, the
making of any federal grant, the making of any federal loan, the entering into of any
cooperative agreement, and the extension, continuation, renewal, amendment, or
modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federally appropriated funds have been paid or will be paid to any
person for influencing or attempting to influence an officer or employee of any agency, a
member of Congress, an officer or employee of Congress, or an employee of a member of
Congress in connection with this federal contract, grant, loan, or cooperative agreement the
undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report
Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award
documents for all subawards at all tiers (including subcontracts, subgrants, and contracts
under grants, loans, and cooperative agreements) and that all subrecipients shall certify and
disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this
transaction was made or entered into. Submission of this certification is a prerequisite for
making or entering into this transaction imposed by Title 31 USC § 1352. Any person who fails
to file the required certification shall be subject to a civil penalty of not less than $10,000 and not
more than $100,000 for each such failure.

Executed this ____________ day of _______________________, 20____.

By: ____________________________
(Signature of Authorized Official)

____________________________
(Typewritten or Printed Name)

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

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

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

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

**1. Type of Federal Action:**
- [ ] a. contract
- [ ] b. grant
- [ ] c. cooperative agreement
- [ ] d. loan
- [ ] e. loan guarantee
- [ ] f. loan insurance

**2. Status of Federal Action:**
- [ ] a. bid/offer/application
- [ ] b. initial award
- [ ] c. post award

**3. Status of Federal Action:**
- [ ] a. initial change
- [ ] b. material change
- For Material Change Only:
  - year ______
  - quarter ______
  - date of last report ______

**4. Name and Address of Reporting Entity**
- [ ] Prime
- [ ] Subawardee

<table>
<thead>
<tr>
<th>Tier____________________, if known:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Congressional District, if known:</td>
</tr>
</tbody>
</table>

**5. If Reporting Entity in No. 4 is subawardee. Enter name and Address of Prime:**

<table>
<thead>
<tr>
<th>Tier____________________, if known:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Congressional District, if known:</td>
</tr>
</tbody>
</table>

**6. Federal Department/Agency:**
- Department of Transportation
- Federal Transit Administration

**7. Federal Program Name/Description:**

| CFDA Number, if applicable: _______________
|-----------------------------|

**8. Federal Action Number, if known:**

**9. Award Amount, if known:**

| $___________________________
|-----------------------------|

**10. a. Name and Address of Lobbying Entity**
(if individual, last name, first name, MI):

<table>
<thead>
<tr>
<th>attach continuation sheet(s) SF-LLL-A if necessary</th>
</tr>
</thead>
</table>

**b. Individuals Performing Services (including address if different from No. 10.a)**

<table>
<thead>
<tr>
<th>last name, first name, MI:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>attach continuation sheet(s) SF-LLL-A if necessary</th>
</tr>
</thead>
</table>

**11. Amount of Payment (check all that apply):**

<table>
<thead>
<tr>
<th>$___________________________</th>
</tr>
</thead>
</table>

- [ ] actual
- [ ] planned

**12. Form of Payment (check all that apply):**

<table>
<thead>
<tr>
<th>a. cash</th>
</tr>
</thead>
</table>
| b. in-kind; specify: nature _______________
| value _______________

**13. Type of Payment (check all that apply):**

<table>
<thead>
<tr>
<th>a. retainer</th>
</tr>
</thead>
<tbody>
<tr>
<td>b. one-time fee</td>
</tr>
<tr>
<td>c. commission</td>
</tr>
<tr>
<td>d. contingent fee</td>
</tr>
<tr>
<td>e. deferred</td>
</tr>
<tr>
<td>f. other; specify _______________</td>
</tr>
</tbody>
</table>

**14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employer(s), or member(s) contacted, for Payment indicated in Item 11:**

**15. Continuation Sheet(s) SF-LLL-A attached:**

- [ ] Yes
- [ ] No

**16. Information requested through this form is authorized by Title 31 USC § 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.**

**Signature:** ________________________________

**Print Name:** ________________________________

**Title:** ________________________________

**Telephone No.:_______________ Date: _______________**
CERTIFICATION OF PROSPECTIVE CONTRACTOR REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

PRIMARY COVERED TRANSACTIONS MUST BE COMPLETED BY PROPOSER FOR CONTRACT VALUE OVER $100,000

[See Instructions for Completion in Instructions to Proposals Proposer in the section entitled CONTRACTOR DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION]

Choose one alternative with “X” in the box:

☐ The Proposer, ______________________, certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

4. Have not within a three-year period preceding this Bid had one or more public transactions (Federal, State or local) terminated for cause or default.

OR

☐ The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In explanation, certify to those statements that can be certified to and explain those that cannot.)

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of Title 31 USC § Sections 3801 are applicable thereto.

Executed on ________________, 20__, at ________________, ________________
(Date) (City) (State)

Typewritten or Printed Name _______________________________ Signature of Authorized Official _______________________________ Title _______________________________

METRO GA15-50
RFP NO. HR4000
ISSUE DATE: 5-29-15

CERT OF PROSPECTIVE CONTRACTOR PRO FORM 022
REVISION DATE: 07.01.09
CONTRACTOR DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

Pursuant to 49 CFR Part 29, to confirm the eligibility of the Bidder/Proposer or any covered Subcontractor to contract with LACMTA, Bidder/Proposer shall complete and submit with the bid/proposal the Certificate entitled “Certification of Prospective Contractor Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion”, and comply with subsection B below related to each Lower Tier covered transaction.

1. Instructions for Bidder/Proposers Certification - Primary Covered Transactions

   A. In addition to signing and submitting this bid/proposal, the Bidder (also referred to as “prospective primary participant”) shall also provide the Certificate entitled Certification of Potential Contractor Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Primary Covered Transaction.

   B. The inability of a person to provide the subject certification will not necessarily result in denial of participation in this Contract (also referred to as “primary covered transaction” or “covered transaction). The Bidder/Proposer shall submit an explanation of why it cannot provide the subject certification. The certification or explanation will be considered in whether or not to enter into this Contract. Failure of the Bidder/Proposer to furnish a certification or an explanation shall disqualify the Bidder/Proposer from participation of this Contract.

   C. This certification is a material representation of fact upon which LACMTA will rely when LACMTA determines whether to enter into this Contract. If it is later determined that the Bidder/Proposer knowingly rendered an erroneous certification, LACMTA may terminate this Contract for cause or default in addition to other remedies available to LACMTA.

   D. The Bidder/Proposer shall provide immediate written notice to LACMTA if at any time the Bidder/Proposer learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

   E. The terms covered transaction (or as used herein “Contract”), debarred, suspended, ineligible, lower tier covered transaction (or as used herein “Subcontract” including a subcontract with a supplier), participant (or as used herein “Bidder/Proposer”), person, primary covered transaction (or as used herein “Contract” or “Prime Contract”), principal, bid/proposal (or as used herein “Bidder/Proposer”) and voluntarily excluded, as used in this Section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. The Bidder/Proposer may contact LACMTA for assistance in obtaining a copy of those regulations.

   F. The Bidder/Proposer agrees by submitting this bid/proposal that, should the Contract be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9,
subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by LACMTA.

G. The Bidder/Proposer further agrees by submitting this bid/proposal that it will include subsection B of this section and the certification titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” provided by LACMTA in the Bid/Proposal Forms without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

H. The Bidder/Proposer may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The Bidder/Proposer may decide the methods and frequency by which it determines the eligibility of its principals. The Bidder/Proposer may, but is not required to, check the “List of Parties Excluded from Federal Procurement and Non-procurement Programs”.

I. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this Section. The knowledge and information of the Bidder/Proposer is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

J. Except for transactions authorized under paragraph 6 of this subsection, if a Bidder/Proposer knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to LACMTA, LACMTA may terminate this transaction for cause or default.

2. Instructions for Prime or Require of Sub-contractors Certification - Lower Tier Covered Transactions

A. By signing and submitting its lower tier bid/proposal, the prospective lower tier participant shall provide the certification in the Bid/Proposal Form entitled Certification of Prospective Lower Tier Participant Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions.

B. The certification in this subsection is a material representation of fact upon which LACMTA will rely when LACMTA enters into the Contract. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to LACMTA, LACMTA may pursue available remedies, including suspension and/or debarment.

C. The prospective lower tier participant shall provide immediate written notice to the Bidder/Proposer if at any time the prospective lower tier participant learns
that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

D. The terms covered transaction (or as used herein “Contract”), debarred, suspended, ineligible, lower tier covered transaction (or as used herein “Subcontract,” including a subcontract with a Supplier), participant (or as used herein “Bidder/Proposer”), person, primary covered transaction (or as used herein “Contract” or “Prime Contract”), principal, bid/proposal, and voluntarily excluded, as used in this section, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. The prospective lower tier participant may contact the Bidder/Proposer for assistance in obtaining a copy of those regulations.

E. The prospective lower tier participant agrees by submitting its bid/proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this Contract, unless authorized by LACMTA.

F. The prospective lower tier participant further agrees by submitting its bid/proposal that it will include this subsection B and the Certification (in the Bid/Proposal Forms) titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

G. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

H. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this section. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

I. Except for transactions authorized under paragraph 5 of this subsection, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to LACMTA, LACMTA may pursue available remedies, including suspension and/or debarment.
CERTIFICATION OF PROSPECTIVE LOWER TIER PARTICIPANT REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

LOWER TIER COVERED TRANSACTIONS MUST BE COMPLETED BY PROSPECTIVE LOWER TIER PARTICIPANT (SUBCONTRACTOR OR SUPPLIER FOR CONTRACT VALUE OVER $100,000.00)

Choose one alternative with an “X” in the box:

☐ The prospective lower tier participant ______________________________ certifies by submission of its lower tier bid or proposal to the best of its knowledge and belief, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

OR

☐ The prospective lower tier participant ______________________________ is unable to certify that neither it nor its principals is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded and attaches its explanation to this certification.

The prospective lower tier participant certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of Title 31 USC § 3801 are applicable thereto.

Executed on ____________, 20__, at ________________, ___________

(Date) (City) (State)

Typewritten or Printed Name

Signature of Authorized Official

Title
CONTRACTOR DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION INSTRUCTIONS

Pursuant to 49 CFR Part 29, to confirm the eligibility of the Bidder/Proposer or any covered Subcontractor to contract with LACMTA, Bidder/Proposer shall complete and submit with the bid/proposal the Certificate entitled “Certification of Prospective Contractor Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion”, and comply with Subsection B below related to each lower tier covered transaction.

1. Instructions for Bidder/Proposers Certification - Primary Covered Transactions.

A. In addition to signing and submitting this bid/proposal, the Bidder (also referred to as “prospective primary participant”) shall also provide the Certificate entitled Certification of Potential Contractor Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Primary Covered Transaction.

B. The inability of a person to provide the subject certification will not necessarily result in denial of participation in this Contract (also referred to as “primary covered transaction” or “covered transaction.”) The Bidder/Proposer shall submit an explanation of why it cannot provide the subject certification. The certification or explanation will be considered in whether or not to enter into this Contract. Failure of the Bidder/Proposer to furnish a certification or an explanation shall disqualify the Bidder/Proposer from participation of this Contract.

C. This certification is a material representation of fact upon which LACMTA will rely when LACMTA determines whether to enter into this Contract. If it is later determined that the Bidder/Proposer knowingly rendered an erroneous certification, LACMTA may terminate this Contract for cause or default in addition to other remedies available to LACMTA.

D. The Bidder/Proposer shall provide immediate written notice to LACMTA if at any time the Bidder/Proposer learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

E. The terms covered transaction or as used herein Contract, debarred, suspended, ineligible, lower tier covered transaction or as used herein “Subcontract” including a subcontract with a supplier, participant or as used herein Bidder/Proposer, person, primary covered transaction or as used herein Contract or Prime Contract, principal, bid/proposal or as used herein Bidder/Proposer and voluntarily excluded, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. The Bidder/Proposer may contact LACMTA for assistance in obtaining a copy of those regulations.

F. The Bidder/Proposer agrees by submitting this bid/proposal that, should the Contract be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by LACMTA.

G. The Bidder/Proposer further agrees by submitting this bid/proposal that it will include subsection B of this section and the certification titled Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction, provided by LACMTA in the Bid/Proposal Forms without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

H. The Bidder/Proposer may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The Bidder/Proposer may decide the methods and frequency by which it determines the eligibility of its principals. The Bidder/Proposer may, but is not required to, check the “List of Parties Excluded from Federal Procurement and Non-procurement Programs.”

I. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this section. The knowledge and information of the Bidder/Proposer is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

J. Except for transactions authorized under paragraph 6 of this subsection, if a Bidder/Proposer knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9 subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to LACMTA, LACMTA may terminate this transaction for cause or default.

2. Instructions for Certification - Lower Tier Covered Transactions

A. By signing and submitting its lower tier bid/proposal, the prospective lower tier participant shall provide the certification in the Bid/Proposal Form entitled Certification of Prospective Lower Tier Participant Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions.

B. The certification in this subsection is a material representation of fact upon which LACMTA will rely when LACMTA enters into the Contract. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to LACMTA, LACMTA may pursue available remedies, including suspension and/or debarment.

C. The prospective lower tier participant shall provide immediate written notice to the Bidder/Proposer if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

D. The terms covered transaction or as used herein Contract, debarred, suspended, ineligible, lower tier covered transaction or as used herein Subcontract, including a subcontract with a Supplier, participant or as used herein Bidder/Proposer, person, primary covered transaction or as used herein Contract or Prime Contract, principal, bid/proposal, and voluntarily excluded, as used in this section, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. The prospective lower tier participant may contact the Bidder/Proposer for assistance in obtaining a copy of those regulations.
E. The prospective lower tier participant agrees by submitting its bid/proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this Contract, unless authorized by LACMTA.

F. The prospective lower tier participant further agrees by submitting its bid/proposal that it will include this subsection B and the Certification (in the Bid/Proposal Forms) titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

G. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

H. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this Section. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

I. Except for transactions authorized under paragraph 5 of this subsection, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to LACMTA, LACMTA may pursue available remedies, including suspension and/or debarment.
LOCAL EMPLOYMENT PLAN PROPOSER CERTIFICATION

I [name of corporate officer] ______________________ certify, upon penalty of perjury under the laws of the State of California, that the information provided in the Local Employment Plan submitted by [name of proposer] ______________________ is true and correct to my knowledge, and that [name of proposer] ______________________ has an internal Cost Accounting System that provides for the segregation of work hours and costs that can be utilized to verify the information provided in the Local Employment Plan for Contract HR4000.

Executed on _______________, 2015 at ______________________________

Date  Location

_____________________________  _______________________________  _______________________________
Typewritten or Printed Name  Signature of Corporate Officer  Title
LOCAL EMPLOYMENT PLAN SUBCONTRACTOR CERTIFICATION

I [name of corporate officer] __________________________ certify, upon penalty of perjury under the laws of the State of California, that the information provided regarding [name of subcontractor] __________________________ in the Local Employment Plan submitted by [name of proposer] __________________________ is true and correct to my knowledge, and that [name of subcontractor] __________________________ has an internal Cost Accounting System that provides for the segregation of work hours and costs that can be utilized to verify the information provided in the Local Employment Plan.

Executed on __________________________, 2015 at __________________________.

_______________________________ _____________________________ _____________________________
Typewritten or Printed Name Signature of Corporate Title

Officer
PROPOSER: ______________________

ENHANCED U.S. CONTENT PLAN CERTIFICATION

I [name of corporate officer] ______________________ certify, upon penalty of perjury under the laws of the State of California, that the information provided in the enhanced U.S. Component Content Plan submitted by [name of proposer] ______________________ is true and correct to my knowledge, and that [name of proposer] ______________________ has proposed an enhanced U.S. Component content consistent with the requirements defined by 49 CFR 661.11.

I [name of corporate officer] ______________________ acknowledge that LACMTA reserves the right to audit any Proposer offering any additional U.S. Component Content to verify the U.S. component content by cost claimed in its proposal.

Executed on ______________, 2015 at ______________________________

Date Location

__________________________________ ________________________________ ______________________

Typewritten or Printed Name Signature of Corporate Title
PROPOSER: ______________________

TRANSIT VEHICLE MANUFACTURER CERTIFICATION

This procurement is subject to the provisions of 49 CFR Section 26.49. Accordingly, the following certification must be completed and submitted with the proposal as a condition of proposing. A proposal that does not include this certification will not be considered.

TVM Certification

The proposer, if a transit vehicle manufacturer, hereby certifies that it has complied with the requirements of 49 CFR Section 26.49 by submitting a current annual DBE goal to the Federal Transit Administration. The goals apply to Federal Fiscal Year _____ (Oct. 1, 20__ through Sept. 30, 20__) and have either been approved or not disapproved by FTA.

Manufacturer: ________________________________________________

Manufacturer Representative
Signature:____________________________________________________

Date: _______________________________________________________

OR

The proposer, if a non-vehicle manufacturer supplier, hereby certifies that the manufacturer of the transit vehicle to be supplied has complied with the above-referenced requirements of 49 CFR Section 26.49.

Dealer: _______________________________________________________

Dealer Representative Signature: _________________________________

Date: ________________________________________________________
SECTION 6 – CONTRACT DOCUMENTS
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LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

CONTRACT NO. RFP NO. HR4000

PURCHASE OF NEW HEAVY RAIL VEHICLES

FIRM FIXED PRICE CONTRACT

BETWEEN

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

AND

____________________________________________________________________

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

TO BE FILLED IN AT TIME OF AWARD

EFFECTIVE DATE
This Contract is entered into by and between the Los Angeles County Metropolitan Transportation Authority (LACMTA), and (Contractor) for the purchase of new heavy rail vehicles (HRV), spare parts, diagnostic test equipment, manuals and training aids in accordance with the attached Contract and Technical Specifications for use on the existing LACMTA Rail Subway System and all future extensions.

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

ARTICLE I: CONTRACT DOCUMENTS ORDER OF PRECEDENCE

A. This Contract includes this Form of Contract and the other following Contract Documents and Attachments, which are incorporated herein and made a part of this Contract.

B. Except as otherwise specified herein, in the event of any conflict, the precedence of the Contract Documents shall be as follows:

1. Form of Contract
2. Special Provisions, (Pro Form 089, Dated 6/26/13)
3. General Conditions, (Pro Form 038, Dated 7/1/09)
4. Statement of Work, (Dated 5/19/15)
6. Regulatory Requirements, (Pro Form 039, Dated 11/2/09)
7. Technical Specification (Dated XX/XX/XX)
8. U.S. Employment Plan (Exhibit X, Dated XX/XX/XX)
9. Enhanced U.S. Component Content Plan, (Exhibit X, Dated XX/XX/XX)
C. An Amendment or Change to this Contract shall take its precedence from the term it amends. All other documents and terms and conditions shall remain unchanged.

ARTICLE II: DEFINITIONS

Capitalized terms, abbreviations and symbols used in this Contract are defined in the Article GC-01 in the General Conditions entitled GLOSSARY OF TERMS. Additional terms may be defined in the Special Provisions or the Technical Specification.

ARTICLE III: WORK TO BE PERFORMED

Contractor shall perform the Work as is more fully described in the Statement of Work, with additional detailed information to be found in the Special Provisions and Technical Specifications to provide heavy rail vehicles.

ARTICLE IV: COMPENSATION

A. Contract Price

As full and complete compensation for Contractor’s performance of the Work, and in accordance with the terms of the Contract, LACMTA will pay the Contractor the Contract Price of $_______.

Unless otherwise specifically provided in the Contract Documents, the Contract Price includes compensation for all taxes the Contractor is required to pay by Laws in effect on the date the Contractor's bid/proposal was opened. The Contractor shall pay all federal, state, and local taxes, and duties applicable to and assessable against any Services, including but not limited to retail sales and use, transportation, export, import, business, and special taxes. The Contractor shall ascertain and pay the taxes when due. The Contractor will maintain auditable Records, subject to LACMTA reviews, confirming that tax payments are current at all times.

Contract Options may be exercised unilaterally by LACMTA in accordance with the Special Provisions, Article SP-25, Options:

Option 1 - $______
Option 2 - $______
Option 3 - $______
Option 4 - $______
Option 5 - $______

B. Payment Schedule

The Contract Price shall be paid to the Contractor based upon the Milestone Payment Schedule defined in the Compensation and Payment Provisions,
and Exhibit 2 Contract Price Summary Forms for the Base Buy (PF-1, PF-2, PF-3, PF-4, and PF-5). The total pricing in PF-1 shall have precedence over Contract Price Summary Forms PF-2, PF-3, PF-4, PF-5, and PF-7. Contract Price Summary Form PF-6 shall not apply to the Contract.

All Applications for Milestone Payments shall be submitted in writing in accordance with the Contract Documents entitled Compensation and Payment Provisions and the Special Provisions, as applicable, and delivered or mailed to LACMTA as follows:

Los Angeles County Metropolitan Transportation Authority
Accounts Payable
P.O. Box 512296
Los Angeles, CA 90051-0296
Contract No. HR4000

C. Final Payment

The Application for Final Payment shall be marked FINAL and a copy sent to LACMTA’s Authorized Representative. LACMTA shall remit payment to the Contractor at the following address:

LACMTA pays all invoices via Electronic Funds Transfer (EFT). If you have not already done so, you will be required to sign up for EFT, unless you request a waiver in writing. Please call (213) 922-6811, then press option # 7 for EFT forms.

ARTICLE V: CONTRACT TERM AND PERIOD OF PERFORMANCE

The Effective Date of this Contract is (insert date). The Period of Performance of this Contract shall commence on the date set forth in the Notice to Proceed (hereinafter “Commencement Date”). Contractor shall complete all Work, excluding Warranty, under the Contract within 62 calendar months of the Commencement Date, unless this Contract is terminated earlier or extended by LACMTA, in writing, as provided in the Contract.

Contractor shall complete all milestones by the time provided in the Milestone Payment Schedule.

ARTICLE VI: LIMITATION OF FUNDS

Funding for this Contract is based upon the availability of funds determined by LACMTA’s fiscal budget, which runs from July 1 through June 30 of each fiscal year. If funding is not approved for any subsequent fiscal year during which this Contract is in effect, LACMTA may issue a stop work notice or at its discretion, terminate the contract for its convenience.
**ARTICLE VII: ENTIRE AGREEMENT**

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

<table>
<thead>
<tr>
<th>CONTRACTOR NAME</th>
<th>LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>PHYSICAL ADDRESS</td>
<td>PHIL A. WASHINGTON CHIEF EXECUTIVE OFFICER</td>
</tr>
<tr>
<td>EMAIL ADDRESS</td>
<td></td>
</tr>
<tr>
<td>PHONE NUMBER</td>
<td></td>
</tr>
</tbody>
</table>

**SIGNATURE OF AUTHORIZED OFFICIAL**

| BY: ________________________________ DATE ____________________ |
| (PRINT OR TYPE NAME) |

**TITLE**

<table>
<thead>
<tr>
<th>MARK J. SALADINO COUNTY COUNSEL</th>
</tr>
</thead>
</table>

| DATE ___________________________ DEPUTY ____________________ |

| TAX ID NO.: ________________________________ |

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**RFP NO. HR4000**

**ISSUE DATE: 5-29-15**

**FIRM FIXED PRICE CONTRACT**

**PRO FORM 018**

**REVISION DATE: 11.05.13**
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
HR4000 HEAVY RAIL VEHICLE PROCUREMENT

STATEMENT OF WORK
(Dated 5-19-15)

This Statement of Work is intended to provide a description of the work to be accomplished by the Contractor in accordance with the Contract. It is not the sole contractual obligation or requirement upon which the Work is based and by which it shall be accomplished. The Contractor shall refer to the Technical Specifications (TS) to familiarize itself with the specific details and performance requirements and shall review all LACMTA–issued manuals to ensure that all deliverables are in accordance with the requirements set forth in the Contract.

I. DESCRIPTION OF THE PROJECT

LACMTA is currently expanding rail network and services, including extending the Purple Subway Line (PLE). The Westside Purple Line Extension, previously named the Westside Subway Extension, extends service from the terminus at Wilshire/Vermont Station to Westwood (UCLA and Veteran's Administration Hospital). This extension, consisting of nearly nine (9) miles of track and seven (7) stations, is planned to be constructed in three (3) segments.

LACMTA anticipates to procure a Base Order of sixty-four (64) Heavy Rail Vehicles (HRVs): thirty-four (34) are for Section 1 of the PLE and thirty (30) are to replace the existing aging fleet of Heavy Rail Vehicles (HRVs). Included are Option quantities to meet future HRV fleet needs for service expansions and new extensions. Two hundred eighty-two (282) new HRVs are anticipated to be required to: a) expand the base operation and reduce headways; b) operate the system at full capacity with the opening of the three (3) Westside Purple Line sections; and c) replace existing HRVs when they meet their useful life requirements.

To provide the most flexibility while ensuring HRVs are delivered when needed, the Base and Option Order quantities are as follows:

Base Order:

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Westside Purple Line Extension, Section 1</td>
<td>34 HRVs</td>
</tr>
<tr>
<td>Replacement of 30 Base Buy A650 HRVs</td>
<td>30 HRVs</td>
</tr>
<tr>
<td><strong>Total Base Order</strong></td>
<td><strong>64 HRVs</strong></td>
</tr>
</tbody>
</table>

Option Orders:

<table>
<thead>
<tr>
<th>Description</th>
<th>Quantity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1: Red Line Expansion</td>
<td>24 HRVs</td>
</tr>
<tr>
<td>Option 2: System Expansion</td>
<td>84 HRVs</td>
</tr>
<tr>
<td>Option 3: Purple Line Extension (PLE) Section 2</td>
<td>20 HRVs</td>
</tr>
<tr>
<td>Option 4: Purple Line Extension (PLE) Section 3</td>
<td>16 HRVs</td>
</tr>
</tbody>
</table>
The Contractor’s primary responsibility under the Contract is to deliver to the LACMTA up to two hundred eighty-two (282) HRVs (base order plus Options subject to Board approval) Model HR4000 Heavy Rail Vehicles ready for revenue service. The Contractor shall design, test for design conformance, manufacture, test for production conformance, deliver, perform First Article acceptance tests on the first three (3) Married-Pair Vehicles pursuant to the HR4000 Validation and Testing (TS 22), furnish Spare Parts and tooling as listed in the Contractual Requirements, and warrant the quality, performance, maintainability, interface, operational reliability and intended purpose of all HR4000 HRVs produced and delivered to the LACMTA.

II. DEFINITIONS

This Statement of Work also incorporates terms that are defined within 1) Contractual Definitions, which are listed in Volume I Section GC-01 of the General Conditions, and 2) Technical Definitions which are listed in Volume II Section TS-01 of the Technical Specifications.

Service Proven: All systems and component designs submitted must be successfully operated and proven in revenue service for at least three (3) years on a fleet size of at least fifty (50) Heavy or Light Rail Vehicles in similar operating applications and environments to LACMTA. Proof of successful operation shall be substantiated by submission of reliability/failure data, trouble free time in service from the public owner of the vehicles and shall include copies of any written communications that describe any changes necessary to ensure the electronic and mechanical equipment and components, system or subsystem met the service requirements, including all maintenance records that were required contractually to be developed and maintained Contractor shall also provide documentation of a successful operating history, including life cycle cost information for each component and system/subsystem proposed for inclusion into the Vehicles.

III. DESCRIPTION OF THE WORK

The Contractor shall be responsible for completion of all the Work listed throughout this Statement of Work. The Contractor shall provide without limitation all engineering, labor, materials, equipment, transportation, taxes, duties, licenses, and permits, necessary to accomplish the Work on the Vehicles in accordance with this Contract.

A. Work Plan – Contractor shall develop and provide a detailed Work plan, which shall describe its approach, how it plans on addressing each section of the TS and how it will comply with each Section of the TS.
B. Vehicle Design – Contractor shall design the Heavy Rail Vehicles (hereafter, HRVs) required under the LACMTA Contract. Contractor shall provide to the LACTMA all technical data and drawings as listed in the Contract Data Requirements List (CDRL) for the First Article HRV and all subsequent Production HRVs, including: samples, mockups, material tests, component tests, and subsystem tests as indicated by this Specification and the Contractor’s Quality Assurance, Manufacturing, and Test Plans.

C. Vehicle and Systems Testing:

1. Contractor shall manufacture and test all HRVs ordered under the LACMTA Contract.
2. Contractor shall install and perform all functional testing of all LACMTA furnished equipment (MTAFE).
3. Contractor shall manufacture all equipment and systems as required for testing demonstration.
4. Contractor shall provide combined systems testing of train control equipment, friction braking equipment, traction equipment, communication equipment, and auxiliary power equipment.
5. Contractor shall complete all development, manufacture, testing, and delivery of diagnostic test equipment, and Spare Parts, special tools, and test equipment as required for diagnostic testing and normal HRV operational performance.

D. Contractor shall provide Performance Based project management reporting, Subcontractor and supplier oversight and performance status reporting pursuant to the Contract and as requested by LACMTA.

E. Contractor shall, at no cost to LACMTA, provide experienced and highly qualified technical personnel, required instrumentation and test apparatus to demonstrate the ability of the Vehicles to perform pursuant to the HR4000 Technical Specifications, and to complete omissions of production work that may become necessary to permit the timely acceptance of all Production HRVs into revenue service.

F. Contractor shall deliver to LACMTA all final design drawings and data, as required pursuant to the Contract delivery schedule.

G. Contractor shall deliver to LACMTA all reports and manuals that describe and detail the design, manufacture and testing of the HRVs as required pursuant to the Contract delivery schedule.

H. Contractor shall provide training of designated MTA personnel, to support HRVs operation and maintenance as required pursuant to the Contract.

I. Contractor shall develop all manuals for operations, maintenance and repair procedures required to support reliable and safe operation of the HRVs during normal, abnormal, and emergency conditions, in accordance with the Contract delivery schedule.
J. Contractor shall ensure that all system/subsystem and component designs submitted in accordance with this Contract shall be Service-Proven.

K. Warranty Support - Contractor shall provide all warranty support after Vehicle Acceptance with experienced field service personnel in accordance with the Contract.

Refer to the Technical Specification and Commercial Terms and Conditions for specific details.

IV. PROJECT SCHEDULE

A. The Contractor shall prepare a Project Schedule and associated narrative detailing the Contractor’s approach to meeting the required project milestones. The Project Schedule shall be summary-level in nature, as described further below, and shall be time-scaled. This schedule requirement is established to ensure adequate planning, scheduling, management, and execution of the Work by the Contractor and to enable LACMTA to evaluate Work progress. The Schedule shall encompass the Contractor’s total execution of its Contract with LACMTA and shall be updated monthly to reflect actual versus planned progress for each item listed. The initial completion dates proposed for any task shall remain listed on the schedule status reports in order to measure performance. Work items shall be discrete items of Work accomplished during the performance of the Contract and that, when complete, produce definable, recognizable entities or stages within the project. Work items shall include, but not be limited to, payment milestones, submittal and approval of vendor drawings, design review, documents, and fabrication of major items of equipment and materials (including their installation and testing), delivery of vehicles.

The Project Schedule shall address, within the time set forth in the Contract, all activities related to drawings, component procurement, system testing, and shall include, at a minimum, the following elements:

- Critical delivery dates/milestones
- Design documents for Project Reviews
- Test procedures and scheduled events for First Article Inspections (FAIs)
- Production schedules
- Progress reports and Test reports
- System Support (Spare Parts, Test Equipment, Special Tools, etc.) deliverables
- Coordination of Project meetings and dates
- Submittal of documents such as schematics, drawings, and diagrams

B. In order to monitor Contractor activities in the period before submittal of the Contract Schedule, the Contractor shall submit within 30 days after Notice to Proceed (NTP) a master baseline schedule of activities in bar-chart format, covering the entire project duration.

C. The Project Schedule shall be developed such that no more than three (3) Married-Pair Vehicles are in the possession of the Contractor at any given time.
Furthermore, there shall be a maximum of three (3) unaccepted Married – Pair Vehicles stored at LACMTA at any one time.

V. MANAGEMENT AND SUPERVISION OF SUBCONTRACTORS

The Contractor shall be responsible for the management and supervision and, if required, the removal and replacement of all joint-venture partners, consultants, subcontractors, and suppliers it has engaged to perform the Work.

When requested by LACMTA, Contractor shall not deny reasonable access to and direct communication with any vendor, supplier, subcontractor or other sub-tier entity for the exchange of technical information directly related to the proper and timely conduct of the Project.

VI. CORRESPONDENCE

For all project correspondence, except for Notices of any kind, shall be addressed on LACMTA approved, Contractor-furnished transmittal forms and shall be forwarded to:

Los Angeles County Metropolitan Transportation Authority
320 South Santa Fe
Los Angeles, CA 90013
Attention: HR4000 Project Manager
Mr. Cop Tran

The Contractor shall provide all correspondence in both hard copy and electronic form. The electronic form shall be MS Office 2010 for correspondence and Autocad XXX for drawings.

In case of drawing submittals, five copies shall be sent to the above address. In the case of samples (refer to TS-24) one set shall be sent to the above address.

VII. QUALITY ASSURANCE

The Contractor shall develop and deliver a Project Quality Plan (PQP). The PQP shall effectively plan for the quality-related activities needed to verify that the design, product, manufacturing process and testing complies with all the requirements of this Contract. The Contractor shall also have in place a Quality Management System (QMS) and demonstrate to LACMTA that the Contractor has the resources and personnel available throughout the course of the Contract to oversee the work to be performed in compliance with ISO 9001 standards.

For specific details and performance criteria and requirements for QA, please see TS-21.
VIII. PROGRAM MANAGEMENT

The Contractor shall have in place a Project Management (PM) organization capable of executing the complex Project requirements in this Contract and organizing the company’s resources to successfully complete all of the contractually required steps necessary to deliver the Project on time. Further, the Contractor shall submit for LACMTA’s review and approval a Project Management Plan (PMP) based on a collaborative team approach with LACMTA.

For specific details and performance criteria and requirements for Program Management, please see TS-23.

IX. SAFETY, SECURITY, REGULATORY REQUIREMENTS

In order to ensure a safe, secure and reliable environment for all Project participants, the Contractor shall implement and maintain a systematic and comprehensive System Safety Program (SSP). This program shall identify all hazards related to the Project and impose design requirements and management controls to prevent safety mishaps. Further, the Project shall be designed and implemented in full compliance with the applicable sections of the following safety, security and regulatory codes and requirements as specified in the Technical Specifications. These include, but are not limited to the following:

- Americans with Disabilities Act (ADA);
- California Public Utilities Commission (CPUC);
- California Division of Occupational Safety and Health (DOSH);
- Federal Railroad Administration (FRA);
- Department of Transportation (DOT);
- Federal Transit Administration (FTA);
- LACMTA Safety and Security Certification Plan (SSCP) and Fire/Life Safety Design Criteria;
- California Civil Code;
- California Health and Safety Code; and
- National Fire Protection Association (NFPA).

For specific details and performance criteria and requirements for Safety Security & Regulatory Requirements, please see TS 25.

X. PROJECT DELIVERABLES

Contractor shall ensure completion of each of the critical tasks listed below:
XI. PERFORMANCE CRITERIA

The Model HR4000 HRVs shall meet the performance requirements of LACMTA which are contained in the Technical Specifications.

Contractor shall develop and implement a test plan which shall include elements that demonstrate the ability of the Vehicles to meet such performance requirements as defined by LACMTA.

The completed Vehicles shall operate safely on the LACMTA system and infrastructure.

For further details and requirements, see the applicable Technical Specifications.

XII. SPARE PARTS AND TEST EQUIPMENT

The Contractor shall provide the Contract Spare Parts and Bench Test Equipment (BTE), including all associated supporting tools to diagnose and maintain the Completed Vehicles, i.e. manuals, schematics, parts catalog, PTUs, etc.

For further details and requirements, see System Assurance, TS-24.

XIII. CONTRACTOR’S USE OF LACMTA WORKSITE FOR WARRANTY WORK

LACMTA at its sole discretion may permit Contractor to use LACMTA’s facilities and Equipment to perform Warranty Work. Any Work associated with the Project that is performed at LACMTA facilities shall be conducted only during those hours specified by LACMTA and shall not interfere with other LACMTA activities, and shall be performed in accordance with LACMTA’s policies and directions related to the use of LACMTA facilities and Equipment. Damage to LACMTA property, facilities and Equipment caused
by the Contractor shall be the sole responsibility of the Contractor and shall be promptly repaired or otherwise corrected at the Contractor’s sole expense.

XIV. LACMTA’s DUTIES AND RESPONSIBILITIES

LACMTA shall provide the Contractor with reference drawings for the Project in accordance with the Contract. LACMTA shall not be held responsible for any missing, erroneous or obsolete information provided as part of the reference drawings. It shall be the Contractor’s sole responsibility to verify and ensure the reference drawings are applicable as they relate to the system performed under the Work.

LACMTA will determine a delivery rate, up to four (4) Vehicles (2 Married-Pairs) per month, until completion of Delivery for the Base Order production HRVs. LACMTA will specify the delivery rate once Pilot Vehicles are shipped.

LACMTA will determine a delivery rate, up to four (4) Vehicles (2 Married-Pairs) per month for the Option orders, if LACMTA choose to exercise any one of the Options, starting within 30 days following Delivery of the last Base Order HRVs.

LACMTA shall provide the Contractor with access to the LACMTA Red Line shop, yard, and mainline for commissioning tests and warranty support in accordance with the Contract. The Contractor shall only be allowed to use LACMTA facilities at the sole discretion of LACMTA. LACMTA at its sole discretion may permit the selected Contractor to use LACMTA’s facilities and Equipment to perform Warranty Work. Work associated with the Warranty Work shall be conducted only during those hours specified by LACMTA and shall not interfere with other LACMTA activities, and shall be performed in accordance with LACMTA’s policies and directions related to the use of LACMTA facilities and Equipment.
REGULATORY REQUIREMENTS

RR-01  ADMINISTRATIVE CODE *

A. Applicability

This Article applies to all contracts.

B. LACMTA Administrative Code

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

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

1. Comply with:
   a. Chapter 5-20, Contractor Code of Conduct;
   b. Chapter 5-25, Lobbying the LACMTA; and
   c. Chapter 5-35, LACMTA Conflict of Interest Code, and

2. Not induce, attempt to induce, or solicit:
   a. Board members to violate Chapter 5-10;
   b. LACMTA employees to violate Chapter 5-15;
   c. LACMTA Financial employees to violate Chapter 5-30: or
   d. Either Board members, LACMTA employees or LACMTA Financial employees to violate any other provision of the Administrative Code.

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

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

1. Contractor shall not cause or permit any member, officer, or employee of LACMTA to have any financial interest in the Contract;

2. Contractor shall not enter into any Subcontract involving services or property with a person or business prohibited from transacting such business with LACMTA;

3. Contractor warrants and represents that to its knowledge no Board member, officer, or employee of LACMTA has any interest, whether contractual, non-contractual, financial or otherwise, in this Contract, or in the business or any other contract or transaction of the Contractor or any Subcontractor and that if any such interest comes to Contractor’s knowledge at any time, Contractor shall make a full and complete disclosure of all such information in writing to LACMTA.

D. Campaign Contributions

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

E. Environmental Management System (EMS) Policy

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

RR-02 DISCRIMINATION *

A. Applicability

This Article applies to all contracts.

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

RR-03 WHISTLEBLOWER REQUIREMENTS *

A. Applicability
This Article applies to all contracts.

B. Contractor shall not take any action or adopt any rule, regulation or policy which is contrary to the provisions set forth in the California Labor Code §1102.5.

RR-04 PUBLIC RECORDS ACT *

A. Applicability

This Article applies to all contracts.

B. Except as otherwise provided herein, all records, documents, drawings, plans, specifications, and all other information relating to the conduct of LACMTA’s business, including all information and documents submitted by Contractor (“Records”), shall become the exclusive property of LACMTA and shall be deemed public records. Said Records are subject to the provisions of the California Public Records Act (Government Code §6250 et. seq.). LACMTA’s use and disclosure of its records are governed by this Act. LACMTA will use its best efforts to inform the Contractor of any request for any financial records or documents marked “Trade Secret”, “Confidential” or “Proprietary” provided by Contractor to LACMTA. LACMTA will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.

C. In the event of litigation concerning the disclosure of any Records, LACMTA’s sole involvement will be as a stakeholder, retaining the Records until otherwise ordered by a court. The submitting party, at its sole expense and risk, shall be fully responsible for any and all fees for prosecuting or defending any action concerning the Records and shall indemnify and hold LACMTA harmless from all costs and expenses including attorney’s fees in connection with any such action.

RR-05 ACCESS TO RECORDS

A. Applicability

This Article applies to all federally funded contracts.

B. Contractor agrees to provide LACMTA, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or the FTA’s authorized representatives, including any FTA Project Management Oversight Contractor, access to Contractor’s records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
C. If this Contract is for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) and was entered in to through other than competitive bidding, the Contractor shall make records related to this Contract available to LACMTA, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

D. Contractor shall permit any of the foregoing parties to reproduce without any cost by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

E. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until LACMTA, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

RR-06 FEDERAL FUNDING, INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS, AND FEDERAL CHANGES*

A. Applicability

This Article applies to all federally funded contracts.

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

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

C. Contractor shall at all times comply with all applicable federal laws and regulations, including without limitation FTA regulations, policies, procedures and directives, including those listed directly or by reference in Applicable Grant Agreements between LACMTA and FTA, as they may be amended or promulgated from time to time during the term of this Contract collectively
“Federal Requirements”. These Federal Requirements may change and the changed Federal Requirements will apply to this Contract as required unless the Federal Government determines otherwise. Contractor’s failure to so comply with the Federal Requirements shall constitute a material breach of this Contract.

RR-07 ENERGY CONSERVATION REQUIREMENTS

A. Applicability

This Article applies to all federally funded contracts.

B. Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 USC §6321 et seq.

RR-08 CIVIL RIGHTS REQUIREMENTS *

A. Applicability

This Article applies to all federally funded contracts.


C. Equal Employment Opportunity

shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor shall comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, Contractor shall refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor shall comply with any implementing requirements FTA may issue.


RR-09  NO GOVERNMENT OBLIGATION TO THIRD PARTIES *

A. Applicability

This Article applies to all federally funded contracts.

B. Notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to LACMTA, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from this Contract.

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

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

A. Applicability

This Article applies to all federally funded contracts.

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

C. Contractor also acknowledges that this Contract is connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307 and if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.

D. Contractor shall include this Article in each subcontract financed in whole or in part with Federal assistance provided by FTA. Contractor shall not modify the Article, except to identify the Subcontractor who will be subject to the provisions.

RR-11 SUSPENSION AND DEBARMENT*

A. Applicability

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

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

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

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

This certification is a material representation of fact relied upon by LACMTA. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to remedies available to LACMTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
RR-12  RECYCLED PRODUCTS

A. Applicability

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

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

RR-13  CLEAN WATER AND CLEAN AIR REQUIREMENTS*

A. Applicability

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

B. CLEAN WATER REQUIREMENTS

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and all applicable clean water standards of the State of California and any state or local agency having jurisdiction. Contractor shall report each violation to LACMTA. LACMTA will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office, and all other agencies having jurisdiction.

C. CLEAN AIR

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

RR-14  COMPLIANCE WITH FEDERAL LOBBYING POLICY *

A. Applicability

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

B. The Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, requires that Contractors who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR Part 20, attached hereto as the certification entitled, "Certification of Compliance with Federal Lobbying Requirements." As set forth in the certifications, each tier of subcontractors shall certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer
or employee of any agency, a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures shall be forwarded from tier to tier up to LACMTA.

**RR-15 BUY AMERICA ***

**A. Applicability**

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

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

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

**RR-16 CARGO PREFERENCE***

**A. Applicability**

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

**B. USE OF UNITED STATES FLAG VESSELS**

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

Contractor shall furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States.
States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the LACMTA (through Contractor in the case of a subcontractor's bill-of-lading.)

Contractor shall include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

RR-17 FLY AMERICA

B. Applicability

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

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

RR-18 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT *

A. Applicability

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

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

1. Overtime requirements – Neither Contractor nor any Subcontractor contracting for any part of the Contract work that requires or involves the
employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; liability for unpaid wages; liquidated damages** – In the event of any violation of the Article set forth in paragraph 1 of this Section Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and Subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the Article set forth in paragraph 1 of this Section, in the sum of ten dollars ($10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the Article set forth in paragraph 1 of this Section.

3. **Withholding for unpaid wages and liquidated damages** – LACMTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by Contractor or Subcontractor under the Contract or any other Federal contract with Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by Contractor, such sums as may be determined to be necessary to satisfy any liabilities of Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the Article set forth in paragraph 2 of this Section.

4. **Subcontracts** – Contractor or Subcontractor shall insert in any Subcontracts the Articles set forth in this Section and also a Article requiring the Subcontractors to include these Articles in any lower tier Subcontracts. Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the Articles set forth in this Section.

5. **Payrolls and basic records** – The records to be maintained hereinabove shall be made available by Contractor or Subcontractor for inspection, copying, or transcription by LACMTA and U.S. Dept. of Labor. Contractor and Subcontractor shall maintain payrolls and basic records during the course of the work and shall preserve them for a period of three (3) years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid.
RR-19 SEISMIC SAFETY

B. Applicability

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

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

RR-20 ADA ACCESS

A. Applicability

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

B. Access Requirements for Persons with Disabilities

Contractor shall comply with:

1. The requirements of 49 U.S.C. § 5301(d), which states the Federal policy that elderly persons and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy;

2. All applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps;

3. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act;

4. All applicable requirements of Section 508 of the Rehabilitation Act of 1973, as amended, 29 USC Section 794d.

5. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent
amendments to that Act (including the US DOT ADA standards—"DOT Standards"); and

6. All applicable requirements of the following regulations and any subsequent amendments thereto:

(1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

(2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;


(8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

(9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; and

(10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609;

(11) Any implementing requirements FTA may issue.

RR-21 ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM *

A. Applicability

This Article applies to federally funded contracts for transit operations.
B. FTA Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations Regulations

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

C. Certificate of Compliance

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

D. Drug and Alcohol Testing Program

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

E. Alcohol and Drug Free Workplace Program

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

RR-22 TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS *

A. Applicability

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

B. General Transit Employee Protective Requirements

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance (other than Federal assistance authorized by 49 U.S.C. § 5310(a)(2) or 49 U.S.C. § 5311), and if the U.S. Secretary of Transportation has determined that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for LACMTA under this Contract, then Contractor shall perform the transit...
operations work under the Contract in compliance with terms and conditions, (a) determined by the U.S. Secretary of Labor to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. Department of Labor (“U. S. DOL”) guidelines at 29 C.F.R. Part 215, and any amendments thereto, and (b) stated in a U. S. DOL letter of certification to FTA, the date of which is set forth in the applicable Grant Agreement or Cooperative Agreement with LACMTA, and which is incorporated in the Form of Contract as a Contract Document entitled “U. S. DOL Certification”.

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

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

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

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

E. Indemnity

Contractor shall defend, indemnify and hold harmless LACMTA, and its Board Members, employees and agents from and against all liability, claims, demands actions, costs, judgments, penalties, damages, losses and expenses arising out of or in connection with Contractor’s failure to comply with or failure to carry out its responsibilities under all applicable provisions of Sections B, C and D of this Article.
RR-23  CHARTER SERVICE OPERATIONS

A. Applicability

This Article applies to federally funded Operational Service Contracts.

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

RR-24  SCHOOL BUS REQUIREMENTS

B. Applicability

This Article applies to federally funded Operational Service Contracts

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

RR-25  FEDERAL PATENT AND DATA RIGHTS*

A. Applicability

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

B. Subject Data

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

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

1. Except for its own internal use, LACMTA or Contractor may not publish or reproduce Subject Data in whole or in part, or in any manner or form, nor may LACMTA or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

2. In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any Subject Data or copyright described in subparagraphs C.2(a) and C.2(b) of this Paragraph C.2. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

   (a) Any Subject Data developed under the Contract, whether or not a copyright has been obtained; and

   (b) Any rights of copyright purchased by LACMTA or Contractor using Federal assistance in whole or in part provided by FTA.

3. When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA’s general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, LACMTA and Contractor performing experimental, developmental, or research work required by the Contract shall permit FTA to make available to the public, either FTA's license in the copyright to any Subject Data developed in the course of the Contract, or a copy of the Subject Data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become Subject Data and shall be delivered as the Federal Government may direct. This Paragraph C.3 shall not apply to adaptations of automatic data processing equipment or programs for LACMTA's or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

4. Unless prohibited by state law, upon request by the Federal Government, LACMTA and Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the...
scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by LACMTA or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Contract. Neither LACMTA nor Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agent of the Federal Government

5. Nothing contained in this Article shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

6. Data developed by LACMTA or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the Contract is exempt from the requirements of Paragraphs 2, 3, and 4 of this Article, provided that LACMTA or Contractor identifies that data in writing at the time of delivery of the Contract Work.

D. Patent Rights

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

E. Provision of Rights in Invention to Federal Government

Unless the Federal Government later makes a contrary determination in writing, irrespective of Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), LACMTA and Contractor shall take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” 37 C.F.R. Part 401.
The Contractor represents and warrants that its prices do not violate the anti-dumping or countervailing duty laws of the United States, including but not limited to 19 U.S.C. 1671 et. seq., as amended, and shall pay any duties or other penalties assessed under such laws. The Contractor shall indemnify and hold harmless LACMTA from any loss or expense, including but not limited to reasonable attorneys' fees that LACMTA may incur from any claim, demand, or investigation of alleged violation of said laws.

END OF REGULATORY REQUIREMENTS
SPECIAL PROVISIONS (SERVICES)

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

SP-01 DISADVANTAGED BUSINESS ENTERPRISE GOAL REQUIREMENTS

Transit Vehicle Manufacturers, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of the Code of Federal Regulation (49 CFR Part 26.49).

Offerors planning on submitting bids/proposals to the Los Angeles County Metropolitan Transportation Authority (LACMTA) must have an approved or not disapproved Disadvantaged Business Enterprise (DBE) Program on file as a Transit Vehicle Manufacturer (TVM) with the U.S. Department of Transportation, Federal Transit Administration (FTA). If the potential Offerors are not on the list, please ensure to enquire directly with the FTA prior to submitting its bid/proposal that it has a letter or document showing that it is approved or not disapproved by FTA.

SP-02 ORGANIZATIONAL CONFLICTS OF INTEREST *

Organizational conflicts of interest are fact dependent and may arise in any of the following circumstances:

A. When a contractor/subcontractor’s previous work product, whether completed on behalf of LACMTA or another public or private entity, has been relied upon or significantly influenced the specifications or statement of work for the upcoming project or contract; or

B. When a contractor/subcontractor’s previous work product, whether completed on behalf of LACMTA or another public or private entity, offered an opportunity for the contractor/subcontractor to make or influence findings with the intent of proposing on or participating in subsequent projects based on those findings; or

C. Whenever a contractor/subcontractor is called upon to evaluate their own previous work product, whether it was completed on behalf of LACMTA or another public or private entity; or

D. When prior responsibilities in service of LACMTA or another public or private entity yields access to confidential information which puts the contractor/subcontractor at a significant competitive advantage over any other potential proposer, and the confidential information is not otherwise available and cannot be made available to other potential proposers.

E. As noted above, organizational conflicts of interest are fact dependent, and the party with the greatest access to the relevant facts as to whether a proposer has an organizational conflict of interest will always be the proposer.
itself. LACMTA is the ultimate arbiter of whether a contractor/subcontractor has an organizational conflict of interest. Such a determination will only be made after LACMTA receives a proposal from the contractor to participate as either a prime or subcontractor. LACMTA has determined that it is not appropriate to evaluate a particular contractor/subcontractor’s circumstances prior to receipt of all the facts that would be included in a proposal, give legal advice, or make a business decision for a proposer concerning participation in a procurement.

F. The Proposer is prohibited from obtaining any advice or discussing any aspect relating to the Work or the RFP with any of the persons or entities identified herein because such contact will give rise to an organizational conflict of interest. Additionally, such person and entities are prohibited from participating in any Proposer organization relating to the Project. The Proposer agrees that, if after award, an organizational conflict of interest is discovered, the Proposer will make an immediate and full written disclosure to LACMTA that includes a description of the action that the Proposer has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist and the Proposer was aware of the organizational conflict of interest prior to award of the contract and did not disclose the conflict to LACMTA, LACMTA may terminate the Contract for default. If Proposer is terminated for default because of an undeclared organizational conflict of interest, LACMTA assumes no obligations, responsibilities, and liabilities to reimburse all or any part of the costs incurred or alleged to have been incurred by the Proposer in dealing with the undisclosed organizational conflict of interest.

LACMTA has retained TBD for technical and commercial support services.

SP-03 NOTICES AND SERVICE THEREOF *

A. Any Notice legally required to be given by one party to another under the Contract, including but not limited to those regarding interpretation of the Contract or changes thereto, shall be in writing and dated. The Notice shall be signed by the party giving such Notice or by a duly authorized representative of such party.

B. All notices to the LACMTA shall not be effective for any purpose whatever unless enclosed in a sealed envelope and transmitted by registered mail or any certifiable delivery service addressed to:

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, California 90012-2952

Attention: Joe Marzano
Contract No. RFP NO. HR4000

C. All Notices to the Contractor shall not be effective for any purpose unless enclosed in a sealed envelope and transmitted by personal delivery to the
Contractor or its authorized representative or by registered mail or any certifiable delivery service addressed as follows:

(Information will be incorporated at the time of award)

D. Notices shall be deemed received when actually received in the office of the addressee (or by the addressee if personally delivered) or when delivery is refused, as shown on the receipt of the US Postal Service, private carrier or other person making the delivery.

E. Any Notice of changes of address shall be given according to the provisions of this Special Provision.

### SP-04 APPROVED SUBCONTRACTORS AND SUPPLIERS*
(Information will be incorporated at time of award)

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<th>Subcontractor</th>
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(Information will be incorporated at time of award)

### SP-05 INSURANCE
Contractor shall procure and maintain insurance against claims for injuries to persons, or damages in property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or Subcontractors for the duration of the contract. The insurance provided hereunder shall be available for the benefit of LACMTA and Contractor with respect to covered claims, but shall not be interpreted to relieve Contractor of any obligations hereunder. Contractor shall require all Subcontractors to be covered by Insurance on the same terms as the Contractor itself. The LACMTA (and their respective directors, officers, employees and agents) and other Indemnified Parties (if any) shall be Additional Named Insureds on all policies excepting workers’ compensation and professional liability. All of the policies shall explicitly waive subrogation rights against
indemnified parties and shall include “pay on behalf of” coverage for indemnified parties.

All insurance required hereunder shall be procured from insurance or indemnity companies with an A.M. Best and Company rating level of A- or better, Class VII or better or as otherwise approved by LACMTA and authorized or approved to do business in the State. All limits of liability set forth below are in U.S. dollars.

A. Commercial General Liability Insurance

The Contractor shall provide a policy or policies of commercial general liability insurance for bodily injury, property damage, personal injury and advertising injury and contractual liability that shall be as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG0001 or its equivalent). The coverage shall contain no special limitations on the scope of protection afforded to LACMTA et. al., and is required to respond fully to all claims brought due to Contractor activities. Contractor and each of the Indemnified Parties (if any) shall be afforded non-owned and hired automobile liability coverage by endorsement to the Commercial General Liability policy.

The commercial general liability insurance coverage shall have a minimum limit of $1 million combined single limit of liability for bodily injury, property damage and personal injury per occurrence, $2 million general annual aggregate and $2 million products/completed operations aggregate. Contractor shall maintain such insurance for the duration of the contract. LACMTA shall be a Named Insured prior to the commencement of any work as to any insured loss or liability arising out of or in any way related to the Project.

B. Workers’ Compensation and Employer’s Liability Insurance

The Contractor shall provide a workers’ compensation statutory limits policy in conformance with the laws of the State, and employer’s liability insurance (for bodily injury or disease) with minimum limits of $1 million per accident for bodily injury by accident, $1 million per employee for bodily injury by disease, and $1 million policy limit for bodily injury by disease.

C. Automobile Liability Insurance

The Contractor shall provide commercial automobile liability insurance covering the ownership, maintenance or use of all owned/leased, non-owned and hired vehicles used in the performance of the Work, with limits of not less than $1 million, combined single limit for bodily injury and property damage liability. Coverage shall be provided on Insurance Services Office form number CA 0001 (Ed. 7/97) or equivalent.

D. Excess Liability Insurance

The Contractor shall provide umbrella or excess liability insurance with limits not less than $50,000,000 which shall provide bodily injury, personal injury and
property damage liability coverage at least as broad as the primary coverages set forth above, including Employer’s Liability, Commercial General Liability and Commercial Automobile Liability insurance, in excess of the amounts set forth herein above.

E  Professional Liability Insurance

The Contractor shall include professional liability (errors and omissions) insurance coverage with limits not less than $25 million per claim and aggregate. The professional liability coverage shall be provided on a primary basis and shall protect against any negligent act, error or omission arising out of design, engineering and assessment related to the Project. The policy shall have a retroactive date consistent with the inception of Project. The Contractor shall maintain such insurance for five years from the date of Notice to Proceed (NTP).

F  Subcontractor Insurance Requirements

Contractor shall include all Subcontractors as insured under its policies or shall ensure that each Subcontractor maintains separate coverage to provide appropriate coverage to LACMTA in the event of loss. Contractor is required to monitor and maintain records of such coverage and provide proof of compliance to LACMTA upon request. If requested by LACMTA, the Contractor shall submit copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

G. Other Insurance Provisions

1.  Premiums, Deductibles and Self-Insured Retentions

   The Contractor shall be responsible for payment of premiums for all insurance required under this Section. LACMTA shall have no obligation to pay any premium. The Contractor further agrees that for each claim, suit or action made against insurance provided hereunder, with respect to all matters for which the Contractor is responsible hereunder, the Contractor shall be solely responsible for all deductibles, self-insured retentions and amounts in excess of the coverage provided. Any deductibles or self-insured retentions over $25,000 must be declared and approved by LACMTA.

2.  Verification of Coverage

   Concurrently with the Contractor’s execution hereof or on such later date on which coverage is required to be provided hereunder, the Contractor shall deliver to LACMTA a certificate of insurance with respect to each policy required to be provided by the Contractor under this Section. LACMTA shall have no duty to pay or perform under the Contract until such certificate(s), in compliance with all requirements of this Section, have been provided. Upon request by LACMTA, copies of each of the insurance policies (including renewal policies) required under this Section shall be provided for review.
The Contractor shall promptly deliver to LACMTA a certificate of insurance with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverages for the terms specified herein. Such certificate shall be delivered to LACMTA not less than 30 days prior to the expiration date or as soon as possible at the renewal period. If requested by certified duplicate copies of the renewal policy shall also be provided.

3. Endorsements and Waivers

All insurance policies required to be provided by the Contractor hereunder shall contain or be endorsed to comply with the following provisions, provided that, for the workers’ compensation policy, only the following provisions (d) and (f) shall be applicable:

(a) For claims covered by the insurance specified herein, said insurance coverage shall be primary insurance with respect to the insureds, Named Insureds, additional insureds, and their respective directors, officers, employees, agents and consultants. Any insurance or self-insurance beyond that specified in the Contract that is maintained by an insured, Named Insured, additional insured, or their directors, officers, employees, agents and consultants shall be excess of such insurance and shall not contribute with it.

(b) Any failure on the part of the Contractor to comply with reporting provisions or other conditions of the policies, any breach of warranty, any action or inaction of a named insured or others shall not affect coverage provided to the other insureds, Named Insureds or additional insureds (and their respective members, directors, officers, employees, agents and consultants).

(c) The insurance shall apply separately to each insured, Named Insured and additional insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer’s liability.

(d) Each policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, modified or reduced in coverage or in limits except after 30 days prior written notice has been provided to LACMTA. Such endorsement shall not include any limitation of liability of the insurer for failure to provide such notice.

(e) The commercial general liability insurance policy shall be endorsed to state that coverage for Subcontractor employees shall not be excluded.

(f) Each policy shall provide coverage on an "occurrence" basis and not a "claims made" basis (with the exception of the professional liability policy) and no policy issued on an occurrence basis shall have any sunset clause requiring reporting within a specified period of time.
4. **Waivers of Subrogation**

LACMTA and the Contractor waive all rights against each other, against each of their agents and employees and against Subcontractors and their respective directors, officers, employees, agents and consultants for any claims to the extent covered by insurance obtained pursuant to this Section, except such rights as they may have to the proceeds of such insurance. The Contractor shall require all Subcontractors to provide similar waivers in writing each in favor of all other parties enumerated above. Each policy, including workers' compensation, shall include a waiver of any right of subrogation against all insureds (and their respective members, directors, officers, employees, agents and consultants).

5. **Changes in Insurance Requirements**

LACMTA shall notify the Contractor in writing of any changes in the requirements applicable to insurance required to be provided by the Contractor. Any additional cost from such change shall be paid by LACMTA upon demonstrated evidence such as insurance carrier provided invoice or similar acceptable instrument that authenticates such cost.

6. **No Recourse**

There shall be no recourse against LACMTA for payment of premiums or other amounts with respect to the insurance required to be provided by the Contractor hereunder, except for deductibles payable by LACMTA as specified herein.

7. **Support of Indemnifications**

The insurance coverage provided hereunder by the Contractor shall support but is not intended to limit the Contractor’s indemnification obligations, nor do the indemnity obligations limit the rights of the insured parties to the coverage afforded by their insured status.

8. **Prosecution of Claims**

Unless otherwise directed by LACMTA in writing, the Contractor shall be responsible for reporting and processing all potential claims by LACMTA or the Contractor against the insurance required to be provided under this Section. The Contractor agrees to report timely to the insurer(s) any and all matters which may give rise to an insurance claim and to promptly and diligently pursue any and all insurance claims on behalf of LACMTA, whether for defense or indemnity or both. LACMTA agrees to promptly notify the Contractor of LACMTA’s incidents, potential claims, and matters which may give rise to an insurance claim by LACMTA, to tender its defense or the claim to the Contractor, and to cooperate with the Contractor as necessary for the Contractor to fulfill its duties hereunder.
9. Commencement of Work

The Contractor shall not commence work under the Contract until it has obtained the insurance required under this Section, has furnished original certificates of insurance evidencing the required coverage as required under this Section and such insurance has been approved by LACMTA, nor shall the Contractor allow any Subcontractor to commence work under its Subcontract until the Subcontractor has obtained insurance as required under this Section.

10. Contractors Failure to Comply

If the Contractor or any Subcontractor fails to provide and maintain insurance as required herein, then LACMTA shall have the right but not the obligation, to purchase such insurance or to suspend the Contractor’s right to proceed until proper evidence of insurance is provided. Any amounts paid by LACMTA shall, at LACMTA’s sole option, be deducted from amounts payable to the Contractor or reimbursed by the Contractor upon demand, plus interest thereon from the date of payment by LACMTA to the reimbursement date, at the lesser of (a) 10% per annum or (b) the maximum rate allowable under applicable Governmental Rules.

If on account of the Contractor’s failure to comply with the provisions of this Section, LACMTA is adjudged to be a co-insurer or otherwise held responsible for all or any portion of a judgment, loss or settlement (through admission or stipulation by the Contractor or court decision) that would have been covered by insurance but for non-compliance with this Section, then any loss or damage it shall sustain by reason thereof shall be borne by the Contractor, and the Contractor shall immediately pay the same to LACMTA, upon receipt of written demand therefore and evidence of such loss or damage.

11. Disclaimer

The Contractor and each Subcontractor shall have the responsibility to make sure that their insurance programs fit their particular needs, and it is their responsibility to arrange for and secure any insurance coverage which they deem advisable, whether or not specified herein.

LACMTA makes no representation or warranty that the coverage, limits of liability or other terms specified for the Insurance Policies to be carried pursuant to this Section are adequate to protect the Contractor against its undertakings under the Contract Documents or its liability to any third party or preclude LACMTA from taking any actions as are available to it under the Contract or otherwise at law. LACMTA shall not be limited to the amount of the insurance premium not paid in the proof of any damages it may claim against the Contractor arising out of or by reason of failure of the Contractor to provide and keep in force the insurance policies required by and on the terms of this Section, but LACMTA shall instead be entitled to recover the full amount of damages available.
12. Due Care Required

Nothing contained in this Section shall relieve the Contractor or any Subcontractors of its obligation to exercise due care in the performance of the Work and to complete the Work in strict compliance with the Contract.

SP-06 LOSS PREVENTION

A. In performing the Contract, the Contractor shall at a minimum provide for protecting the lives and health of employees and other persons; preventing damage to property, goods; and avoiding work interruptions. For these purposes, the Contractor shall:

1. Provide appropriate safety barricades, signs, and signal lights;

2. Comply with the safety policies of LACMTA and all applicable laws, standards, codes, rules, and regulations;

3. Take additional measures LACMTA determines are reasonably necessary for this purpose. This determination, when delivered to the Contractor or the Contractor's Authorized Representative at the Worksite, shall be deemed sufficient Notice of the noncompliance and corrective action required. After receiving the determination, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, LACMTA may issue an order stopping all or part of the Services or Work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.

4. Maintain an accurate record of exposure data on all occurrence incident to Services performed under the Contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment. The Contractor shall report this data in the manner prescribed by LACMTA; and

5. Be responsible for its Subcontractor's compliance with this article.

SP-07 (RESERVED-SEE GC-37 IN GENERAL CONDITIONS)

SP-08 LIQUIDATED DAMAGES*

TIME IS OF THE ESSENCE in this Contract. If Contractor does not deliver all of the HRV’s and specified deliverables required by LACMTA under this Contract in a condition to be accepted by LACMTA within the time limit set forth in the Contract, damages will be sustained by LACMTA. It is, and will be, impracticable to determine the actual damages which LACMTA will sustain in the event of and by the reason of such delays. Therefore, the Contractor shall pay LACMTA liquidated damages as specified in the Compensation and Payment Provisions, CP-08 and Special Provision, SP-24. In case liquidated damages are not paid,
LACMTA may deduct the amount thereof from any money due or to become due the Contractor under the Contract.

**SP-09  ISSUANCE OF THE NOTICE TO PROCEED**

Contractor shall not perform any Work under the Contract, except as specifically authorized in writing by the Contracting Officer, until the Commencement Date identified in the Notice to Proceed (NTP). It is LACMTA’s intent to issue the NTP no later than 30 days after LACMTA’s receipt of the Contractor’s bonds and required insurance certificate(s) and Contractor’s completion of all other requirements that are conditions precedent to the issuance of an NTP.

Contract Time shall begin on the Commencement Date as stated in the NTP, and upon such date, the Contractor shall diligently begin to prosecute the Work to completion within the Contract Time.

LACMTA will issue the NTP for the Base Order and any Options exercised, after the following conditions are met:

1. Pre-NTP meetings have been conducted; and
2. When Contractor has provided all required certificates, Insurance, evidence of Parent Company Guarantee, Contract Performance Bonding, or other negotiable instrument acceptable to LACMTA at its sole discretion, and a Warranty Irrevocable Letter of Credit.

**SP-10  PERFORMANCE BOND**

Within ten (10) working days after execution of Contract or Option, Contractor shall provide LACMTA with a performance bond, guaranteeing the faithful performance of the Contract in the amount of 100% of the Contract Base Order Price, minus the Price of Warranty, within ten working days after execution of 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.

A separate Performance Bond shall be required for any Option HRV’s ordered under this Contract. Provided the Contractor has received approval of the following substitute security prior to award, 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 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. 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:

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;

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

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.

4. To zero (0) percent at Final Acceptance.

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.

**SP-11 SPARE PARTS AND SPARE PARTS DELIVERIES**

The Contractor guarantees the availability of replacement parts for these HRVs for a 15-year period after the date of the acceptance of the final HRV. Spare Parts shall be of the latest configuration, interchangeable with the original components and shall be manufactured in accordance with industry standards and the quality assurance provisions of this Contract. Contractor and its Subcontractors and Suppliers agree to grant LACMTA access to the escrowed bid documents which shall contain all of the documents necessary to make or manufacture Spare Parts if Contractor and/or Suppliers stop producing the Spare Parts during or after the 15 year period.

Contractor shall provide the LACMTA Project Manager with a detailed list of spares on an excel spreadsheet. Spares referred to as "sets" are unacceptable and must be broken down to the component level on the spreadsheet. LACMTA requires the following information on each spare before LACMTA can accept delivery of the Spare Parts:

1. Item by Item Listing
2. Affected System
3. Quantity Provided
4. Product Name/Description (starting with the appropriate key work, followed by key word modifiers)
5. Major Classifications: Illustrated Parts Catalog Section (IPC) Name
6. Manufacturer's Name, Address and Telephone Number
7. Manufacturer's Part Number and Model Number
8. Unit of Measure (each, feet, etc.)
9. Unit Cost
10. Local Distributor (Name, Address, federal ID & Phone Number)
11. Distributor’s Part Number
12. Authorized OEM Rebuild Facility (Name, Address and Phone Number)
13. Confirmation of whether the part is hazardous or not. Include MSDS sheet if hazardous
14. Recommended stocking quantities
15. Alternate Vendor Sources
16. Shelf life (if applicable)

Contractor Shipment:

LACMTA will assign an internal purchase order number, item code and delivery location for the Contractor to use when creating packing slips for components on the Spare Part Package. The Contractor will provide copies of each packing slip before scheduling a Spare Parts delivery to LACMTA. Each pallet or crate, within a shipment, shall have a packing slip that identifies the material inside each pallet or crate. All sequentially numbered packing slips will include:

1. LACMTA’s assigned purchase order
2. LACMTA’s assigned item code
3. Manufacturer’s number
4. Illustrated Parts Catalog description and page number
5. Quantity delivered and back ordered

SP-12 CONDITIONAL ACCEPTANCE AND ACCEPTANCE OF HRV

“Acceptance Testing” of the HRV shall occur in accordance with all testing requirements set forth in Volume II, Technical Specification, Section TS-22 – Validation and Testing, including all submittals, corrective actions and modifications. LACMTA will notify Contractor in writing of acceptance or rejection of each HRV, and in the case of rejection, the reasons therefore.

If, during Acceptance Testing, LACMTA determines that one or more HRVs is suitable for operation in revenue service, but that it is not totally responsive to the Contract requirements, due to only readily correctable minor, non-safety critical discrepancies or open items, LACMTA may, at its discretion, issue a “Certificate of Conditional Acceptance”. The Certificate of Conditional Acceptance shall define the “Corrective Action(s)” necessary to achieve Acceptance Test approval. Such conditionally accepted vehicles shall then be available to LACMTA for temporary use in revenue service to meet LACMTA’s needs. Upon receipt of a Certificate of Conditional Acceptance, Contractor shall immediately initiate and execute the necessary corrective action(s) for acceptance of such vehicle(s). Corrective action(s) shall not exceed 90 days for any HRV that has received a Notice of Corrective Action. Failure to complete the corrective action(s) defined by the Certificate of Conditional Acceptance shall result in LACMTA’s issuance of Notice of Failure to Correct per SP-13. If a Notice of Failure to Correct is issued to any HRV that was once Conditionally Accepted, the HRV shall be subject to Liquidated Damages defined in article SP-13 Non-Acceptance of HRV, B.3.
Vehicles that receive a Certificate of Conditional Acceptance shall be eligible for milestone payment, and shall mark the beginning of the warranty period.

Should the Contractor delay the HRV Acceptance program as a result of defective materials, workmanship, or design, the Contractor shall not be authorized to ship any additional HRV’s from its final assembly plant and to store unaccepted Vehicles on LACMTA’s property pending resolution of the problems. No more than six (6) undelivered or unaccepted Vehicles will be permitted to be stored by the Contractor on LACMTA’s property at one time unless otherwise agreed to by LACMTA.

**SP-13 NON-ACCEPTANCE OF HRV**

A. Test Failure

If an HRV fails any inspection or test during Acceptance Testing or Contractor fails to correct deficiencies identified in a Notice of Conditional Acceptance, LACMTA shall provide Contractor with a Notice of Non-Acceptance or a Notice of Failure to Correct. Such Notices shall be effective until Contractor corrects the deficiencies at its own cost and LACMTA Accepts the HRV after retest and inspection.

B. Correction of Deficiencies

1. **Responsibility** - The Contractor or its authorized representative shall at all times be responsible for the correction of all deficiencies.

2. **Work by LACMTA** - Contractor may request LACMTA to perform limited work related to correction of deficiencies. Such work shall be subject to full reimbursement of LACMTA’s costs by the Contractor. If LACMTA agrees to perform such limited work, it shall remain the sole obligation of the Contractor to correct the deficiencies. LACMTA’s responsibility will be strictly limited to competently performing the limited work designated by the Contractor in accordance with Contractor’s instructions. The Contractor shall warrant all such LACMTA work in the same manner as it warrants its own work.

3. **Time for Correction and Liquidated Damages** - If a HRV is delivered but not accepted because of one or more deficiencies, or the Contractor fails to correct and complete a conditionally accepted vehicle(s), the Contractor shall have ten (10) working days after LACMTA’s Notice of Non-Acceptance or Notice of Failure to Correct to correct the deficiencies. Liquidated Damages shall thereafter be assessed in accordance with Contract Article CP-08, until deficiencies have been corrected and LACMTA has provided a Notice of Acceptance.
SP-14 STATIONING OF INSPECTORS

LACMTA may station its own Inspectors at the Contractor’s or Subcontractor’s facilities during the Contract. These Inspectors shall be authorized to inspect all work done and all materials furnished, take measurements, determine all quantities of work done as provided in these Contract Documents, and make periodic estimates of the Contractor’s or subcontractors’ work, and report to LACMTA as to the progress of the work and the manner in which it is being performed.

A. LACMTA has the right to conduct and the Contractor hereby approves, any level of inspection, required by the Project Manager and his representatives or subordinates, of all Work and materials and of the manufacture or preparation of such materials from the beginning to the final completion of the Work in accordance with the Contract specifications. LACMTA has the right to draw the attention of the Contractor to all defects in workmanship or materials and other errors or variations from the requirements of this Contract. However, no omission on the part of LACMTA or the Project Manager or any of their representatives or their subordinates to point out such errors, variations or defects shall give the Contractor any right or claim against LACMTA or shall in any way relieve the Contractor from their obligations according to the terms of this Contract.

B. When directed by LACMTA’s Project Manager, Contractor shall preserve one or more subassembly, component or assembly First Article(s) until such time as authorized to install the same into the manufacture or assembly of a later production vehicle.

C. The right of inspection by LACMTA as herein provided is intended solely for LACMTA’s benefit; and the Contractor covenants and warrants that the cars furnished and delivered hereunder shall be free from patent and latent defects, which LACMTA is not in any manner bound by inspection or otherwise to discover.

D. The Contractor, at least one week before commencing Work or resuming Work if the same has been suspended, called for by this Contract, shall give notice in writing to the Project Manager of its intention to commence or resume such Work, with the name and address of the Manufacturer and the quantity and description of the Work to be manufactured.

F. The Contractor shall grant access at all times to LACMTA, including the Project Manager and his/her assistants and subordinates, and any person designated by LACMTA, to all facilities, whether necessary or convenient, for inspecting the materials to be furnished and the Work to be done under this Contract. Such access shall be provided at any time and without delay, at any place where the Work is being performed, or to inspect materials at any place or stage of their manufacture, preparation, shipment or delivery, or take photographs/videos of the Work being performed.

G. Prior to shipping each HRV, the Contractor shall provide LACMTA with a minimum of forty-eight (48) hours advance written notice of each HRV
inspection to be performed by LACMTA at Contractor’s final assembly or manufacturing plant. Contractor and LACMTA shall jointly inspect each HRV prior to shipment. Contractor shall complete a discrepancy list which shall be jointly signed by Contractor and LACMTA for prompt corrective action by the Contractor. Contractor shall not ship a HRV without LACMTA’s prior inspection and acceptance. LACMTA may, at its discretion, authorize shipment of a HRV with only readily correctable minor, non-safety critical discrepancy or open items.

H. The Contractor shall provide adequate on-site office space at Contractor’s final assembly or carshell manufacturing plant for LACMTA Inspectors and temporary visitors.

I. The Project Manager shall be furnished with the work scope of every facility for the purpose of ascertaining whether the Work is in accordance with the requirement and intent of this Contract.

J. If any Work is permitted to occur on LACMTA property, no Work shall be performed on LACMTA property between the hours of 6 PM to 6AM, Pacific Time on Saturdays, Sundays or LACMTA observed holidays, or at any other unusual time without a written request having been submitted to the Project Manager at least 72 hours prior to planned commencement of said Work and having received prior written approval by the Project Manager. The Contractor may give a single notice of normally scheduled night, Saturday, Sunday or holiday work.

K. At all times during the Contract, the Project Manager, at his/her discretion, shall have the right, when LACMTA inspections of any level of the Work, including materials and their manufacture or preparation occur, to draw the attention of the Contractor to all defects in workmanship or materials or other errors or variations from the Contract requirements.

L. If the Work or any part thereof shall be found defective, the Contractor shall remedy without cost to LACMTA forthwith remedy such defect in a manner to comply with the Contract.

**SP-15 DUTIES OF INSPECTORS**

LACMTA Inspectors will report to LACMTA if the work performed by the Contractor or subcontractor fails to fulfill the requirements of these Contract Documents. The Inspector shall call to the attention of the Contractor or Subcontractor any such failure or other infringement. Such inspection, however, shall not relieve the Contractor or subcontractor from any obligation to perform the work in strict accordance with the requirements of these Contract Documents. In case of any dispute as to materials furnished or the manner of performing the work, work on the subsystem found to be faulty shall be suspended until the question at issue can be resolved. Work on other aspects of the car not related to the subsystem in question may be continued. Should the Contractor or subcontractor choose to continue work on the questionable item he shall do so at his own risk and expense.
SP-16 INSPECTORS NOT AUTHORIZED TO CHANGE CONTRACT DOCUMENTS

The Inspector shall not be authorized to revoke, alter, enlarge, relax, or release any requirements of the Contract Documents or to approve or accept any portion of the work, or to issue instructions contrary to the plans and the Contract Documents, unless such change to the Contract Documents has been accepted by LACMTA. The Inspector shall have the authority to reject any part of the work by reason of poor workmanship or because the work does not conform to the specification or approved drawings, samples or procedures. The Inspector shall in no case act as foreman or perform other duties for the Contractor or subcontractor nor interfere with the management of the work by the latter. Any advice which the Inspector may give the Contractor or subcontractor shall in no way be construed as binding LACMTA in any way or release the Contractor or subcontractor from the fulfillment of the terms of the Contract.

SP-17 SHIPMENT

The vehicles shall not be shipped by traveling on their own wheels, except for local moves on LACMTA’s rail lines or in/around LACMTA’s maintenance facilities. Trucks may be shipped resting on their own wheels. The vehicles may be shipped resting on their own wheels but the vehicle body must be supported and blocked such that the weight is not on the trucks themselves. It is required that all sub-systems be protected from damage during shipment. If shipped by sea, all vehicles or components thereof shall be enclosed and stored below deck to protect against damage from handling and from exposure to the salt-laden marine environment. To further protect against the formation of rust, vehicles shipped by sea shall be painted with primer and the first top coat prior to shipment.

All rotating equipment shall be shipped with moving parts blocked to prevent bearing damage. All parts that must be removed to permit shipment shall be securely boxed and shipped with the vehicle to which they belong.

The vehicles shall be secured against unauthorized entry during transit by sealing closed all doors and exterior compartments. Any special temporary fittings such as straps, grab handles and locking devices required for shipment of the vehicles shall be provided and removed by the Contractor at its expense.

The Contractor shall provide all labor and equipment to ship, deliver, unload, reassemble, re-truck, and if necessary prepare the vehicles for storage. The Contractor shall coordinate with LACMTA to assure compatibility between LACMTA-provided jacks and stands, and the Vehicle and its transporter. If adapters are required, the Contractor shall provide them for his own use.

Responsibility for the vehicles shall rest with the Contractor until they have been accepted by LACMTA.
SP-18  SHIPPING DESTINATION

The Contractor shall be responsible for all work and all costs associated with placing the vehicles in a ready-to-run condition on the rails of LACMTA at a location to be identified by LACMTA. Each Vehicle, if shipped by railroad transportation, shall be equipped with an impact recorder or approved equivalent provided by the Contractor.

SP-19  CONDITION OF SHIPMENT

Unless specifically excepted by the Contract Documents (and additionally at the sole discretion of LACMTA), each Vehicle shipped from the Contractor's plant to LACMTA shall be complete, ready-to-run, and in compliance with all provisions of the Technical Specifications.

Prior to the shipment of each Vehicle, the Contractor shall obtain a "Shipping Release" signed by LACMTA's authorized representative at the Contractor's plant. The "Shipping Release" shall certify that the Vehicle is complete and complies with Approved Contractor's drawings and samples and other agreed upon conditions for shipment. The "Shipping Release" shall not, however, be construed nor inferred to constitute to any degree Vehicle acceptance by LACMTA.

SP-20  CONDITIONS OF HRV DELIVERY

To be considered delivered, each HRV must be in a sound, whole, ready-to-run condition, and with all applicable Qualification Testing, Pre-shipment and on-site Conformance Testing completed, ready for entry into the LACMTA On-site Commissioning 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*.

A.  WARRANTIES

1.  The Contractor expressly and impliedly warrants that, at the time of Acceptance, all HRV's, Equipment, Work and all Components, furnished under the Contract shall be:

   a.  In full conformance with all requirements of the Contract;

   b.  Free of any and all Deficiencies;

   c.  Fit for their particular purpose, that the goods are merchantable and that the HRV is habitable for the use of the passengers and operator of the HRV;

   d.  Fit for the ordinary purposes for which such HRV's, Equipment, Work and Components are used;

   e.  Free from any and all liens and other encumbrances;
f. The latest configuration employed by the Contractor, subcontractor, or manufacturer in commercial service; and

g. Accurate, complete and current.

2. The Contractor further warrants that, for the periods of time defined in this Article, all HRVs, Equipment, Work, and Components shall be, remain in full conformance with the requirements of the Contract; and all warranties which extend to the future performance of each of such items.

3. Warranties By Others: All warranties and guarantees of any Subcontractor, Supplier or manufacturer with respect to any HRVs, Equipment, Work or Components, whether expressed or implied, are deemed to be for the benefit of LACMTA and to be obtained by the Contractor for the benefit of LACMTA, regardless of whether or not such warranties and guarantees have been transferred or assigned to LACMTA by separate agreement. The Contractor shall enforce such warranties and guarantees on behalf of LACMTA; provided, however, that if directed by LACMTA, the Contractor shall require such Subcontractors, Suppliers and manufacturers to execute such warranties and guarantees directly to LACMTA. 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 any Equipment or Component into the Work, the Contractor shall be responsible, at its sole cost, for correcting such error or omission, without cost or expense to LACMTA.

B. RELIABILITY WARRANTY

In addition to the other warranties provided by this Article, the Contractor further warrants the reliability of the HRVs, Equipment, Work or Components in accordance with all Contract reliability requirements in the Technical Specifications. In the event any required Reliability Demonstration Test indicates a failure to comply with any of the specified Reliability Requirements, or falls below any of the percentage requirements prescribed in the Technical Specifications, the Contractor shall promptly notify LACMTA. LACMTA may at its option suspend further deliveries of HRVs and payments until the Contractor demonstrates that the HRV, Equipment, Work or Component meets the specified level of reliability. Failure to meet any Contract reliability requirements shall constitute a Deficiency, and Contractor shall, at its sole cost and without cost or expense to LACMTA, take all actions required to correct as promptly as possible the Deficiency and to achieve the specified level of reliability. The Contractor shall incorporate at its sole cost all such necessary corrections into all previously delivered HRVs, Equipment, Work, and Components, before it may resume deliveries of HRVs or affected Components correction shall be incorporated into all undelivered HRVs, Equipment, Components or Work prior to delivery. Where the Deficiency in reliability constitutes a Fleet Deficiency, correction shall in addition be incorporated into all HRVs, Equipment, Components, and all other Work for which the warranty has expired.
C. TIME PERIODS OF THE WARRANTIES

1. Basic Warranty: The warranty for each HRV, and each Spare Part that is separately delivered, shall commence on the date LACMTA provides to Contractor a Notice of Acceptance of the HRV or Spare Part, and shall be effective until five (5) years after the Acceptance of the last HRV (except as provided below in the Paragraph herein entitled Extended Warranties for Certain Components). The warranty for Special Tools and Equipment, including, without limitation, Diagnostic and Test Equipment shall be for a time period of five (5) years beginning after their final Acceptance of the last HRV by LACMTA for the Base Buy or each Option.

2. Extended Warranty for Certain Components: Extended warranties shall commence upon Acceptance or Conditional Acceptance as provided in the Paragraph herein entitled Basic Warranty, but shall have time periods as follows:

   a. If LACMTA approves any waivers to Service Proven Equipment requirements defined in SP-26, the warranty on approved Non Service Proven Equipment shall be for an additional year to the Basic Warranty.

   b. The warranty for Spare Parts shall be as reference above in SP-20 C.1., unless the Spare Part is a Component or part thereof to which an Extended Warranty defined by this Article applies, in which case the period of the Extended Warranty shall apply, commencing upon the date the Spare Part is put into service.

3. Limitation Related to Conditional Acceptance: If a Component of an HRV has been Conditionally Accepted when the HRV is placed into revenue service, the Warranty on that Component shall commence after it has been unconditionally accepted by LACMTA on a pro-rated basis for the time the Component has been in service, so long as the Contractor has not unnecessarily delayed in obtaining unconditional acceptance from LACMTA for the Component.

4. Subcontractor Warranties: Any warranty from a Subcontractor or Supplier or manufacturer to the Contractor, which exceeds the above time periods, shall be extended to LACMTA for the same time period as given to the Contractor.

D. NOTICE

LACMTA will provide the Contractor with written notice of breach of any warranty provided for by this Article, within a reasonable time after LACMTA observes and verifies any breach of warranty occurring within any of the applicable warranty periods.
E. CONTRACTOR’S CORRECTIVE WORK REQUIREMENTS

1. Promptly and within forty-eight (48) hours upon receipt of a Notice of breach of a warranty from LACMTA, the Contractor, at its sole cost, shall commence and thereafter prosecute with due diligence, all activities necessary to investigate, analyze, diagnose and determine the cause and extent of the Deficiency or other breach of warranty, in conformance with the provisions of this Article, and shall promptly report the causes, extent and proposed action to correct the Deficiency or breach of any other warranty to LACMTA in writing for approval.

2. Promptly upon LACMTA's acceptance of the proposed action to correct the Deficiency or any other warranty, the Contractor, at its sole cost, shall commence and thereafter prosecute with due diligence and using qualified personnel the mutually agreed upon corrective action. The Contractor shall promptly and diligently pursue all corrections to their complete, satisfactory conclusion. All corrections shall comply with all requirements of the Contract and shall not result in any HRV, Equipment, Work or Component failing to comply with any requirement of any provision of the Contract. All corrections shall employ and require only Components that perform comparably to that originally intended by the Contract, and of cost comparable to the cost of the Deficient Component prior to correction. The Contractor shall perform, at its sole cost, any tests that LACMTA may reasonably require to verify that any correction made by the Contractor will correct the Deficiency and that the correction will comply with all requirements of the Contract.

3. All costs and expenses of any correction shall be at the Contractor’s sole cost, and Contractor shall also bear all costs and expenses of removal, replacement, reinstallation and testing of the Work, Equipment, Components and Units necessary to gain access to the Deficiency to accommodate the corrective work. The Contractor shall also bear all transportation costs associated with any Deficiency or correction.

4. Except to the extent that LACMTA, in its sole discretion permits the Contractor to use LACMTA’s facilities and Equipment, the Contractor shall provide, at its sole expense, all facilities and Equipment necessary to carry out the investigations, analyses and diagnoses needed to determine the cause and extent of the Deficiency or other breach of warranty, and to complete all correction thereof and all associated work.

5. The Contractor shall promptly provide to LACMTA, without cost or expense to LACMTA, all updated Spare Parts manuals and maintenance manuals that include all information related to any correction.

6. The Contractor shall reimburse LACMTA, as provided for in the provisions in this Article pertaining to Warranty Claims, for all LACMTA costs and expenses reasonably incurred in the investigation, analysis, diagnosis or correction of any Deficiency or other breaches of warranty.
7. The Contractor shall be solely liable for any and all injury, loss or damage to any person, or to any HRV, Equipment, Work, Component, or other LACMTA property, caused by any work performed to make any correction.

8. Repair and Replacement of Components Damaged By Deficiencies: In addition to correction of any Deficiency, the Contractor, at its sole cost, shall correct any other HRV, Equipment, Work or Component that was caused to be damaged or adversely affected by a Deficiency.

9. All corrected Components used, and repairs made, to correct Deficiencies shall be subject to Acceptance by LACMTA and shall be subject to the same requirements as are set forth in the Contract for the original Components.

10. If a correction hereunder has required the Contractor to reengineer or redesign a Component, the Contractor shall, at Contractor’s sole cost, replace all LACMTA owned Spare Parts comprising that Component with the corrected items.

F. LIQUIDATED DAMAGES

In any instance in which a Deficiency causes a HRV to become unavailable for service, and the Contractor fails to complete a correction to such Deficiency within a time sufficient to enable the HRV to be tested and returned to service within ten (10) days after the Deficiency caused the HRV to become unavailable for service, the Contractor shall pay to LACMTA as liquidated damages the sum as stated in Compensation and Payment Provisions (CP-08A) for each day that the HRV is out of service, commencing with the first full out-of-service day.

G. FLEET DEFICIENCY REMEDY

1. Upon LACMTA’s Notice to the Contractor that a Fleet Deficiency exists, the Contractor shall promptly, but in any event not later than forty-eight (48) hours after such Notice, unless LACMTA agrees to a longer interval, commence and thereafter prosecute with due diligence and using qualified personnel, all activities necessary to investigate, analyze and diagnose the cause and extent of the Fleet Deficiency and the proper correction thereof. The Contractor shall promptly, but in any event not later than fourteen (14) calendar days after such Notice provide a written report to LACMTA describing the cause and extent of the Fleet Deficiency and the Contractor’s proposed correction and implementation schedule thereof. The Contractor shall submit the written report containing the proposed correction and implementation schedule for LACMTA’s acceptance and, following LACMTA acceptance, shall promptly implement and satisfactorily complete, LACMTA approved corrections of all affected HRVs, Work or Components, at the Contractor’s sole cost as promptly as practicable and in no event later than two (2) months after LACMTA’s initial Notice to Contractor of the Fleet Deficiency, unless LACMTA agrees to a longer interval, and in compliance with the requirements of Paragraph E hereof. The Contractor shall make the correction to all equivalent Components in
the fleet, not just those in which a Failure or malfunction has occurred, including without limitation, all Components for which any Warranty period has expired, and to all equivalent LACMTA-owned Spare Parts.

2. The Fleet Deficiency remedy provided for in this Paragraph is in addition to, and shall not be construed as a limitation of, any other rights or remedies provided for by this Article or any other provision of the Contract or in Law.

H. TIMELINESS

Time is of the essence in the corrections of all Deficiencies, and any other breaches of warranty, to be undertaken. Unless otherwise directed in LACMTA’s Notice to Contractor of a breach of warranty, including any Deficiency, the Contractor shall commence correction the time specified by LACMTA. To ensure timely corrections, the Contractor shall make provisions to have available all necessary facilities and special Equipment, and shall use such qualified engineers and product and system specialists as are necessary, including diversion of such persons from the Contractor’s other operations or from the operations of its Subcontractors and Suppliers. Contractor shall also use additional shifts and work on weekends and holidays, as necessary, to complete timely corrections in accordance with this Article.

I. USE OF LACMTA FACILITIES

The Contractor will only be allowed to use LACMTA facilities and equipment to perform Warranty work if it is determined that the usage is practicable, and use will be subject to such reasonable conditions and restrictions as LACMTA, in its sole discretion, may specify on a case by case basis. Such work shall be conducted only during those hours specified by LACMTA, and shall not interfere with other LACMTA activities. Damage to LACMTA property, facilities and equipment caused by the Contractor shall be the sole responsibility of the Contractor and shall be promptly repaired or otherwise corrected at the Contractor’s sole expense.

J. USE OF LACMTA-OWNED SPARE PARTS

At the sole discretion of LACMTA, as determined on a case-by-case basis, LACMTA owned Spare Parts may be utilized by the Contractor for correction purposes. The Contractor must replace each borrowed Component with a new Component within thirty (30) calendar days from the date the Component is issued from LACMTA to the Contractor. If the borrowed Component is not replaced within thirty (30) calendar days, a twenty (20) percent handling fee(s) will be applied for each thirty (30) calendar day period the Component is borrowed. The handling fee shall be reimbursed to LACMTA at the current price of the Contractor’s parts catalogue effective at the time of replacement. All costs associated with replacing the Component shall be borne by the Contractor.
K. DELAYS AND DISRUPTION

To prevent delays and disruption to LACMTA's operations, LACMTA shall have the right to the continued use of any Deficient HRV, Equipment, Work or Component, until it can be taken out of service and made available to Contractor to correct the Deficiency.

L. REPAIRS BY LACMTA

1. If the Contractor fails to correct any Deficiency as provided herein, LACMTA, at its sole discretion, may investigate, analyze, diagnose and correct the Deficiency at the Contractor’s sole cost and expense.

Upon LACMTA’s completion of the corrective work, it may submit a Warranty Claim, and the Contractor shall timely reimburse LACMTA for, or replace, all Components and labor required for the correction and for any equipment acquired by LACMTA for the investigation, analysis or diagnosis of the corrective work.

2. LACMTA Maintenance Specialists may perform Warranty Work on behalf of the Contractor, if the Contractor submits a request to LACMTA, for its consideration and acceptance, no later than fourteen calendar days prior to the commencement of any Work. The submitted request shall include a description and reason for the Work, the proposed labor task hours required, the schedule required for implementation, the Work instructions (procedure), Components and materials required, and special tools required. All Components, materials and special tools shall be provided by the Contractor. The labor costs shall be calculated as shown in Section P.1 below. The Work performed by LACMTA shall be covered by the Contractor’s Warranty.

M. WARRANTIES OF THE CORRECTED COMPONENTS

The Contractor warrants each corrected Component to the same extent as provided in paragraph C of this Article from the date of LACMTA’s acceptance of the corrected Component.

N. NO WAIVER

No inspection, test, acceptance of, or payment to the Contractor for any HRV, Equipment, Work or Component, or for any other purpose, shall 1) relieve the Contractor from any duty or 2) be deemed to be a waiver of any Warranty or other right or remedy pursuant to this Article, the Contract or the Law.

O. NO INCREASE IN MAINTENANCE OR OPERATING COSTS

In no case shall any correction of any Deficiency, whether pursuant to any Warranty or otherwise, call for, require or result in any increase in any maintenance, inspection or test requirement, or frequency thereof. Furthermore any such correction of any Deficiency shall not require any
additional maintenance, inspection or test requirement, or operating costs beyond that specified in the Contract Documents or in the original edition of the maintenance manual.

P. LACMTA WARRANTY CLAIM

1. Upon completion of any corrective work by LACMTA, LACMTA may submit a claim in writing for any costs and expenses to the Contractor ("Warranty Claim"). The Warranty Claim shall identify the Deficiency and the correction to which such costs and expenses are related, when the Contractor was given Notice of the Deficiency, and shall provide such other information necessary to document the costs and expenses incurred by LACMTA and their relationship to the Deficiency and the correction. The Contractor shall also reimburse LACMTA for all direct labor costs, no later than 30 days after completion of the corrective work as determined by multiplying the number of LACMTA Maintenance Specialists' man-hours actually required to correct the Deficiency by a per hour straight wage rate (at the then current actual rate) and an overhead rate of 1.75, and for any other costs or expenses reasonably incurred to investigate, analyze, diagnose or correct the Deficiency.

Example calculation is as follows: Assume LACMTA Maintenance Specialist takes 23 hours to correct Deficiency and material costs $500.00. Cost to Contractor would be $25.50 per hour (estimated; actual rate would apply) times 1.75 for total labor cost of $70.13 per hour ($25.50 plus $44.63) times 23 hours for total labor cost of $1,612.99 plus material cost of $500.

2. The Contractor shall timely reimburse LACMTA for all such costs and expenses within ninety (90) days after the Contractor’s receipt of LACMTA Warranty Claim.

3. Should LACMTA determine in its sole discretion to invoke its right to Liquidated Damages pursuant to this Article, LACMTA shall submit a Warranty Claim; therefore, within a reasonable time subsequent to the conclusion of the corrected Deficiency.

Q. PERFORMANCE BOND

The Surety for the Contractor shall be jointly and severally liable under its Performance Bond to LACMTA in the event that the Contractor shall breach any of its obligations pursuant to this Article.

R. U.C.C SECTION 2104

Contractor acknowledges and agrees that for purposes of this Contract LACMTA shall not be deemed to be a merchant pursuant to U.C.C. Section 2104.
S. OTHER LEGAL RIGHTS

The warranties, rights and remedies of LACMTA under this Article are not intended to be, and shall not be deemed to be, exclusive and shall not prejudice the exercise of any other warranties, rights or remedies provided for in the Contract, or by Law or otherwise.

SP-21 CONTRACT WARRANTY PROVISIONS – IRREVOCABLE LETTER OF CREDIT

Warranty Provisions Irrevocable Letter of Credit or Alternate Security. 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 in compliance with Paragraphs (A) through (F) of this Section (the “Letter of Credit”); 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.

A. Amount and Term of Warranty Irrevocable Letter of Credit. Contractor agrees that within ten (10) days after the effective date of this Agreement and before LACMTA issuance of the Notice to Proceed, Contractor shall establish an Irrevocable Letter of Credit in the amount of TBD which is Six Percent (6%) 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"), which Letter of Credit shall be maintained throughout the term of this Agreement, including Warranty. 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. The Irrevocable Letter of Credit shall have an original term commencing within the ten (10) days after the Effective Date of the Contract and shall end on the last day of the latest expiring Extended Warranty. LACMTA will have the sole option on the twelfth month after the Contract Effective Date, to extend with either annual extension(s) or replacement(s) of the Irrevocable Letter of Credit beginning on the first calendar day of each succeeding Contract Year thereafter. The original copy of the Irrevocable Letter of Credit, including any replacement(s) of the Irrevocable Letter of Credit as might be issued, and all extension documents shall be held by LACMTA throughout the term of this Agreement.

B. Payment on Demand. The Irrevocable Letter of Credit shall provide that payment of the entire face amount of the Irrevocable 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”, Sample Certificate of
Beneficiary, accompanied by a copy of the certified-mail-return-receipt-requested form, in accordance with Paragraph C below.

C. Option to Demand Payment on Irrevocable Letter of Credit. If Contractor defaults with respect to any provision of this Agreement, as described in General Conditions, GC-25 Termination for Default, or (2) if Contractor otherwise fails to perform any of the terms, covenants and conditions of this Agreement, 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 Irrevocable Letter of Credit as part of its initial Notice of Default pursuant to General Conditions, GC-25, Termination for Default, Paragraphs A through D, 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 Irrevocable 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 Irrevocable Letter of Credit to its original amount, and upon such reinstatement, the excess of the proceeds of the Irrevocable 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.

D. Non-extension of Irrevocable Letter of Credit Replacement. The Irrevocable Letter of Credit shall provide for sixty (60) calendar days notice by the Issuer to LACMTA and the Contractor in the event of termination or non-renewal of the Irrevocable Letter of Credit. Within ten (10) calendar days of Contractor's receipt of notice from the issuer that the Irrevocable 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 Irrevocable Letter of Credit. Contractor shall replace the Irrevocable Letter of Credit or furnish a legally binding commitment to issue a replacement Irrevocable 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 Irrevocable Letter of Credit shall take effect at the beginning of the next occurring Contract Year from the effective date of the contract. 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 Irrevocable 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.

E. Excessive Demand: Return of Receipts. LACMTA shall return to Contractor the amount, if any, by which LACMTA's total receipts from Contractor and from the bank under the Irrevocable Letter of Credit or the Alternate Security exceeds the amount to which LACMTA rightfully is entitled, plus interest thereon at the applicable prime rate plus two (2) percentage points,
but in no event will interest payments exceed the legal rate of interest as set forth in Civil Code Section 3289(b), plus any related bank fees LACMTA shall not otherwise be liable to Contractor for any damages or penalties.

F. **Return Upon Faithful Performance.** The Warranty Irrevocable Letter of Credit, or, if applicable, the funds constituting the Alternate Security, shall be returned to Contractor upon the termination of the Warranty Provisions of the Agreement, provided that Contractor has faithfully performed throughout the duration Warranty Provisions of the Agreement. Upon such termination, LACMTA shall cooperate with Contractor in securing termination of the Irrevocable Letter of Credit or the Alternate Security, as applicable.

G. **Establishment of Alternate Security by Contractor.** 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 $TBD which is Six Percent (6%) of the Contractor's total contract price for guaranteed Warranty support of the HR4000 Heavy Rail Vehicles, (the actual amount shall be incorporated after contract award), this amount shall constitute Alternate Security and shall serve as a substitute for the Letter of Credit. Contractor may alternate between the Irrevocable Letter of Credit and the Alternate Security, provided that either the Letter of Credit or the Alternate Security, as applicable at any point in time, shall be maintained throughout the term of this Agreement. Contractor further agrees that prior to any alternation between or modification in the Irrevocable Letter of Credit or the Alternate Security, including but not limited to any alternation between the Irrevocable Letter of Credit and the Alternate Security, Contractor shall request LACMTA approval, which LACMTA shall not unreasonably withhold. If LACMTA fails to respond within ten (10) days of Contractor's written notice, LACMTA shall be deemed to have approved Contractor's proposed changes. At no time shall Contractor fail to provide either the ILOC or the Alternate Security. If Contractor should fail to maintain either security it shall be a material breach and default Cause.

H. **Establishment of Alternate Security by LACMTA.** In the event LACMTA receives a disbursement under the Warranty Irrevocable Letter of Credit pursuant to Paragraph (D) of this Section, LACMTA shall establish an escrow account with a financial institution and deposit the full proceeds of such disbursement immediately with such financial institution in such account, 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.”

I. **Execution of Escrow Agreement.** 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”).
J. Option to Demand Payment from Alternate Security. 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 Irrevocable 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.

SP-22 WARRANTY REPAIR AND REPLACEMENT ITEMS PROHIBITION OF PROSPECTIVE OPERATING COST INCREASE

Contractor shall provide no products under the warranty provisions of the Contract that will result in additional operating costs to LACMTA. LACMTA will not reimburse the Contractor for design and development cost of the Components required to remedy a Contractor design or performance defect.

SP-23 PROSECUTION AND COMPLETION OF THE WORK

Contractor's services shall be provided under the general surveillance of LACMTA, but Contractor shall be an independent Contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under the Compensation and Payment Provisions.

The Contractor shall ship, unload, assemble and deliver vehicles and other items specified in this Contract to a location to be determined by LACMTA, at the Contractor's expense, and in accordance with the Schedule below. Delivery of HRVs shall be considered to have occurred at the conclusion of Post Arrival Testing, in accordance with Technical Specification TS-22 Validation and Testing. The Contractor shall bear all costs and assume all risks and liability associated with the loading and unloading of the HRV and associated materials. Coordination and off-loading equipment necessary to receive vehicles and components are the Contractor's responsibility. Site cleanup shall be the responsibility of the Contractor. The Contractor shall meet the following delivery schedule:

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submittal of final Draft Carbody compression test report (TS-03)</td>
<td>Contractor to submit most favorable schedule in Proposal for no later than XX months following NTP</td>
</tr>
<tr>
<td>Submittal of final Draft Truck static load test reports (TS-11)</td>
<td>Contractor to submit most favorable schedule in Proposal for evaluation</td>
</tr>
<tr>
<td>Milestone</td>
<td>Schedule</td>
</tr>
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<td>---------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Submittal of final Draft Schematic Diagrams (TS-24)</td>
<td>60 days prior to Acceptance of first Production Married Pair</td>
</tr>
<tr>
<td>Submittal of final Draft Manuals and Parts Catalog TS-24)</td>
<td>60 days prior to Acceptance of first Production Married Pair</td>
</tr>
<tr>
<td>Delivery of final Cab Mock Up (TS-24)</td>
<td>60 days prior to Acceptance of first Production Married Pair</td>
</tr>
<tr>
<td>Shipments of first Three (3) Married Pairs Pilot Vehicles to LACMTA in Los Angeles County per SP-19 and ready to begin Vehicle Level Design Conformance Test per TS-22</td>
<td>Contractor to submit most favorable schedule in Proposal for evaluation</td>
</tr>
<tr>
<td>Delivery of each Base Buy Order production Vehicle to LACMTA in Los Angeles County</td>
<td>LACMTA will determine a delivery rate, up to four (4) Vehicles (2 Married Pairs) per month, until completion of delivery. Metro will specify the delivery rate once Pilot Vehicles are shipped.</td>
</tr>
<tr>
<td>Delivery of last Base Buy Order production Vehicle to LACMTA in Los Angeles County</td>
<td>No later than 62 months following NTP</td>
</tr>
<tr>
<td>Delivery of each Option 1 Order Vehicle to LACMTA in Los Angeles County</td>
<td>LACMTA will determine a delivery rate, up to four (4) Vehicles (2 Married Pairs) per month, starting within 30 days following Delivery of the last Base Buy Order Vehicle</td>
</tr>
<tr>
<td>Delivery of each Option 2 Order Vehicle to LACMTA in Los Angeles County</td>
<td>LACMTA will determine a delivery rate, up to four (4) Vehicles (2 Married Pairs) per month, starting within 30 days following Delivery of the last Vehicle of the previous order</td>
</tr>
</tbody>
</table>
### Milestone

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delivery of each Option 3 Order Vehicle to LACMTA in Los Angeles County</td>
<td>LACMTA will determine a delivery rate, up to four (4) Vehicles (2 Married Pairs) per month, starting within 30 days following Delivery of the last Vehicle of the previous order</td>
</tr>
<tr>
<td>Delivery of each Option 4 Order Vehicle to LACMTA in Los Angeles County</td>
<td>LACMTA will determine a delivery rate, up to four (4) Vehicles (2 Married Pairs) per month, starting within 30 days following Delivery of the last Vehicle of the previous order</td>
</tr>
<tr>
<td>Delivery of each Option 5 Order Vehicle to LACMTA in Los Angeles County</td>
<td>LACMTA will determine a delivery rate, up to four (4) Vehicles (2 Married Pairs) per month, starting within 30 days following Delivery of the last Vehicle of the previous order</td>
</tr>
</tbody>
</table>

Liquidated Damages will be assessed on each above milestone (vehicle or other deliverable), as detailed in Compensation and Payment Article CP-08 and Special Provision, Liquidated Damages Article SP-08, if the above milestone schedule is not met.

### SP-24 OPTIONS

**A. Option HRVs** - Contractor hereby grants LACMTA options (“Options”) to purchase additional HRVs as follows:

- Option 1 Twenty Four (24) HRVs
- Option 2 Eighty-Four (84) HRVs
- Option 3 Twenty (20) HRVs
- Option 4 Sixteen (16) HRV’s
- Option 5 Seventy-Four (74) HRVs

LACMTA has the unilateral right to exercise any Option above, as defined herein, or to exercise no Options at its complete discretion. Moreover, LACMTA may place an HRV Option order out of the number sequence above as long as it follows the Option expiration ordering dates defined below.

If LACMTA chooses to exercise its right to one or more of the Options, it may place an order for its first Option of HRV’s (any Option #1 through #5) not later than 34 months following the Commencement Date, or 8 months following Shipment of the Pilot Cars, whichever is later. LACMTA may exercise its second Option of HRV’s not later than 38 months after the Commencement Date or 12 months following Shipment of the Pilot Cars, whichever is later. LACMTA may
exercise its third Option of HRV’s not later than 42 months after Commencement Date or 16 months following Shipment of the Pilot Cars, whichever is later. LACMTA may exercise its fourth Option of HRV’s not later than 46 months after Commencement Date or 20 months following Shipment of the Pilot Cars, whichever is later. LACMTA may exercise its fifth Option of HRV’s not later than 50 months after Commencement Date or 24 months following Shipment of the Pilot Cars, whichever is later.

Within thirty (30) days after delivery of LACMTA’s notice that it is exercising an Option to the Contractor, the Contractor shall submit a proposed delivery schedule for the Option. Along with the proposed delivery schedule, the Contractor shall provide LACMTA with access to its production schedule for the purpose of verifying available production capacity. The production schedule shall include a reasonable time for mobilization and for coordinating with other LACMTA HRV order(s), and shall be based upon a production rate as specified in SP-23. Contractor shall not commence production of the Option HRVs prior to LACMTA’s issuance of the Notice to Proceed for the Option HRVs incorporating the production delivery schedule or the maximum allowable term noted above.

Except as otherwise specially provided in this Section, all other terms of the Contract shall apply to the Option HRVs.

**SP-25 RESERVED**

**SP-26 LOCAL EMPLOYMENT PROGRAM**

A. **OBLIGATIONS OF CONTRACTOR**

The Contractor shall implement the Local Employment Plan and Local Facility Investments as approved by LACMTA and set forth in **Exhibit (TBD)** of the Contract. The Contractor’s Local Employment Plan Commitment Value for Local Workers’ Wages and Benefits is $_________________. The Contractor’s Local Employment Plan Commitment Value for Local Facility Investments is $_________________. The Contractor’s Total Local Employment Plan Commitment Value is $_________________.

B. **LOS ANGELES COUNTY FULL TIME EQUIVALENT (FTE) POSITIONS**

The Los Angeles County Residents FTE Positions included under the Contractor’s Local Employment Plan shall:

1. Include only Contractor and Subcontractor/Supplier Los Angeles County Resident employees who provide work hours directly allocable to the HR4000 program in Los Angeles County. 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.
2. Not include 1) employees who will not be working on the project; 2) employees hired by the Contractor or Subcontractor to work on other projects to fill in or replace current employees reassigned to HR4000, hours and costs that cannot be segregated and audited pursuant to internal Cost Accounting Systems of the Contractor or Subcontractors; 3) Work conducted outside of Los Angeles County; 4) Work performed by Non-Los Angeles County Residents.

C. REPORTS

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:

1. Specify the total number of 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);

2. Describe the workforce development and training programs carried out during that quarter and the amount expended by the Contractor for such programs;

3. Describe the quarterly outreach and recruitments coordinated through workforce development and community groups that led to new local hires and;

4. Describe the extent to which the Local Employment Plans producing long-term employment in skilled or trade labor; (5) describe the value of construction performed toward the Facility Investment Commitment, include copies of design and construction contracts.

If any such report indicates that the Contractor has failed to achieve the Total Local Employment Plan Commitment Value for local employee wages and benefits, Disadvantaged Worker wages and benefits or Facility Investments set forth in its Local Employment Plan for the time period involved, the report shall include a corrective action plan designed to achieve the Total Local Employment Plan Commitment Value, including a time frame within which such corrective actions will be achieved.

D. RELATION TO MILESTONE PAYMENTS

LACMTA reserves the right to review and audit the Contractor’s records, books and financial ledgers and cost accounting system at any time during the Contract term for purposes of determining the Contractor’s
compliance with Total Local Employment Commitment Value. In the event LACMTA determines that there has been a material failure of the Contractor or its Subcontractors/Suppliers to comply with any requirement of its Local Employment Plan, LACMTA shall notify the Contractor in writing and shall provide the Contractor with thirty (30) days to correct such non-compliance. If such non-compliance is not corrected to the satisfaction of LACMTA within such 30-day period (or such longer period as LACMTA may in its discretion allow), LACMTA may withhold a portion of the next Milestone Payment due to the Contractor under CP-02 E, in an amount that LACMTA determines in its discretion to be reasonable and appropriate based on the nature and extent of the Contractor’s non-compliance. Any amounts withheld by LACMTA under this subsection shall be repaid to the Contractor, as part of the next Milestone Payment due, when the Contractor demonstrates to the satisfaction of LACMTA that it has corrected the non-compliance. Any withholding under this subsection shall not affect the right of LACMTA to exercise other remedies available under this Contract for the Contractor’s non-compliance with its Local Employment Plan, including the right to terminate for default in the event of repeated instances of such non-compliance.

SP-27 ENHANCED U.S. COMPONENT PROGRAM

The Contractor shall comply with the Buy America requirements applicable to rolling stock procurements, as mandated by Contract article RR-15 Buy America. The Contractor shall also comply with an Enhanced U.S. Component Program in accordance with the Additional U.S. Component Program specified in Exhibit (TBD) of the Contract. Any additional U.S. component content above that required by RR-15 Buy America shall be subject to verification in the pre-award and post-delivery audits conducted by LACMTA in accordance with 49 C.F.R. Part 663, Pre-Award and Post-Delivery Audits of Rolling Stock Purchases. In addition, LACMTA may also conduct audits at any point in the production process, as it deems necessary, to verify the additional U.S component content. The Contractor shall cooperate in such audits and shall provide supporting documentation for any additional U.S. components by cost committed. The Contractor shall submit quarterly progress reports describing its adherence to the additional U.S. component content commitment made in the Additional U.S. Component Program. The progress reports shall provide updated production information on the additional U.S. component content of the HRVs by system, including the cost of components, the manufacturers of the components, and where the manufacturing is taking place.

CORRECTIVE ACTION PLAN

If LACMTA discovers through an audit, progress reports, other documentation, or any other means that the Contractor is failing to meet the component commitment made in its Enhanced U.S. Component Program in the production of the HRVs, LACMTA will give the Contractor written notice of the deficiency and, the Contractor shall develop and submit to LACMTA, in the time frame directed, a corrective action plan to remedy such deficiency. LACMTA may in its
discretion, issue a stop work order until such deficiency is corrected to the satisfaction of LACMTA. Such stop work order shall not constitute a compensable delay. Failure by the Contractor to remedy a discovered deficiency shall constitute a breach of contract and shall be subject to the contractual remedies of this Contract.

PERFORMANCE BOND

The Surety for the Contractor shall be jointly and severally liable under its Performance Bond to LACMTA in the event that the Contractor shall breach any of its obligations pursuant to this Article.

SP-28 ESCROW OF PROPRIETARY DOCUMENTS

LACMTA has determined that it is necessary to establish an Escrow Account for the purpose of depositing all Proprietary Documents developed by the Contractor and all of its Designers, Subcontractors, and Suppliers for the HR4000 Contract. LACMTA will identify and select a third party document Escrow Agent for the purpose of setting up the Escrow Account. Contractor will pay the annual fees for storage of the Proprietary and Additional Proprietary Documents.

a. DEFINITIONS:

1.1. Proprietary Documents are defined as those designs, drawings, systems, subsystems and/or components, software and software based systems and sub-systems, and diagnostic and testing tools and equipment that collectively comprise the final approved design of the HR4000 HRVs, which shall be in paper and electronic form, and which contain all non-COTS software (un-compiled) source code not otherwise delivered to LACMTA; including HRV, PTU, BTE, DTE and event recorder diagnostic software; schematic and wiring diagrams for all non-COTS equipment not otherwise delivered to LACMTA; PCB schematics and hardware diagrams for all non-COTS equipment not otherwise delivered to LACMTA; mechanical and shop drawings for all non-COTS equipment and all other design drawings not otherwise delivered to LACMTA of the entire Heavy Rail Vehicle (HRV), its components and subcomponents, including the source codes of any software developed or deployed in the creation of the HRVs and also support the operation and maintenance of the HRVs, which are all the subject of the Contract.

1.2. Additional Proprietary Documents are Proprietary Documents which are created during the course of the implementation of the original HR4000 contract, and shall include all updates, redesign, changes or alterations of the design and/or configuration documents relating to any portion of the HRVs, any of their components or subcomponents, including the source codes of any software developed or deployed in the creation of the HRVs, as well as the operation and maintenance of the HRVs, which are the subject of the Contract.

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 D)

2.0 LISTING OF PROPRIETARY DOCUMENTS:

The Contractor shall develop a complete listing of Proprietary and Additional Proprietary Documents that will be deposited into the Escrow Account. Upon completion and approval of the listing of Proprietary and Additional Proprietary Documents, this list shall become an exhibit to the Escrow Agreement. The LACMTA will have the right to review the list of documents to ensure that it is comprehensive and to verify the deposit of the items into escrow to ensure that all of the items on the respective lists have been deposited.

Should the Contractor fail to include any Proprietary or Additional Proprietary Documents into the Escrow Agreement as required, Contractor may be found to be in non-compliance and in default under the Contract, and subject to any and all remedies related to default as set forth in the Contract, including termination of the Contract, and including payment of all LACMTA’s costs related thereto.

3.0 ESCROW ACCOUNT

Contractor will be required to deposit all of its Proprietary and Additional Proprietary Documents into an Escrow Account in accordance with Escrow Agreement, Exhibit D. The details of how, when and where to deposit the Proprietary and Additional Proprietary Documents are discussed below.

3.1 Establishment of the Escrow Account

Within 160 days after Shipment of the Pilot Cars, Contractor shall deposit with Escrow Agent all the Proprietary Documents. Contractor’s duty to deposit Proprietary Documents with the Escrow Agent, as defined in the Escrow Agreement, shall continue throughout the term of the Contract, and after the initial deposit of Proprietary Documents, each new deposit will consist of Additional Proprietary Documents. The Escrow Agreement shall be in the form attached to this Agreement as Exhibit D, and shall be a three party agreement executed by the Escrow Agent, Contractor, and the LACMTA.

3.2 Submittal Requirements

Submittal of any Proprietary Documents that exist at the time of the award of the Contract is mandatory. As described above, upon receipt of notice of award of the Contract, Contractor shall begin developing a comprehensive list of existing Proprietary Documents and shall deliver that list to LACMTA (the “List”). Once LACMTA has reviewed and accepted the method of listing of the documents, the Proprietary Documents will be deposited into the Escrow Agreement.
3.2.2 It is understood by the Parties that as a result of the normal design and construction process involved with the manufacturing of HRVs, there may be a smaller number of Proprietary Documents at the outset of the Contract. Therefore, Contractor shall be required to provide LACMTA with regular updates, descriptions and the status of the Proprietary and Additional Proprietary Documents deposited into the Escrow Agreement as changes, modifications, amendments or updates occur to the documents. As they are developed, all Additional Proprietary Documents will be added to the List. Contractor’s failure to timely disclose and deposit the Additional Proprietary Documents into the Escrow Agreement may lead to breach of Contract. If LACMTA elects to find Contractor in default of the Contract, such action shall not form the basis of a claim by the Contractor against the LACMTA.

3.2.3 Contractor shall ensure that the List is fully updated before any new Proprietary and Additional Proprietary Documents are deposited into the Escrow Account. Once the Contractor and LACMTA have agreed on the completeness of the latest version of the List, at the sole expense of the Contractor, all of the new Proprietary and Additional Proprietary Documents shall be submitted to the Escrow Agent in sealed containers in the same format as they exist in the Contractor’s files, and clearly marked on the outside with:

- Labels indicating the contents are Proprietary Documents - Technical or Software;
- Contractor’s name, business address, contact person and contact numbers;
- Date of Submittal;
- LACMTA’s Project/Contract Name and Number; and
- LACMTA’s Contact name, business address and contact numbers.

The Proprietary Documents shall be submitted in a format that enables LACMTA to read and review and use them should conditions be met that permit LACMTA to review and use the Proprietary Documents without Contractor’s participation; see the Escrow Agreement. Each time documents are deposited into the Escrow Account, LACMTA and Contractor will jointly review the Proprietary and Additional Proprietary Documents at a mutually agreed upon location, which may be the Escrow Agent’s offices, to confirm both the content and method of the identification, accessibility and use by LACMTA of the documents. Examination and acceptance of the Proprietary or Additional Proprietary Documents by LACMTA shall not constitute a waiver of any claim by LACMTA that the Proprietary or Additional Proprietary Documents were incomplete.
3.3 Conditions for Release

The Escrow Agreement shall include provisions for the release of Proprietary and Additional Proprietary Documents from the Escrow Account to the Contractor and/or the LACMTA.

3.4 LACMTA's Right to Verify Proprietary and Additional Proprietary Documents, including software and firmware.

LACMTA shall have the right to verify the relevance, completeness, currency, accuracy, and functionality of any Proprietary or Additional Proprietary Documents prior to their deposit into the Escrow Account.
LACMTA can review the documents, with the assistance of the Contractor, for the sole purpose of ensuring that the terms of the Escrow Agreement have been met. Such verification may occur by, among other things, comparing design documents with the current state of the design, determining that all equipment attached to the HRV’s matches the names of the suppliers listed in the List and where deemed critical and necessary, jointly performing test runs for comparison with any operating system software and firmware in conjunction with Contractor to ensure that the software operates as promised by Contractor.

3.5 Proprietary Rights

3.5.1 LACMTA's Use of Proprietary and Additional Proprietary Documents

Subject to the provisions of the Escrow Agreement, LACMTA's License to, and ownership rights in, the Proprietary and Additional Proprietary Documents obtained by LACMTA under the provisions of this Agreement shall remain subject to every license restriction, proprietary rights protection specified in this Agreement. However, if LACMTA receives documents released from the Escrow Account, it reserves the right to make such documents available to third parties for any legal authorized use in support of the operation and maintenance of the HRVs. LACMTA acknowledges that possession of the Proprietary and Additional Proprietary Documents may be subject to the use of confidentiality agreements. Should use of these documents involve the use or practice of any patent, copyright, trade secret, trademark or other proprietary information in which Contractor has an interest, Contractor, on behalf of itself and its assignees and successors, agrees not to assert a claim for patent, copyright, trade secret, trademark or other proprietary information infringement against the LACMTA or any of its consultants or contractors, provided use of Software and related Source Code is in accordance with this Agreement.

3.5.2 LACMTA Data Rights

LACMTA's data and all rights, title and interest are and shall remain the property of LACMTA.
4. LACMTA Owned Software Customizations

Contractor shall deliver to LACMTA, in a readable electronic format specified by the LACMTA Project Manager and in accordance with the Statement of Work, a copy of any LACMTA purchased software customizations and any related source code, and Contractor further covenants and agrees that during the term of the Contract, it will update LACMTA owned customizations and related source code and shall promptly deliver to the LACMTA a copy of such changed, modified, updated, or amended source code.

SP-29 RESERVED

SP-30 RESERVED

SP-31 BUY AMERICA CERTIFICATION

A. Buy America Certification

1. As described in Regulatory Requirements Section RR-15 of this RFP, this Contract is subject to the "Buy America" statutory requirements of 49 USC §5323U) and regulatory requirements of 49 CFR Part 661, as may be amended from time to time. Proposer's attention is directed to 49 CFR §661.11, Rolling Stock Procurements. Proposer has the responsibility to comply with the above cited provisions and any other governing statutes and regulations, including official interpretations.

2. Proposers shall execute the appropriate "Buy America" certification in the Proposal Documents. Failure to do so will make the Proposal non-responsive. The two signature blocks on the "Buy America" Certificate are mutually exclusive. Proposer shall sign only one signature block on the Certificate. Signing both signature blocks will make the Proposal non-responsive. Knowingly and willfully making a false certification is a criminal act under 18 USC §1001.

2.1 The Proposer who has submitted an incomplete "Buy America" certificate or incorrect certificate of non-compliance through inadvertent or clerical error (but not including failure to sign the certificate, submission of certificates of both compliance and non-compliance, or failure to submit any certification), may submit to the FTA Chief Counsel within ten (10) Days of Proposal opening a written explanation of the circumstances surrounding the submission of the incomplete or incorrect certification in accordance with 28 USC §1746, sworn under penalty of perjury, stating that the submission resulted from inadvertent or clerical error. The Proposer will also submit evidence of intent, such as information about the origin of the product, invoices, or other working documents. The Proposer will simultaneously send a copy of this information to LACMTA.
2.2 The FTA Chief Counsel may request additional information from the Proposer, if necessary. LACMTA may not make Contract Award until the FTA Chief Counsel issues his/her determination, except as provided in 49 CFR Part 661.15(m).

2.3 Certification based on ignorance of proper application of the “Buy America” requirements is not an inadvertent or clerical error.

3. Any party may petition FTA to investigate a successful Proposer’s compliance with the “Buy America” certification. The procedures are set out in 49 CFR Part 661.15. If FTA determines the evidence indicates noncompliance, FTA will require LACMTA to initiate an investigation. The successful Proposer has the burden of proof to establish compliance with its certification. If the successful Proposer fails to so demonstrate compliance, the successful Proposer will be required to substitute sufficient domestic materials without revision of the original Contract terms or increase in the Contract Price. A willful failure to comply with a certification will be a breach of the Contract and may lead to the initiation of debarment or suspension proceedings under 49 CFR Part 29.

B. Buy America Pre-Award and Post-Delivery Audit Requirements.

1. Proposer/Supplier agrees to provide the information requested by LACMTA in order for LACMTA to meet the pre-Award and post-Delivery audit requirements of 49 USC. §5323(m) and 49 CFR Part 663.

2. Pre-Award Audit Requirements: If Proposer certifies compliance with Buy America as set forth in these Special Provisions, Proposer shall submit documentation which lists 1) component and subcomponent parts of the Vehicle, as defined by 49 CFR Part 661, to be purchased, identified by manufacturer of the part, its country of origin and cost; 2) the location of the final assembly point for the Vehicle; and 3) a description of the activities that will take place at the final assembly point and the cost of final assembly, in order to allow LACMTA to complete the pre-award audit. Proposer shall provide enough detail to allow for the determination that all final assembly activities will be performed in the Contractor’s final assembly facility in the U.S. In addition, the Pre-Award Audit must include the Purchaser’s Requirements Certification required under 49 CFR 663.27.

3. Post-Delivery Audit Requirements: If Proposer certifies compliance with Buy America as set forth in these Special Provisions, Proposer shall submit documentation which lists 1) component and subcomponent parts of the Vehicle purchased, as defined by 49 CFR Part 661, identified by manufacturer of the part, its country of origin and cost; 2) the actual location of the final assembly point for the Vehicle; and 3) a description of the activities that took place at the final assembly point and the cost of final assembly, in order to allow LACMTA to complete the post-Delivery audit. Proposer shall provide accurate records of all vehicle construction activities; and address how the construction and operation of the vehicles
fulfills the contract specifications in enough detail to allow for the determination that all final assembly activities were performed in the Contractor’s final assembly facility in the U.S.

C. Buy America Compliance Reporting

The Contractor shall promptly report and provide enough details to LACMTA of any substitution / addition / deletion of supplier(s) that may impact Buy America domestic content proposed at the time of the Pre-Award audit.

Additionally, the Contractor shall report Buy America compliance status each month in the monthly progress report in a format approved by LACMTA.
EXHIBIT A – PERFORMANCE BOND

(SP-10)

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION AUTHORITY

CONTRACT NO. HR4000
HEAVY RAIL VEHICLES

PERFORMANCE BOND

WHEREAS the Los Angeles County Metropolitan Transportation Authority ("LACMTA") has awarded to ___________________ ("Principal"), Contract No. HR4000, Heavy Rail Vehicles and

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

NOW, THEREFORE, we ______________________________, ("Principal"), and ______________________________, ("Surety"), as Surety, are held and firmly bound unto LACMTA in the sum of $_______ 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 shall pay reasonable attorneys' fees to LACMTA in an amount to be fixed by the court. In no event shall the surety be liable under this Bond for an amount greater than the aggregate penal sum designated in this paragraph.

The condition of this obligation is such that, if the hereby-bonded Principal or its heirs, executors, administrators, successors, assigns, or Subcontractors 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 Goods to be furnished 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 Goods and Technical Services to be performed thereunder.
IN WITNESS WHEREOF, three 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 ________ 2015, 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")
EXHIBIT B – SAMPLE CERTIFICATE OF BENEFICIARY

(SP-22.B)

CERTIFICATE OF BENEFICIARY

1. This Certificate of Beneficiary ("Certificate") dated ______ is submitted pursuant to Irrevocable Letter of Credit No. ________ issued by [NAME OF ISSUING BANK].

2. The undersigned is the Executive Officer of Finance of the Los Angeles County Metropolitan Transportation Authority ("Beneficiary") and is authorized to submit this Certificate.

3. The undersigned hereby certifies that, pursuant to Special Provision SP-22.C, Option to Demand Payment on Irrevocable Letter of Credit, of that certain Contract dated as of __________, 2011 between Beneficiary and Contractor ("HR4000 Heavy Rail Vehicle Contract"), Contractor has defaulted pursuant to Contract Special Provision SP-23 or has otherwise failed to perform the terms, conditions or covenants of the HR4000 Contract.

4. The undersigned further states that Beneficiary is entitled under the HR4000 Contract to $________ as a result of such default or failure to make inspection and repairs as set forth above, and Beneficiary hereby demands payment of such amount under the Letter of Credit.

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By: ____________________________
EXHIBIT C – ESCROW OF PROPRIETARY DOCUMENTS AGREEMENT

Account Number: _______________

This Escrow Agreement (this "Agreement") is entered into on this ___ Day of ____, 2015, by and between the Authority ("Licensee"), _____________________ ("Licensor") and Escrow Company ("Escrow Agent") (collectively referred to herein as the "Parties" and each individually as a "party") and shall be effective as of the "Effective Date" (as such term is defined in that certain HR4000 Heavy Rail Vehicle Agreement by and between the Licensee and the Licensor (the "Underlying Agreement").

RECITALS

WHEREAS, Licensor and Licensee have entered into the Underlying Agreement which incorporates and relies upon certain Proprietary Documents of Licensor, as defined in the Underlying Agreement;

WHEREAS, Licensor desires to avoid disclosure of its Proprietary Document except under certain limited circumstances;

WHEREAS, The availability of the proprietary technology of Licensor is critical to Licensee in the conduct of its business and, therefore, Licensee needs access to the proprietary technology under certain limited circumstances;

WHEREAS, Licensor and Licensee desire to establish an escrow with Escrow Agent to provide for the retention, administration of and controlled access of the proprietary design, technology and software materials of Licensor; and

WHEREAS, The Parties desire this Agreement to be supplementary to the Underlying Agreement pursuant to 11 United States Code, Section 365(n).

NOW, THEREFORE, based upon the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

Article 1 – Definitions

Any capitalized term will retain the definition already provided in either the Underlying Agreement or as set forth in this Agreement.

Article 2 - Deposits

2.1 Obligation to Make Deposit

Upon the signing of this Agreement by the Parties, Licensor shall become responsible for delivering to Escrow Agent all identified Proprietary Documents relating to the proprietary
designs, technology, software and other materials required to be deposited by the Underlying Agreement and/or the materials identified on Exhibit A (“Proprietary Documents”). Licensor shall subsequently deliver additional material upon delivery to Licensee of all Custom Programming Modifications required to be completed pursuant to the Underlying Agreement and as such materials are updated from time to time Exhibit B (“Additional Proprietary Documents”). Escrow Agent shall have no obligation with respect to the preparation, signing or delivery of Exhibit A.

2.2 Identification of Tangible Media

Prior to the delivery of the Proprietary Documents and Additional Proprietary Documents to Escrow Agent, Licensor shall conspicuously label for identification each document, drawing, magnetic tape, disk, or other tangible media upon which the Proprietary Documents or Additional Proprietary Documents are written or stored. Additionally, Licensor shall complete Exhibit B (Description of Proprietary Documents) to this Agreement by listing each such tangible media by the item label description, the type of media and the quantity. Exhibit B must be signed by Licensor and delivered to Escrow Agent with the Proprietary Documents and Subsequent Materials. Unless and until Licensor makes the initial deposit with Escrow Agent, Escrow Agent shall have no obligation with respect to this Agreement, except the obligation to notify the Parties regarding the status of the deposit account as required in Section 2.2 (Status Reports) below.

2.3 Deposit Inspection

When Escrow Agent receives the Proprietary Documents, Additional Proprietary Documents and the completed Exhibit B, Escrow Agent will notify Licensee and conduct a deposit inspection by visually matching the labeling of the tangible media containing the Proprietary Documents and Additional Proprietary Documents to the item descriptions and quantity listed on the completed Exhibit B. In addition to the deposit inspection, Escrow Agent shall verify the Proprietary Documents and Additional Proprietary Documents in accordance with Section 1.6 (Verification) below.

2.4 Acceptance of Deposit

At completion of the deposit inspection and at each verification as required in Section 1.6 (Verification) below, if Escrow Agent determines that the labeling of the tangible media matches the item descriptions and quantity on Exhibits A and B and verifies the Proprietary Documents and/or Additional Proprietary Documents, Escrow Agent will date and sign the Exhibit B and mail requested return receipt a copy thereof to Licensor and Licensee. If Escrow Agent determines that the labeling does not match the item descriptions or quantity on Exhibit A and B, Escrow Agent will (a) note the discrepancies in writing on the Exhibit B; (b) date and sign the Exhibit B with the exceptions noted; and (c) mail a copy of the Exhibit B to Licensor and Licensee. Escrow Agent's acceptance of the deposit occurs upon the signing of the Exhibit B by Escrow Agent. Delivery of the signed Exhibit B documents have been received and accepted by Escrow Agent.

2.5 Licensor's Representations - Licensor represents and warrants as follows:
   1. Licensor lawfully possesses all of the Proprietary Documents and Additional Proprietary Documents deposited with Escrow Agent;
   2. With respect to all of the Proprietary Documents and Additional Proprietary
3. The Proprietary Documents and Additional Proprietary Documents are not subject to any lien or other encumbrance;
4. The Proprietary Documents and Additional Proprietary Documents consist of the proprietary technology and other materials identified either in the Underlying Agreement and/or Exhibit A, as the case may be; and
5. The Proprietary Documents and Additional Proprietary Documents are readable and useable in their current form or, if any portions of the Deposit or Additional Proprietary Documents are encrypted, the decryption tools and decryption keys have also been deposited to permit Licensee to use the Proprietary and Additional Proprietary Documents as they were intended for the purpose of maintaining and operating the LRVs.

2.6 Verification

Escrow Agent shall, at Licensor’s expense, cause a standard verification, as described in Exhibit B, of all Proprietary Documents and Additional Proprietary Documents upon receipt and yearly thereafter. Escrow Agent shall, at Licensor’s expense, cause one full verification as described in Exhibit B of Proprietary and Additional Proprietary Documents upon written instructions from Licensee prior to Final Contract Acceptance. Licensor shall have the right to be present at the verification. The verification shall determine, in different levels of detail, the accuracy, completeness, sufficiency and quality of the Proprietary Documents and Additional Proprietary Documents.

2.7 Deposit Updates

Unless otherwise provided by the Underlying Agreement, Licensor shall update the Exhibit B and Additional Proprietary Documents within fifteen (15) days of each release of a new version of the product which is subject to the Underlying Agreement. Such updates will be added to the existing deposit. All deposit updates shall be listed on an updated Exhibit B and the updated Exhibit B shall be signed by Licensor. Each Exhibit B will be held and maintained separately within the escrow account. An independent record will be created which will document the activity for each Exhibit B. The processing of all deposit updates shall be in accordance with Sections 1.2 (Identification of Tangible Media) through .6 (Verification) above. All references in this Agreement to the Proprietary Documents shall include the Proprietary Documents and Additional Proprietary Documents and any updates.

2.8 Removal of Proprietary Documents

The Proprietary Documents may be removed and/or exchanged only on written instructions mutually signed by Licensor and Licensee, or as otherwise provided in this Agreement.

Article 3 -Confidentiality and Record Keeping

3.1 Confidentiality

Escrow Agent shall maintain the Proprietary Documents and Additional Proprietary Documents in a secure, environmentally safe, locked facility which is accessible only to authorized representatives of Escrow Agent. Escrow Agent shall reasonably protect the
confidentiality of the Proprietary Documents and Additional Proprietary Documents. Except as provided in this Agreement, Escrow Agent shall not disclose, transfer, make available, or use the Proprietary Documents. Escrow Agent shall not disclose the content of this Agreement to any third party. If Escrow Agent receives a subpoena or other order of a court or other judicial tribunal pertaining to the disclosure or release of the Proprietary Documents and/or Additional Proprietary Documents, Escrow Agent will immediately notify the Parties to this Agreement unless prohibited by law. It shall be the responsibility of Licensor to challenge any such order; provided, however, that Escrow Agent does not waive its rights to present its position with respect to any such order. Escrow Agent will not be required to disobey any court or other judicial tribunal order.

3.2 Status Reports

Escrow Agent will issue to Licensor and Licensee a report profiling the account history at least semi-annually. Escrow Agent may provide copies of the account history pertaining to this Agreement upon the request of any party to this Agreement.

3.3 Audit Rights

During the term of this Agreement, Licensor and Licensee shall each have the right to inspect the written records of Escrow Agent pertaining to this Agreement. Any inspection shall be held during normal business hours and following reasonable prior notice.

Article 4 - Grant of Rights to Escrow Agent

4.1 Title to Media

Licensor hereby transfers to Escrow Agent the title to the media upon which the proprietary technology and materials are written or stored. However, this transfer does not include the ownership of the content of the Proprietary or Additional Proprietary Documents and materials contained on the media such as any copyright, trade secret, patent or other intellectual property rights.

4.2 Right to Make Copies

Escrow Agent shall have the right to make copies of the Proprietary Documents as reasonably necessary to perform this Agreement. Escrow Agent shall copy all copyright, nondisclosure, and other proprietary notices and titles contained on the Proprietary Documents onto any copies made by Escrow Agent. With all Proprietary Documents submitted to Escrow Agent, Licensor shall provide any and all instructions as may be necessary to duplicate the Proprietary Documents including but not limited to the hardware and/or software needed.

4.3 Right to Transfer Upon Release

Licensor hereby grants to Escrow Agent the right to transfer the Proprietary Documents to Licensee upon any release of the Proprietary Documents for use by Licensee in accordance with Section 5.3 (Right to Use Following Release). Except upon such a release or as otherwise provided in this Agreement, Escrow Agent shall not transfer the Proprietary Documents and/or Additional Proprietary Documents.
Article 5 - Release of Deposit

5.1 Release Conditions

As used in this Agreement, "Release Condition" shall mean any of the following:

1. Licensor ceases to pay or has admitted in writing its inability to pay its debts for at least forty-five (45) days in the ordinary course of business or cannot pay its debts as they become due, whether or not a petition has been filed under the United States Bankruptcy Code and whether or not Licensor is insolvent within the meaning of the United States Bankruptcy Code, provided that Licensor shall not be deemed insolvent if it has ceased in the normal course of business to pay its debts which are disputed in good faith and which are not related to this Agreement as determined by Licensee;

2. The filing of a voluntary or involuntary petition (which involuntary petition is not dismissed within forty-five (45) days) regarding Licensor under the United States Bankruptcy Code;

3. The appointment of a receiver or trustee for Licensor;

4. The execution by Licensor of a general assignment for the benefit of creditors;

5. If Licensee issues a notice to Licensor to terminate the Underlying Agreement and presents a true and correct copy of said notice to Escrow Agent; or

6. Licensor's non-payment of fees owed under this Agreement.

5.2 Filing For Release of Deposit by Licensee

Upon written notice to Escrow Agent by Licensee of the occurrence of a Release Condition as defined in Section 4.1 (Release Conditions), Escrow Agent shall so notify Licensor by certified mail with a copy of the notice from the Licensee. Within three (3) business days of receiving Licensee’s notice of the occurrence of a Release Condition, Escrow Agent shall release the Proprietary Documents to the Licensee. If Licensor disputes Escrow Agent's release of the Deposit, Licensor and Licensee shall resolve the dispute pursuant to the Underlying Agreement. Regardless of whether Licensor disputes Escrow Agent's release of the Deposit, Escrow Agent is authorized and hereby directed by Licensor and Licensee to immediately release the Deposit to the Licensee. This Agreement will terminate upon the release of the Proprietary and Additional Proprietary Documents held by Escrow Agent.

5.3 Right to Use Following Release

Upon release of the Proprietary and Additional Proprietary Documents in accordance with this Article 4, Licensee shall have the right to use the Proprietary and Additional Proprietary Documents as provided for in the Underlying Agreement.

Article 6 - Term and Termination
6.1 Term of Agreement

The initial term of this Agreement is for a period of fifteen (15) years. Thereafter, this Agreement shall automatically renew from year-to-year unless (a) Licensor and Licensee jointly instruct Escrow Agent in writing that the Agreement is terminated; or (b) the Agreement is terminated by Escrow Agent for nonpayment in accordance with Section 5.2 (Termination for Non-payment). If the Proprietary and/or Additional Proprietary Documents are subject to another escrow agreement with Escrow Agent, Escrow Agent reserves the right, after the initial one year term, to adjust the anniversary date of this Agreement to match the then prevailing anniversary date of such other escrow arrangements.

6.2 Termination for Nonpayment

In the event of Licensor's non-payment of fees owed to Escrow Agent, Escrow Agent shall provide written notice of delinquency to all Parties to this Agreement. If the past due payment is not received in full by Escrow Agent within one month of the date of such notice, then Escrow Agent shall terminate this Agreement immediately by sending written notice of termination to all parties.

6.3 Disposition of Proprietary Documents Upon Termination

Upon termination of the Agreement pursuant to Section 6.2 (Termination for Nonpayment) or as a result of any Licensor breach, Escrow Agent shall deliver the Proprietary Documents and Additional Proprietary Documents to Licensee. Escrow Agent shall have no obligation to return or destroy the Proprietary Documents and Additional Proprietary Documents if such Materials are subject to another escrow agreement with Escrow Agent and Licensee.

6.4 Survival of Terms Following Termination

Upon termination of this Agreement, the following provisions of this Agreement shall survive:

1. Licensor's obligations under Section 2.5 (Licensor's Representations);
2. The obligations of confidentiality with respect to the Proprietary Documents;
3. The rights granted in the Section 4.3 (Right to Transfer Upon Release) and Section 5.3 (Right to Use Following Release);
4. The obligation to pay Escrow Agent any fees and expenses due;
5. The provisions of Article 8 (Liability and Disputes); and
6. Any provisions in this Agreement which specifically state they survive the termination or expiration of this Agreement.

Article 7 - Escrow Agent Fees

7.1 Fee Schedule

Licensor shall be solely responsible to pay, and shall pay, any and all fees, costs, and expenses due to Escrow Agent under this Agreement Escrow Agent is entitled to be paid its standard fees and expenses applicable to the services provided. Escrow Agent shall notify Licensor at least 60 days prior to any increase in fees. For any service not listed on Escrow Agent's standard fee schedule, Escrow Agent will provide a quote prior to rendering the service, if requested.
7.2 Payment Terms

Fees for the initial (15) Fifteen-year term are due and payable in advance by Licensor upon the Effective Date or receipt of the Proprietary Documents whichever is earliest. If invoiced fees are not paid, Escrow Agent may terminate this Agreement in accordance with Sections 6.2 (Termination for Nonpayment) and 6.3 (Disposition of Proprietary Documents Upon Termination.

Article 8 - Liability and Disputes

8.1 Right to Rely on Instructions

Escrow Agent may act in reliance upon any instruction, instrument, or signature reasonably believed by Escrow Agent to be genuine. Escrow Agent may assume that any employee identified in Exhibit C as a designated contact of a Party to this Agreement who gives any written notice, request, or instruction has the authority to do so. Escrow Agent will not be required to inquire into the truth or evaluate the merit of any statement or representation contained in any notice or document from a designated contact. Escrow Agent shall not be responsible for failure to act as a result of causes beyond the reasonable control of Escrow Agent.

8.2 Indemnification

Licensor agrees to indemnify, defend and hold harmless Escrow Agent and Licensee from any and all claims, actions, damages, arbitration fees and expenses, costs, attorney's fees and other liabilities ("Liabilities") incurred by Escrow Agent or Licensee relating in any way to this escrow arrangement unless such Liabilities were caused solely by the negligence or willful misconduct of Escrow Agent. Licensee agrees to hold Escrow Agent harmless from all Liabilities arising from Escrow Agent properly following any instruction provided in writing by Licensee's designated contact.

8.3 Dispute Resolution

Any dispute relating to or arising from this Agreement shall be resolved in accordance with the terms and conditions set forth in the Underlying Agreement.

8.4 Governing Law; Venue

This Agreement shall be governed and construed in accordance with the laws of the State of California, without regard to its conflict of law provisions. The Parties agree and consent to the exclusive jurisdiction of the courts of the State of California (except with respect to claims that are subject to exclusive federal subject matter jurisdiction, as to which the Parties agree and consent to the exclusive jurisdiction of the Federal District Court of the Central District of California) for all purposes regarding this Agreement and further agree and consent that venue of any action brought hereunder shall be exclusively in the County of Los Angeles, California.

8.5 Notice of Requested Order
If any party intends to obtain an order from any court of competent jurisdiction which may direct Escrow Agent to take, or refrain from taking any action, that party shall ensure that Escrow Agent not be required to deliver the original (as opposed to a copy) of the Proprietary Documents, if Escrow Agent must retain the original in its possession to fulfill any of its other express duties.

8.6 Proof of Coverage

Escrow Agent shall provide Licensee with proof of coverage against risk of loss or damage to the Proprietary Documents and Additional Proprietary Documents.

Article 9 - General Provisions

9.1 Entire Agreement

This Agreement, which includes the Exhibits described herein, embodies the entire understanding among the Parties with respect to its subject matter and supersedes all previous communications, representations or understandings, either oral or written. Escrow Agent is not a party to the Underlying Agreement between Licensor and Licensee and has no knowledge of any of the terms or provisions of any such Underlying Agreement except as to those identified herein. Escrow Agent's only obligations to Licensor or Licensee are as set forth in this Agreement and at law. No amendment or modification of this Agreement shall be valid or binding unless signed by all the Parties hereto, except that Exhibit A need not be signed by Escrow Agent Exhibit B need not be signed by Licensee and Exhibit C need not be signed.

9.2 Notices

All notices, invoices, payments, deposits and other documents and communications shall be given to the Parties at the addresses specified in the attached Exhibit C. It shall be the responsibility of the Parties to notify each other as provided in this Section in the event of a change of address. The Parties shall have the right to rely on the last known address of the other Parties. Unless otherwise provided in this Agreement, all documents and communications may be delivered by first class mail.

9.3 Severability

In the event any provision of this Agreement is found to be invalid, voidable or unenforceable, the Parties agree that unless it materially affects the entire intent and purpose of this Agreement, such invalidity, voidability or unenforceability shall affect neither the validity of this Agreement nor the remaining provisions herein, and the provision in question shall be deemed to be replaced with a valid and enforceable provision most closely reflecting the intent and purpose of the original provision.
9.4 Successors

This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties. However, Escrow Agent shall have no obligation in performing this Agreement to recognize any successor or assign of Licensor or Licensee unless Escrow Agent receives clear, authoritative and conclusive written evidence of the change of Parties.

9.5 Regulations

Licensor and Licensee are responsible for and warrant compliance with all applicable laws, rules and regulations, including but not limited to customs laws, import, export, and re-export laws and government regulations of any country from or to which the Proprietary Documents maybe delivered in accordance with the provisions of this Agreement.
SOFTWARE ESCROW

EXHIBIT A

Proprietary Documents

Account Number: _________________

Licensor represents to Licensee that Proprietary Documents delivered to Escrow Agent shall consist of the following:

1. __________
2. __________
3. __________
   etc.

CONTRACTOR/LICENSOR:
BY: ________________________
NAME: _____________________
TITLE: _____________________
DATE: _____________________

LACMTA/LICENSEE:
BY: ________________________
NAME: _____________________
TITLE: _____________________
DATE: _____________________
EXHIBIT B

Description of Proprietary Documents

Licensor Company Name: _________________

Account Number: _________________________________

Product Name: _________________________________________

Version: ________________________________

(Product Name will appear as the Exhibit B Name on Account History report)

DEPOSIT MATERIAL DESCRIPTION:

1. Quantity
2. Media Type & Size
3. Label Description of Each Separate Item
   1. CD-ROM
   2. Data cartridge tape: __________
   3. Magnetic tape: ______________
   4. Documentation
   5. Other___________

PRODUCT DESCRIPTION:

- HRV Design Drawings

DEPOSIT MATERIAL INFORMATION:

Is the media encrypted? Yes / No If yes, please include any passwords and the decryption tools.

Encryption tool name_________ and Version ______________________

Hardware required: ___________________________________________

Software required: ___________________________________________

Other required information: ____________________________________
SOFTWARE ESCROW
EXHIBIT B

Description of Proprietary Documents

I certify for Depositor that the above described Proprietary Documents have been transmitted to _____ Escrow Company.

Signature
_____________________________________

Print Name: ____________________________

Date: _________________________________
SOFTWARE ESCROW

EXHIBIT C

Designated Contacts:

1. Invoices, Notices, deposit material returns and communications to Licensor should be addressed to:

   Company Name: ______________________
   Address: ____________________________
   Designated Contact: __________________
   Telephone: __________________________

2. Notices and communications to Licensee should be addressed to:

   Company Name: ______________________
   Address: ____________________________
   Designated Contact: __________________
   Telephone: __________________________

3. Notices and communications to Escrow Agent:

   Escrow Agent Name: ________________
   Address: ___________________________
   Designate Contact: ________________
   Date Accepted Exhibit B: ____________

Requests from Licensor or Licensee to change the designated contact should be given in writing by the designated contact or an authorized employee of Licensor or Licensee.
EXHIBIT E – LOCAL EMPLOYMENT PLAN

To be inserted at time of Contract Award
**EXHIBIT F – PARENT COMPANY GUARANTY**

**FORM OF PARENT COMPANY GUARANTY**

In consideration of the execution of Contract _________________ by and between the Los Angeles County Metropolitan Transportation Authority (LACMTA) and ____________________________, (Guarantor) hereby guarantees the performance of (Company Name) for all work performed and obligations undertaken in accordance with the above referenced Contract to be executed by and between LACMTA and (Company Name). Should (Company Name) fail or otherwise be unable to fully perform in accordance with the terms of the Contract, and (Company Name) receives written notice of failure to satisfactorily perform as such, Guarantor shall itself, acting directly or through others, fully perform such obligations under the terms of the Contract.

LACMTA may at any time and from time to time without notice to or consent of the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder; (1) agree with the (Company Name) to make any change in the terms of any obligation or liability of (Company Name) to LACMTA under the Contract, (2) take or fail to take any action of any kind in respect of any security for any obligation or liability of (Company Name), (3) exercise or refrain from exercising any rights against (Company Name), or (4) compromise or subordinate any obligation or liability of (Company Name) to LACMTA, including any security therefore. Any and all suretyship defenses are hereby waived by the Guarantor.

The Guarantor has the necessary power and authority, and all necessary corporate and other action has been taken, to enable the Guarantor to sign and deliver this Guaranty and perform its obligations hereunder; implementation by the Guarantor of the foregoing will not contravene any law, order or third party agreement by which the Guarantor is bound.

**THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO PRINCIPALS OF CONFLICTS OF LAW. GUARANTOR AGREES TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN LOS ANGELES COUNTY, LOS ANGELES OVER ANY DISPUTES ARISING UNDER OR RELATING TO THIS GUARANTY.**

(Corporate Seal) ** Approved Signature ___________________________
Title ________________________________________________________
Date __________________________________________________________________________

Attest:

__________________________________________
Name
Title

**If this document is signed by an officer other than the President, the Contractor shall furnish a copy of by-laws or resolution authorizing said officer to sign.**
GENERAL CONDITIONS (SERVICES)

Note: * = Flow-down requirement as defined in the Article entitled SUBCONTRACTORS AND SUPPLIERS herein

GC-01 GLOSSARY OF TERMS*

GC-01-A Abbreviations And Symbols

Cal-OSHA California Occupational Safety and Health Administration
CEO Chief Executive Officer
CFR Code of Federal Regulations
EPA United States Environmental Protection Agency
FAR Federal Acquisition Regulations
FTA Federal Transit Administration
LEP Local Employment Program
NTE Not-to-Exceed
OSHA United States Department of Labor, Occupational Safety and Health Administration, and Occupational Safety and Health Act
PUC Public Utilities Code, State of California
RFC Request for Change
USC United States Code

GC-01-B Definitions

Acceptance Acceptance by LACMTA’s Authorized Representative of completion of the Work under the Contract, or a portion thereof, by the issuance of a document of acceptance, as provided for in the Contract.

Affiliated Agencies All public transit service agencies in the County of Los Angeles, including without limitation, municipal transit agencies, transit zones, public transit providers for the disabled, freeway service patrol. Private transit operators for Affiliated Agencies with whom they contract and equipment, facilities and services shall be deemed Affiliated Agencies for the purpose of this Contract.

Alternative Disputes Resolution Means for settling a disputed claim which may include arbitration, mediation or other recognized means for settling a dispute.

Approve To officially confirm or consent to documents presented by and/or actions of the Contractor related to the Work under the Contract.

Assessment A cost imposed on the Contractor for non-compliance with
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorized Auditors</td>
<td>LACMTA, any Government Entity and/or any firm of auditors appointed by LACMTA or other authorized Government Entity to perform any audit on behalf LACMTA or an authorized government entity, DOT, FTA, or State of California, e.g.</td>
</tr>
<tr>
<td>Business days</td>
<td>Monday through Friday excluding LACMTA holidays. LACMTA holidays are New Year’s Day, Martin Luther King’s Birthday, President’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas Day.</td>
</tr>
<tr>
<td>Certificate of Final Acceptance</td>
<td>The written acknowledgment from LACMTA to Contractor that the Equipment and all Work, or a Component has been fully completed in accordance with the Contract.</td>
</tr>
<tr>
<td>Change (Changed Work)</td>
<td>Alterations (including, but not limited to, additions, deletions, revisions and substitutions) to the Contract for the following purposes or combinations thereof: (1) to modify the Scope of Work and/or Technical Specification; (2) to revise and/or extend the Period of Performance; (3) to revise the Contract Price; (4) to approve an alteration to the Vehicle configuration; or (5) to revise the terms and conditions of the Contract Documents. Changes shall not mean work required to be performed by the Contractor to correct defective Work caused by the Contractor’s negligent acts, errors or omissions, nor shall it mean Work that is determined by LACMTA to be within the Contract’s Scope of Work.</td>
</tr>
<tr>
<td>Change Notice (CN)</td>
<td>A written document issued by LACMTA to the Contractor describing a proposed change to the Equipment or Work and requesting the Contractor to submit a Contractor’s Cost and Schedule Proposal.</td>
</tr>
<tr>
<td>Change Order (CO)</td>
<td>A unilateral written by LACMTA’s Contracting Officer directing Changed Work.</td>
</tr>
<tr>
<td>Chief Executive Officer</td>
<td>The Chief Executive Officer (CEO) of LACMTA.</td>
</tr>
<tr>
<td>Claim</td>
<td>A written demand by one of the Contracting Parties for: 1. Time extension; and/or 2. Payment of money.</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
</tr>
<tr>
<td>--------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Commencement Date</td>
<td>The date on which the Period of Performance of this Contract shall commence as set forth in the Notice to Proceed.</td>
</tr>
<tr>
<td>CDRL</td>
<td>Contract Data Requirements List, as defined in the Specifications.</td>
</tr>
<tr>
<td>Component</td>
<td>Any item or any other equipment of a Vehicle supplied under the Contract. May also be referred to as a unit, part, product, module, subcomponent, system, subsystem, assembly, subassembly, software, firmware, structure or other term indicating a part or portion of the equipment.</td>
</tr>
<tr>
<td>Consultant</td>
<td>One that provides Services or Work to LACMTA, also defined as the Contractor.</td>
</tr>
<tr>
<td>Contract</td>
<td>Written agreement executed by LACMTA and the Contractor which sets forth the rights and obligations of the parties in connection with the Services and Work, and which includes the Contract Documents.</td>
</tr>
<tr>
<td>Contract Administrator</td>
<td>LACMTA’s authorized representative with authority, as provided in this Contract, to administer all non-technical contractual matters related to this Contract.</td>
</tr>
<tr>
<td>Contract Documents</td>
<td>All documents included in the Contract and made a part thereof, including without limitation Attachments and Exhibits incorporated herein either by attachment or by reference.</td>
</tr>
<tr>
<td>Contract Price</td>
<td>The total compensation approved by LACMTA to be paid to the Contractor in accordance with the terms of the Contract, including all Amendments, Change Orders and other modifications thereto.</td>
</tr>
<tr>
<td>Contract Time</td>
<td>The number of calendar days, or portion thereof, allowed for completion of the Work, including all authorized time extensions. The date specified in the NTP shall be the date on which the Contract Time begins and the Scheduled Completion Date shall be the date the Contract Time ends.</td>
</tr>
<tr>
<td>Contracting Officer</td>
<td>The CEO or a designated representative who is authorized and empowered to execute contracts, contract modifications, amendments, and agreements on behalf of LACMTA.</td>
</tr>
<tr>
<td>Contractor</td>
<td>The individual, firm, partnership, corporation, joint venture or combination thereof, referred to throughout the Contract in the singular and by the neuter term &quot;it&quot;, that</td>
</tr>
</tbody>
</table>
has entered into the Contract with LACMTA.

**Contractor’s Representative**
The Contractor’s executive representative authorized to receive and fulfill instructions from LACMTA, and who shall direct the activities of the Contractor.

**Corrective Action**
Those actions performed, as a result of a failure or nonconformity, to restore a Component or System to its specified OEM standard.

**Critical Path**
The line on a Critical Path Schedule through the various project tasks at the intersection of the points of their logical relationship (junction points or nodes) that controls the time of completion of the Work.

**Critical Path Schedule**
A schedule which includes the planned sequence of activities showing the interrelationships and dependencies of the elements that comprise the Project, including a breakdown of all of the elements of the Work in to individual tasks, number of days required to perform each task and their logical relationship. The Critical Path Schedule includes the entire Contract Time from the Commencement Date to the Scheduled Completion Date.

**Cure Notice**:
Written notice from LACMTA to the Contractor to correct Work performed not in conformance with the Contract.

**Days**
Unless otherwise stated, "days" shall mean calendar days. When a required submittal falls on a non-business day, submittal shall be on the next business day.

**Deficiency**
Patent or latent flaw or defect in any of the Work, Equipment, Component or Unit, or any failure of the Work, Equipment, Component or Unit, to perform in accordance with the requirements of the Contract either prior to Final Acceptance of the Equipment or during the period of any Warranty as provided in the Contract. The Deficiency may relate to, but is not limited to:

1. A failure or defect in design, materials, workmanship or functionality; or
2. An error, omission or deviation from published or Contractual standards, or the standards of the industry; or
3. A malfunction, failure or other problem resulting in the Equipment, or any Unit or Component not performing in accordance with or meeting any requirement of the Contract, or performing in a degraded mode.

**Delivery**
The transfer of goods or services from the Contractor to
LACMTA, as defined in the Contract.

Disposal Facilities Includes, but is not limited to, LACMTA or Contractor contracted disposal facility, recycling facility, or treatment facility.

Dispute A disagreement between the parties as to the merits, amount or remedy arising out of a Claim or asserted default.

Documentation All Contractor’s training course materials, Equipment specifications and technical manuals (including Contractor drawings and specifications created or obtained by Contractor), all user instructions regarding the capabilities, operation, Software, installation and use of the Equipment and any Component, all CDRL’s or other documentation to be provided by Contractor under this Contract, including as to each of the above, but not limited to, flow charts, block diagrams, drawings, lists, reports, data and other information (paper or electronic, of any type whatsoever, whether in the form of writing, figures, or delineations), and all related information, developed by the Contractor or its Subcontractors directly or indirectly in connection with this Contract or any Change Order relating hereto.

Drawing An engineering illustration that formally defines the Contractor’s work product configuration for all HRVs and HRV components.

Effective Date The date the Contract becomes effective and enforceable. Note: This is not the Commencement Date of Work; see Notice to Proceed.

Emergency Any sudden generally unforeseen occurrence (such as a Force Majeure event or man-made disaster) that has the potential to: adversely affect the safety of life, the Work, or adjacent property; interrupt contracts essential to the provision of daily transit service; or cause catastrophic failure of revenue-producing equipment or facilities in the U.S. or at the Car Builders Work site(s).

Environmental Laws All Laws applicable to LACMTA or to the Equipment, any Component or the Work, now or hereafter in effect relating to (1) The environment; (2) To emissions, discharges, releases or threatened releases of Hazardous Substances into the environment, including into the air, surface water or ground water or onto land; (3) The manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Substances; or (4) Otherwise relating to the protection of public health, public welfare or the natural environmental (including protection

Equipment

1. Any and all machinery, vehicles, systems, assemblies, sub-assemblies, products, material fittings, devices, appliances, fixtures, apparatus, supplies and Components used by the Contractor or provided by the Contractor to LACMTA pursuant to this Contract.

2. Except as the term is used in part 1. of this definition, the combination of all of the Components and Work in a fully operating whole, and functioning in full compliance with all of the terms and conditions of this Contract.

Final Acceptance

Acceptance by LACMTA of all Work under the Contract, through the issuance of an appropriate document of acceptance, certifying that the Work has been fully completed in accordance with the Contract.

Final Payment

Means final payment for completion of all of the Work under the Contract, including any Options that may have been exercised by LACMTA.

Fleet Deficiency/Fleet Failure

Any single failure mode on a Component (as distinct from failures due to all or various causes) that develops during the Component's Warranty period and affects at least ten percent (10%) of the total population of the Component Accepted by LACMTA in any twelve month period. The minimum number of failures for any Component to constitute a Fleet Failure shall be three (3).

Force Majeure

Any of the following events (provided such events are beyond the control of the Contractor and are not due to an act or omission of the Contractor), which materially and adversely affect the Contractor's obligations hereunder and which event (or the effects of which event) could not have been avoided by due diligence and use of
reasonable efforts by the Contractor:

(a) Any earthquake exceeding 5.5 on the Richter scale epicentered within 25 miles of the specific location of damage on the Project, any earthquake exceeding 6.0 on the Richter scale epicentered within 50 miles from the specific location of damage on the Project, and any earthquake exceeding 6.5 on the Richter scale epicentered within 75 miles from the specific location of damage on the Project, based on the final determination regarding the location and magnitude of the earthquake published by the National Earthquake Information Center in Golden, Colorado;

(b) Any epidemic, quarantine restrictions, blockade, rebellion, war, riot, civil disorder, act of a public enemy, or act of sabotage, or any malicious or other acts intended to cause loss or damage;

(c) The discovery at, near or on the Project of any archaeological, paleontological or cultural resources or Hazardous Substances; provided that the existence of such resources or substances were not disclosed in the Contract Documents, were not otherwise known to the Contractor prior to the bid opening date and would not have become known to the Contractor by undertaking reasonable investigation prior to the bid opening date, and excluding any risks of delays arising from such discovery allocated to the Contractor under this Contract;

(d) The discovery at, near or on the Project of any species listed as threatened or endangered under the Federal or California Endangered Species Act, except to the extent that the environmental documents related to the Project provide for mitigation measures to be undertaken with respect thereto regardless of whether the species is listed as threatened or endangered as of the bid opening date, and also subject to any risk allocation provisions which may be contained in this Contract;

(e) The suspension, termination, interruption, denial or failure to obtain, non-renewal or amendment, by a Governmental Entity, of any permit or approval required to be obtained and maintained in force by LACMTA;

(f) Any change in a Law or change in the judicial or
administrative interpretation of, or adoption of any new Law which is materially inconsistent with Laws in effect on the bid opening date (subject to the exclusions set forth below);

(g) Any lawsuit seeking to restrain, enjoin, challenge or delay construction of the Project or the granting or renewal of any governmental approval of the Project, except to the extent that the risk of such lawsuit has been assumed by the Contractor in this Contract;

(h) Any fire or other physical destruction or damage, including lighting, explosion, drought, rain, flood, hurricane, storm or action of the elements or other acts of God; or

(i) Strike, labor dispute, freight embargos, work slowdown, work stoppage, secondary boycott, walkout or other similar occurrence.

Furnish Construct, manufacture, fabricate, deliver or provide at Contractor’s expense labor, Goods, Equipment or facilities necessary or required for the performance and completion of the Work, including all tests and inspections.

Generator A generator as defined in 40 CFR § 260.10, as amended from time to time or replaced under RCRA.

Goods Equipment, material and/or products required to perform the Services. Goods may be furnished by LACMTA or required to be furnished by the Contractor.

Governmental Approval Approval, authorization, certification, consent, exemption, filing, lease, license, permit, registration or ruling, required by, from, or with any Government Entity having subject matter jurisdiction by Law or consent of LACMTA in order to perform the Work.

Government Entity Any federal, state, or local government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity other than LACMTA.

Hazardous Substances (a) Any substance, product, waste or other material of any nature whatsoever which is or becomes defined, listed, regulated, or addressed in or pursuant to any of the following Laws (which shall include any regulations either in the Code of Federal Regulations or the California Code of Regulations or other regulations implemented under the authority of such Laws):
• The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601, et. seq. ("CERCLA");

• the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et. seq.;

• the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et. seq. ("RCRA");

• the Toxic Substances Control Act, 15 U.S.C. §2601 et. seq.;

• the Clean Water Act, 33 U.S.C. §1251 et. seq.;

• the Clean Air Act, 42 U.S.C. §1857 et. seq.;

• the California Hazardous Waste Control Act, Health and Safety Code §25100 et. seq.;

• the California Underground Storage of Hazardous Substances Act, Health and Safety Code §25280, et. seq.;

• the California Hazardous Substance Account Act, Health and Safety Code §25300 et. seq.; (with particular reference to the definition contained in Health and Safety Code §25316);

• the California Safe Drinking Water and Toxic Enforcement Act, Health and Safety Code §25249.5 et. seq.;

• the California Hazardous Waste Management Act, Health and Safety Code §25170.1 et. seq.;

• the California Health and Safety Code §25501 et. seq. (Hazardous Materials Response Plans and Inventory);

• the California Hazardous Substances Information and Training Act, Labor Code §6360 et. seq.;
• the California Porter-Cologne Water Quality Control Act, Water Code §13000 et. seq.; or any other federal, state or local Law, regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect;

(b) Any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above Laws or under any statutory or common law theory based on negligence, trespass, intentional tort nuisance or strict liability or under any reported decisions of a state or federal court;

(c) Notwithstanding Health and Safety Code §25317, petroleum, petroleum by-products, waste oil, crude oil and natural gas; and

(d) Other substances, products, waste or materials defined, or to be treated or handled, as a hazardous substance pursuant to provisions of the Contract.

Hazardous Waste Any waste or combination of wastes as defined in 40 CFR Part 261.3, or regulated as hazardous waste in California pursuant to California Health and Safety Code, Chapter 6.5, Division 20, or defined as hazardous waste in 40 CFR Part 171.8, or listed by the U.S. Department of Transportation and regulated as hazardous under 49 CFR Part 172.101 and appendices (as amended, modified or replaced from time to time).

Heavy Rail Vehicle (HRV or HRVs) The entire HRV and all Components, and Equipment as defined in the Technical Specifications, which constitutes a married pair car set as defined in the Contract including its Technical Specification.

Home Office The home office(s) of the Contractor's firm.

Implementation The manufacture, delivery, installation, testing, and all other Work necessary to provide LACMTA with fully functioning Equipment that meets all of the Contract requirements.

Implementation Plan The plan described in the Technical Specifications, for Implementation of the Work.
Inspector: Person(s) assigned by LACMTA to inspect all work performed by the Contract, who shall be granted full and complete access to all Contractor sites and all work produced by Contractor.

Invoice or Payment Application: A request for payment submitted by Contractor for Work performed.

Key Personnel: Contractor employees identified by the Contractor and LACMTA who perform a special role in the persecution of the Contract Work.

LACMTA: The Los Angeles County Metropolitan Transportation Authority or its successor, or any successor in interest.

Law: Any federal, state or local statute, law, regulation, ordinance, rule, standard, judgment, order, executive order, decree, directive, guideline, policy requirement, other government restriction or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by, any court or Government Entity, which is applicable to the Contract or Work in effect at the time of Contract award or submission of claim. A law when cited herein shall be as amended unless provided to the contrary.

Liens: Any and every lien of any kind whatsoever against the Work, any monies due or to become due from LACMTA to Contractor, and/or any other property of LACMTA, for or on account of the Work, including any Public Lien.

Maintenance and Inspection: Scheduled maintenance or inspection as required by the Contractor.

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

Modification: A written addition, deletion, adjustment or alteration to the Contract by mutual agreement/action executed by the Parties. A Modification may arise out of a Change order.

Notice: A formal correspondence transmitted from either party that acts as a precursor of some action to be taken.

Notice of Acceptance: Notice given by LACMTA to the Contractor that a HRV, including a Pilot, Base or Option HRV, has passed all required tests and all required deliverables have been submitted and approved by LACMTA and the HRV is being accepted by LACMTA into revenue service.
Notice of Termination
Written notice from LACMTA to the Contractor terminating the Contract, or a portion thereof, either for convenience of LACMTA or for default due to the Contractor's failure to perform its contractual obligations.

Notice to Proceed (NTP)
Written authorization from LACMTA to the Contractor specifying the date on which Work under the Contract is to be initiated (the Commencement Date) and providing other information as set forth in this Contract. May also be a Limited Notice to Proceed to initiate a portion of the Work.

Original Equipment Manufacturer (OEM)
The manufacturer of the original equipment on a HRV or in any Component thereof.

OEM Standard
A standard or requirement of an OEM which shall apply to all similar Components and other equipment not manufactured by the OEM.

Parties
LACMTA and the person(s), governmental entities, or business entities entering into the Contract.

Period of Performance
The total time period allowed for completion of all Work under the Contract, as specified in the Form of Contract.

Primary Subcontractor or Supplier
A Primary Subcontractor or Supplier is a first tier Subcontractor or Supplier that provides only major components or systems for the HRV.

Product Data
Illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate the Equipment or any Component and its performance.

Project
The provision of new Heavy Rail Vehicles (HRV), Spare Parts, Diagnostic Test Equipment, manuals and training aids for use on the existing LACMTA Rail Subway System and all future extensions.

Project Manager
LACMTA's authorized representative designated to manage the project (except LACMTA's Authorized Representative for Contract Administration), and includes the Project Manager's Authorized Representatives as they shall be appointed from time to time by the Contracting Officer by written Notice to the Contractor.

Provide
In reference to Work to be performed by the Contractor, "provide" means to perform Work in accordance with the Scope of Services and the Scope of Work.

Request for Change
A document issued by the Contractor to LACMTA detailing
<table>
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</tr>
<tr>
<td>Request for Information (RFI)</td>
<td>A written request to LACMTA from the Contractor requesting clarification of or information on a portion of the Work or Contract.</td>
</tr>
<tr>
<td>Request for Substitution</td>
<td>Goods, service(s), or system(s) that the Contractor requests to use in lieu of that specified in the Contract.</td>
</tr>
<tr>
<td>Required Subcontract Provisions</td>
<td>Subcontract provisions that must flow down to all Subcontracts as required in the Article entitled SUBCONTRACTORS AND SUPPLIERS.</td>
</tr>
<tr>
<td>Revision</td>
<td>A document issued by LACMTA to the Contractor or mutually agreed to by the Parties modifying the Contract.</td>
</tr>
<tr>
<td>Service Proven</td>
<td>Vehicles shall be considered Service Proven if it has been operating for at least three (3) years of revenue service, in a fleet of at least fifty (50) Light or Heavy Rail Vehicles (LRVs/HRVs) in a similar operating environment(s) to LACMTA and has a documented successful operational history and life cycle cost information; Vehicle systems, subsystems, and equipment shall be considered Service Proven if each has been operating for at least three (3) years of revenue service in similar operating environments to LACMTA, on a fleet of at least fifty (50) Light or Heavy Rail Vehicles (LRVs/HRVs), which meet or exceed the specified MMBF and MMBAF requirements.</td>
</tr>
<tr>
<td>Schedule</td>
<td>A time phased project execution plan that identifies all activities necessary to complete the Work in a logical time phased manner in a Critical Path Schedule format. The Contract Schedule shall provide the Commencement Date and Scheduled Completion Date of each activity and its Milestones, and shall include the Milestones for the Period of Performance of any defined elements of the Work and for the entire Period of Performance, and for any activities that may follow the defined Period of Performance, and for any activities that may follow the defined Period of Performance. The Schedule shall include all mandatory Milestones for all Work through the entire Period of Performance.</td>
</tr>
<tr>
<td>Scheduled Completion Date</td>
<td>The date all Work is to be completed, and the date that Contract Time ends. May also refer to the scheduled completion date of portion of the Work.</td>
</tr>
<tr>
<td>Statement of Work, the Work</td>
<td>These terms all describe the sum total of productive and operative efforts used to generate the results specified, indicated, or implied in the Contract, including all technical and professional services, and Goods used during all</td>
</tr>
</tbody>
</table>
related activities whether originally or subsequently Scheduled.

Special Provisions
Requirements applicable to the Contract that invoke, modify, and/or supplement the General Conditions

State
The State of California.

Subcontract
Any contract, including contracts of any tier, to furnish Work, Goods or Equipment between the Contractor and/or any Subcontractor or Supplier.

Subcontractor
Any individual, firm, partnership, corporation, joint venture or combination thereof, other than employees of the Contractor, that enters into a legal agreement with the Contractor to furnish Work, labor or Goods as a portion of the Work. Unless otherwise specified, Subcontractors includes Subcontractors of any tier.

Supplier
Any individual, firm, partnership, corporation, joint venture, or combination thereof, other than employees of the Contractor, or Subcontractor that enters into a legal agreement with the Contractor and that manufactures, distributes or furnishes tangible Goods as a portion of the Work, with Work usually limited to delivery and/or required testing.

Technical Review
A technical quality and progress audit including, but not limited to, a check of budget versus expenses to date, technical progress, quality of work, Schedule assessment and a measurement of design hours per drawing, review of adherence to policies and procedures and safety requirements.

Technical Specifications:
Individually each, and collectively all, of the specific technical requirements as described and set forth in the Technical Specification section of the Contract.

Total Contract Price (TCP):
The total compensation approved by LACMTA’s governing board to be paid to the Contractor in accordance with the successful meeting of the terms of the Contract (and Amendments thereto).

Transit System:
The entire rail transportation system, including right-of-way, pavement, tracks, structures, equipment appurtenances, and all other related property of LACMTA.

Unit Price
The price of a single item or group of items constituting a single unit. The unit price includes all costs except costs included in the unit price of any other item, or in any lump
sum price.

Users
Individuals and entities authorized by LACMTA to use the Equipment or a Component.

Warranty
A representation, promise or affirmation given by the Contractor to LACMTA regarding the nature, description, usefulness, suitability, lifecycle, condition, manufacture, construction, materials, workmanship or any other aspect of the Work, or any portion thereof, whether contained in any provision in the Contract entitled warranty, in the Specifications, Statement of Work, or in any other provision of the Contract, including documents incorporated by reference or provided by any Subcontractor, Supplier, manufacturer or any other entity.

Work: The sum of all activities and Deliverables, to be accomplished under the Contract.

Worksite: The location where the Contractor’s Work will be performed as defined in the Contract. The term may include the location of work performed by others (i.e., the construction site of a Project).

**GC-02 INTERPRETATION**

**GC-02-A Contract Documents**
The individual documents comprising the Contract Documents are complementary, indicating all aspects of the Work. Anything mentioned in any Contract Document, including the Statement of Work, and not mentioned in any other Contract Document shall be of like effect as if shown or mentioned in all Contract Documents. The intent of the Contract Documents is to include all items necessary for the proper initiation, execution and completion of the Work, and they shall be so interpreted.

**GC-02-B References within the Contract**
References to Articles (e.g. GC-2), Sections (e.g. GC-2-C), and Paragraphs (e.g. GC-2-C-1) are made by citing the title of the provision only, e.g., a reference to this particular Article would be phrased "in the Article entitled INTERPRETATION", which would necessarily include all Sections and Paragraphs in this Article. References to Sections and Paragraphs include Paragraphs and sub-Paragraphs within the same Section or Paragraph. References to other Contract Documents are made by citing the title of the Contract Document, e.g., "the Special Provisions".

**GC-02-C References to the Los Angeles County Transportation Commission or Southern California Rapid Transit District**
If the term Los Angeles County Transportation Commission, or MTA, or LACMTA, or COMMISSION, or Southern California Rapid Transit District, or SCRTD, or DISTRICT appears on any document, whether a Contract Document or reference document, it shall mean LACMTA.

GC-02-D Information Supplied to the Contractor

1. Furnished By LACMTA
   a. To the extent that LACMTA made information available to bidders or Proposers (including the Contractor) during the solicitation of this Contract, the information is not a part of this Contract but was made available to share then existing information, without warranty.

   b. Upon request by the Contractor, LACMTA shall furnish the Contractor any general information and data readily available to LACMTA or those under contract to LACMTA, which the Contractor determines, may be of use to the Contractor in the performance of the Work.

   c. LACMTA has made and will make reasonable efforts to ensure that all such information was and will be reliable, accurate and complete. However, because the information is not a part of the Contract and does not meet Contract Specification standards, LACMTA makes no representations with respect to its reliability, accuracy, or completeness and shall not be responsible or liable to Contractor for any loss, damage, injury, liability, cost, expense or cause of action whatsoever suffered by Contractor.

   d. If the Contractor intends to use such information, it shall use the information at its own risk and shall apply its professional judgment as to its reliability, accuracy and completeness for the purposes for which the Contractor intends to use it.

   e. Contractor may seek clarification or interpretation from LACMTA as necessary, and, provided that the request is for clarification or interpretation of information that LACMTA can determine is otherwise reliable, accurate or complete, LACMTA shall assume the same responsibility as with a response to an RFI. In the absence of a request for clarification or interpretation, LACMTA will rely on the Contractor to determine which information is sufficiently reliable, accurate and complete for Contractor to use for Contractor’s intended purpose.

2. Furnished by Others:

   To the extent necessary to perform the Work, Contractor shall obtain, utilizing its own personnel, any required information that has been developed by other persons and entities, public or private that is not to be supplied by LACMTA. The Contractor shall apply its professional judgment as to the reliability of the information or data for the purpose for which the Contractor intends to use it.

   LACMTA shall not be responsible or liable in any respect for any loss, damage, injury, liability, cost, expense or cause of action whatsoever suffered by the Contractor by reason of its use of any information furnished by others, or for any
actions of forbearance in reliance thereon. The Contractor further acknowledges and agrees that:

a. If and to the extent the Contractor or anyone on the Contractor’s behalf uses any of said information in any way, the Contractor, not LACMTA, shall be fully responsible for the use of said information; and

b. Any use of said information is entirely at the Contractor’s own risk and at its own discretion.

3. Contractor Representation:

The Contractor represents that it is capable of conducting and is obligated hereunder to conduct any and all studies, analyses and investigations as it deems advisable to verify or supplement any information furnished by LACMTA and others as provided in this Section.

GC-02-F Headings

The various topical headings contained in the Contract are intended for convenience only and shall not affect the meaning or interpretation of the Contract or any of its provisions.

GC-02-G Word Construction

Where appropriate:

1. The singular includes the plural and vice versa;

2. References to any Law includes all statutory or regulatory provisions consolidating, amending or replacing the Law referred to;

3. The word “including”, “includes” and “include” shall be deemed to be followed by the words “without limitation”;

4. Unless otherwise indicated references to Articles, Sections, Paragraphs, Exhibits, Attachments, Appendices or Schedules are to this Contract;

5. Words such as “herein”, “hereof” and hereunder” shall refer to the entire document in which they are contained and not to any particular provision unless the reference is to the specific provision;

6. Words not otherwise defined which have well-known technical or construction industry meanings, are used in accordance with such recognized meanings;

7. References to persons or entities include their respective permitted successors and assigns and, in the case of Government Entities, entities succeeding to their respective functions and capacities;

8. Words of any gender shall include each other gender where appropriate; and
9. Unless otherwise specified, the Contract shall be read as a whole, and lists contained in the Contract Documents defining the Work shall not be deemed all-inclusive.

**GC-02-H Non-Restrictive Clauses**

Wherever brand, manufacturer or product names are indicated in this Contract, they are included for the purpose of establishing identification and a general description of the Goods, Equipment, or Components (in this Section “Item”). Wherever such names appear, the term “OR APPROVED EQUAL” is deemed to follow. The decision whether a proposed Item is an approved equal will be rendered by LACMTA. The Specification of any brand name of any Item in this Contract shall not relieve the Contractor, or any Subcontractor or Supplier from its responsibility to design, produce and use Items that fully meet the Specifications, and all other Contractual requirements, including without limitation the Warranty requirements. The Contractor shall provide written notice to LACMTA of any incorrect or inappropriate Item that is listed or referred to in this Contract, and shall propose a suitable substitute for LACMTA’s consideration and approval.

**GC-03 PRECEDENCE OF CONTRACT DOCUMENTS**

See Form of Contract Article 1

**GC-04 CONTRACT DOCUMENTS**

**GC-04-A Explanations**

Should it appear that the Work to be performed or any relative matters are not sufficiently detailed or explained in the Contract, the Contractor shall request in writing from LACMTA a written explanation as may be necessary and shall conform to the explanation given.

**GC-04-B Omissions And Misdescriptions**

1. The Contractor shall carefully study the Contract; shall verify all figures in the Contract Documents before performing the Work; shall promptly notify LACMTA of all errors, inconsistencies, and/or omissions that it discovers; and, in instances where such non-conformities are discovered, shall obtain specific instructions in writing from LACMTA before Contractor proceeds with the Work. Any Work affected that is performed prior to Contractor’s receipt of LACMTA’s decision shall be at the Contractor’s sole risk. The Contractor shall not take advantage of any apparent non-conformity that may be found in the Contract. LACMTA shall be entitled to make such corrections therein and interpretations thereof as it may deem necessary for the fulfillment of the intent of the Contract. Omissions or misdescriptions of any Work that are manifestly necessary to carry out the intent of the Contract, or that are customarily performed, shall not relieve the Contractor from performing such
Work at no additional expense and/or delay, and such Work shall be performed as if fully and correctly set forth in the Contract.

2. Terms

Where the terms "as indicated" and "as detailed," or words of similar import are used by themselves, it shall be understood that reference is made to the Technical Specifications or other technical documents provided by LACMTA, or Contract drawings unless otherwise expressly stated. "Directed," "required," "permitted," "ordered," "designated," "selected," "approve," "accept," "satisfactory," "equal," "necessary," or words of like import shall be understood to require an identifiable action by LACMTA unless otherwise expressly stated.

GC-05 AUTHORITY OF THE CONTRACTING OFFICER

LACMTA has the final approval in all matters relating to or affecting the Work. Except as expressly specified in the Contract, the Contracting Officer may exercise any powers, rights, and/or privileges that have been lawfully delegated by LACMTA’s Board. LACMTA shall inform Contractor in writing of changes to delegations given by it to the Contracting Officer. Nothing in the Contract shall be construed to bind LACMTA for acts by its employees and Authorized Representatives that exceed their delegation of authority.

GC-06 LACMTA’S TECHNICAL REPRESENTATIVE (PROJECT MANAGER)

LACMTA shall provide and identify a Project Manager and/or a Technical Representative for all technical aspects related to the performance of the Contract. The Contractor shall make such oral or written reports to LACMTA’s Technical Representative with an information copy to LACMTA’s Contract Administrator as may be requested by LACMTA or as specifically required by the Contract. ALL TECHNICAL MATTERS SHALL BE ADDRESSED TO THE TECHNICAL REPRESENTATIVE. ALL CONTRACTUAL MATTERS SHALL BE ADDRESSED TO THE DESIGNATED CONTRACT ADMINISTRATOR.

GC-07 INDEPENDENT CONTRACTOR

The Contractor represents that it is fully experienced and properly qualified to perform the class of Work required for the Contract and that it is properly licensed, equipped, organized, and financed to perform the Work. The Contractor shall be an independent contractor. The Contractor is not at any time an agent of LACMTA in the performance of the Contract, and shall maintain complete control over its employees and its Subcontractors and Suppliers of any tier. Nothing contained in the Contract or any Subcontract awarded by the Contractor shall create any contractual relationship between any Subcontractor and LACMTA. The Contractor shall perform the Work in accordance with its own methods, in compliance with the terms of the Contract.

LACMTA reserves the right of prior approval of all subcontractors and retains the right to request Contractor to terminate any subcontractor, for any reason.
deemed appropriate by LACMTA, by so notifying Contractor in writing. Should said notification be submitted to Contractor, it shall terminate said subcontractor immediately, and reasonably provide a skilled and qualified replacement.

GC-08 ORGANIZATIONAL AND KEY PERSONNEL

A. Before starting any Work, the Contractor shall submit for LACMTA review and acceptance, an organization chart showing the proposed organization established by the Contractor for the performance of the Work, including:

1. Lines of authority, responsibility, and communication;
2. Office organizations, if any;
3. Names, titles, and functions of all supervisory and other Key Personnel.
4. Location of all manufacturing, assembly and delivery facilities.

B. The Contractor’s Project Manager shall supervise and direct the Work, and have overall responsibility for the Work in accordance with the Contract. The Contractor shall be solely responsible for implementation of all Work, means, methods, techniques, sequences, and procedures and for coordination of all portions of the Work under the Contract.

C. The Contractor shall not reassign such Key Personnel to other projects without LACMTA’s prior written approval and until a satisfactory replacement has been approved by LACMTA. The Contractor shall secure the prior written approval of LACMTA for any change or reassignment of the Key Personnel, submitting written documentation of the new individuals’ qualifications.

D. If LACMTA provides office space to the Contractor, or requires Contractor to locate its office space in a specific location, then at all times during the performance of Work hereunder, only related Work shall be performed in such office space and Contractor shall not use such office space to perform non-Contract related work.

GC-09 SUBCONTRACTORS AND SUPPLIERS*

GC-09-A Documentation And Acceptance
The Contractor shall submit a copy of all executed subcontracts in excess of $100,000 at any time within fourteen (14) days of execution regardless of value to LACMTA and a copy of insurance certificates in accordance with the SPECIAL PROVISION SP-05 INSURANCE. Failure to submit subcontracts and certificates within the required time period will result in the Subcontractor’s not being permitted to perform Work on the Project.

GC-09-B Performance Of Work
The Contractor shall:
1. Be responsible to LACMTA for all acts and omissions of its own personnel, and of Subcontractors, Suppliers and their employees; and

2. Be responsible for coordinating the Work performed by Subcontractors and Suppliers to ensure timely completion of the work.

Should a portion of the subcontracted Work not be performed in accordance with the terms of the Contract, or if a Subcontractor commits or omits any act that would constitute a breach of the Contract, the Subcontractor shall be replaced and shall not again be employed on the Program.

**GC-09-C Acceptance Of Substitution Of Subcontractor**

1. The Contractor shall notify LACMTA in writing of any proposal to substitute a Subcontractor in place of a Subcontractor listed in the Contractor's Qualification/Proposal. Prior to such substitution the Contractor shall secure the acceptance of LACMTA. The Contractor shall submit the following information in a form similar to that contained in the Contractor's original Qualification/Proposal.

   a. Name of Subcontractor

   b. Location and Phone Number of Place of Business

   c. Contact Person

   d. Subcontractor’s License(s) number and expiration date (if applicable)

   e. Current LACMTA Contract Compliance Certification Status (if applicable)

   f. The portion of the Services that will be performed by each Subcontractor.

LACMTA will promptly initiate a review of the information submitted on each Subcontractor and transmit written notification to the Contractor concerning its decision.

2. LACMTA shall not be responsible for delays incurred by the Contractor because of a timely disapproval by LACMTA of a Subcontractor proposed by the Contractor, or for the late submittal for acceptance of a Subcontractor to LACMTA, or because of a Subcontractor’s removal from the performance of the Work.

3. The Contractor shall not do any of the following without the prior written consent of LACMTA:

   a. replace any previously accepted Subcontractor;

   b. permit any previously accepted Subcontract to be assigned or transferred.
4. However, the Contractor may perform the Work itself with qualified personnel, provided written permission is obtained from LACMTA prior to performance of the Work.

**GC-09-D Flow-Down Requirements**

1. The Contractor shall incorporate the following into each Subcontract and require insertion of same into all lower-tier Subcontracts:

2. All articles, subarticles or portions of the Contract noted by a star (*) shall be included in all Subcontracts of any tier.

3. All provisions required by law, regulation, rule, or the Contract shall apply to Subcontracts and shall apply to all Subcontracts of any tier.

4. By virtue of signing the Subcontract, the following apply:

   a. The Subcontractor acknowledges and agrees that all Work being performed by it under the Subcontract shall be performed in accordance with the Contractor's Contract with LACMTA.

   b. The Subcontractor agrees that it shall have the same duties and obligations to the Contractor with respect to its performance of its own Work as the Contractor has to LACMTA under its Contract.

   c. The Contractor and the Subcontractor agree that LACMTA is the third party beneficiary of the Subcontract and shall have the right to enforce all of the terms of the Subcontract for its own benefit. All guarantees and warranties, express or implied, shall inure to the benefit of both LACMTA and the Contractor during the performance of the Work; upon final completion of the Work, such guarantees and warranties shall inure to the benefit of LACMTA.

   d. The Contractor and the Subcontractor agree that nothing contained in the Subcontract shall be deemed to create any privity of the Contract between LACMTA and the Subcontractor, nor does it create any duties, obligations, or liabilities on the part of LACMTA to the Subcontractor except those allowed under California Law. In the event of any claim or dispute arising under the Subcontract and/or the Contractor's Contract with LACMTA, the Subcontractor shall look only to the Contractor for any payment, redress, relief, or other satisfaction. The Subcontractor hereby waives any claim or cause of action against LACMTA arising out of the Subcontract.

**GC-09-E** This Article does not and shall not operate to relieve the Contractor of any duty or liability under the Contract nor does it create any duty or liability on the part of LACMTA. The Contractor shall have sole responsibility for promptly settling any disputes between its Subcontractors and between the Subcontractors and any of their Subcontractors.
GC-09-F  No Subcontractor shall be permitted to perform the Work under the Contract until it, or the Contractor, has supplied satisfactory evidence of required insurance to LACMTA, in compliance with the SPECIAL PROVISION SP-05 entitled INSURANCE.

GC-10  PERMITS

Except for any permits furnished by LACMTA, the Contractor shall be fully responsible for identifying and obtaining, at its own expense, all necessary licenses and permits required for the timely prosecution of the Work.

The Contractor acknowledges that prior to entering into the Contract it familiarized itself with the requirements of all applicable federal, state, county, and municipal laws, codes, rules, and regulations, as well as the conditions of any required licenses and permits, in effect at time of execution of the Contract or any Contract Modification. The Contractor shall be responsible for complying with all of the foregoing, at its sole expense and without any increase in the Total Contract Price or Period of Performance set forth in the Form of Contract on account of such compliance, regardless of whether such compliance would require additional labor, equipment, or Goods not expressly stated in the Contract.

GC-11  GOODS*

GC-11-A The Contractor shall furnish all Goods required to complete the Work, except those designated to be furnished by LACMTA. Unless otherwise indicated in the Contract, Goods incorporated into the Work shall be new, of good quality, and of the grade specified for the purpose intended. Unless otherwise specifically stated, reference to Goods or patented processes by trade name, make, or catalog number shall be regarded only as a means of establishing a standard of quality; such references shall not be construed as limiting competition. The Contractor may, at its option, use any Goods or process that is equivalent to that named subject to the prior written acceptance by LACMTA. LACMTA shall be the sole judge of the quality and suitability of proposed alternative Goods or processes subject to the right of LACMTA to accept or reject such alternative.

GC-11-B Any Goods that may be purchased under the Contract shall be transported, handled, and stored by the Contractor in a manner that shall ensure the preservation of their quality, appearance, and fitness for the Work. All Goods shall also be stored in a manner that facilitates inspection.

GC-12  PERFORMANCE AND INSPECTIONS*

GC-12-A Inspection During Contractor Performance

LACMTA shall have access to the Work at all reasonable times during the Contract Period of Performance and upon reasonable notification may inspect and test all Work wherever located. Such inspection and testing will be for the sole benefit of LACMTA. LACMTA shall not be obligated to make any inspections, however, and neither the inspection of the Work, nor the lack thereof, shall relieve
the Contractor of its responsibility for completing the Work in accordance with the terms of the Contract.

**GC-12-B Corrective Action**

If LACMTA ascertains that any Work or any part thereof have not been performed in accordance with the Contract, or any Work, or any part thereof, is Deficient, LACMTA will notify the Contractor in writing that such Work is Deficient and will not be accepted. The Contractor shall satisfactorily correct all Deficiencies in the Work at its own expense and without any extension of Contract Time. Corrected or re-performed Work and replaced or repaired Goods shall be subject to all of the requirements of the Contract, including without limitation all standards of performance set forth in this Contract.

**GC-12-C LACMTA’s Remedies for Deficient Work**

If any Work provided by the Contractor is Deficient because of the Contractor’s or a Subcontractor’s failure to perform the Work in accordance with the standards set forth in the Contract, LACMTA shall provide written notice to Contractor of such Deficiencies and thereafter may:

1. Require the Contractor to promptly segregate and remove rejected Work from the Worksite at its own expense and without any extension of Contract Time.

2. Require the Contractor re-perform, repair or replace the Work at the Contractor’s own expense;

3. Withhold payments otherwise due to Contractor hereunder;

4. Seek Liquidated Damages as provided in this Contract;

5. Have such Work performed and Goods provided by others at the sole expense of the Contractor;

6. Terminate the Contract in accordance with the Article entitled Termination for Default, GC-26 herein and obtain the remedies provided for therein.

**GC-12-D LACMTA Tests and Inspections**

1. The Contractor shall promptly furnish all access to the Work needed for performing inspections and tests as may be required or specified, and, when necessary, shall furnish sufficient and convenient facilities for such inspection and review. These tests are in addition to tests the Contractor is required to perform as part of its Validation and Quality Control responsibility.

2. LACMTA shall have access, at all reasonable times, to the Contractor's calculations, supporting materials, data, and information concerning the Work, including computer programs and printouts, which LACMTA determines are required to review the Work properly and expeditiously.
3. LACMTA may charge the Contractor for any additional costs it incurs for the inspections or tests, when Work is not ready at the time indicated in the notification to the Contractor or when re-inspection or retest is necessitated by prior non-acceptance.

**GC-12-E Work Performed Without Inspection**

LACMTA may reject any Work the Contractor performs without a LACMTA inspection, as specified in the Contract. If Contractor makes any Work unavailable for inspection without LACMTA’s prior acceptance or consent, it shall make it available for inspection and properly restore the Work at its expense. LACMTA may order re-examination of any Work; if so ordered, the Contractor shall make the Work available for inspection. If such Work is found to be in compliance with the Contract, LACMTA will pay all costs associated with the re-inspection, including Work to make it available and damage to the Work related to the re-inspection. If the Work is not in compliance with the Contract, the Contractor shall pay all such costs and correct all Deficiencies.

**GC-12-F Inspection by Government Entities and Others**

The Contractor shall make the Work available to Authorized Representatives of Government Entities for the purpose of observing the Work associated with their respective interests. Visits will be coordinated through LACMTA.

**GC-12-G Inspection of Offsite Facilities**

LACMTA and the other Government Entities may inspect Contractor’s Work at off-site facilities, including any manufacturer’s or supplier’s plant. Adequate facilities shall be made available for the necessary inspections and free access to all parts of the Work shall be available at all reasonable times. The Contractor shall have appropriate provisions inserted into its Subcontracts providing for facility and in-plant inspection of the Work.

**GC-12-H Non-conforming and Unapproved Work**

LACMTA will not compensate Contractor for any Work not in conformance with of the Contract or for Work requiring LACMTA’s prior written approval without Contractor first having obtained such written approval. Such actions will be unauthorized actions and at the sole expense of the Contractor. No extensions of Contract Time will be granted under the Contract for such Work.

**GC-13 UNAUTHORIZED ACTIONS**

Any action taken by the Contractor, its Subcontractors or Suppliers not in conformance with the terms and conditions of the Contract will be considered as unauthorized and at the sole expense of the Contractor. Contractor or its Subcontractors will not be compensated for any actions deemed by LACMTA to be unauthorized. No extensions of time will be granted under the Contract due to unauthorized actions.
No LACMTA employee or officer, except the Contracting Officer, may authorize any Modifications to the Contract.

**GC-14 PERIOD OF PERFORMANCE**

**Time is of the essence in the performance and completion of the Work**

**A. Excusable Delays**

Neither party hereto shall be in default in the performance of its obligations with respect to Schedule, to the extent that the performance of any such obligation is prevented or delayed by an excusable delay as provided in this Article (“Excusable Delay”). Should Contractor’s Work be delayed by an Excusable Delay, Contractor’s Critical Path Schedule for completion of affected tasks may be extended to the extent that the Excusable Delay affects the Critical Path. Excusable Delays may include, but are not limited to, Force Majeure events; but, in every case, the failure to perform must be reasonably beyond the control, and without the fault or negligence of the Contractor.

**B. Notice of Delay**

Within five (5) days after the first day of a delay, the Contractor shall furnish LACMTA with information concerning the circumstances of the delay, the number of days anticipated to be delayed, the appropriate Contract references, and the measures to be taken to prevent or minimize the delay. Failure to submit timely information shall be sufficient cause for denying a delay claim.

**C. Claims for Compensation Due to Delay**

Claims for additional compensation shall be limited to the costs incurred during an LACMTA approved extension of time. This provision shall not apply to delays for which this Contract provides a time extension only.

**D. Delay Due to Shortage of Components**

A delay caused by a shortage of Components, except LACMTA-furnished Components, will not be an Excusable Delay except where the Contractor supplies LACMTA with documented proof that it made every effort to obtain such Components from every known source. The Contractor shall also submit proof that the inability to obtain such Components when originally planned, did in fact cause a delay to the Critical Path that could not be compensated for by revising the sequence of its operations or other adjustments to the Critical Path Schedule. Only the physical shortage of Components will be considered as a basis for a determination of an Excusable Delay. No consideration will be given to any claim that Components could not be obtained at a reasonable, practical, or economical cost, unless it is shown to the satisfaction of LACMTA that:

1. Such Components could have been obtained only at exorbitant prices or;
2. The prices were entirely inconsistent with current rates, taking into account the quantities involved and the usual practices employed in obtaining such quantities; and

3. Such facts could not have been known or anticipated at the time the Contract was executed.

E. Delay Due to LACMTA Act or Omission

If a delay to Contractor’s Critical Path Schedule is found to have been caused by an act or omission of LACMTA, and providing that the Contractor notifies LACMTA in writing within five (5) days from the beginning of any such delay specifying the act or omission causing such delay, the time for completion of the Work shall be extended accordingly, and an adjustment shall be made to the TCP for any increase in the cost of performance of the Work (excluding profit) necessarily caused by such delay. If the delay in the performance of the portion of Work described in the Contractor’s five (5) day notice has been similarly delayed by Contractor-induced causes, including but not limited to the fault or negligence of the Contractor or any of its Subcontractors or Suppliers, the Critical Path Schedule will be adjusted for the period of any such concurrent delay with no adjustment to the TCP Price.

F. Delay Report

Within thirty (30) days after the last day of a delay, the Contractor shall supply LACMTA with detailed information concerning the 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 such information shall be sufficient cause for denying the delay claim. LACMTA will ascertain the facts and the extent of the delay to the Critical Path Schedule; its findings thereon will be final and conclusive. All time extensions must be approved by LACMTA prior to Equipment completion and issuance of a Certificate of Final Acceptance.

G. Basis of Extension

No extension of time or compensation will be granted under this Article for any delay in which remedies are included or excluded by any other provision of the Contract. Only the actual delay to Contractor’s Critical Path necessarily resulting from the causes specified in this Article shall be grounds for extension of time, or compensation, where applicable. If Contractor is delayed at any time or for any period by two or more of the causes specified in this Article, the Contractor shall not be entitled to a separate extension for each one of the causes; only the extension to the Critical Path will be granted for the entire delay.

H. Continuation of the Work

During the Delay Contractor shall continue to perform the Work in accordance with all the provisions of the Contract to the extent it is not prevented by the cause of the Delay. The Contract shall remain in full force and effect during the continuance and until the completion and issuance of a Certificate of Final
Acceptance for all Contract deliverables. Permitting the Contractor to finish all Work, or any part thereof, after the time fixed for completion or after the date to which the time for completion may have been extended and/or making payments to the Contractor after any such periods shall not constitute a waiver on the part of LACMTA of any rights under the Contract, or entitle the Contractor to any additional compensation.

I. Impact Analysis

In all cases that the Contractor either claims or intends to claim a delay, the Contractor shall submit to LACMTA at the earliest possible date and supplement thereafter as information becomes available:

1. An analysis of the impact of the claimed delay event upon the Contractor's then current Critical Path Schedule, identifying the affected activities and the actual impacts to the Critical Path; and

2. Proposals to minimize the effects of the claimed delay.

GC-15 FINAL ACCEPTANCE*

GC-15-A Final Acceptance Of Work

1. When the Contractor determines that all Work as authorized in the Contract or Contract Modification is fully completed including all required submissions and deliveries to LACMTA specified in the Contract or Contract Modification, the Contractor shall within ten (10) working days thereafter, give LACMTA a written Request for Final Acceptance specifying that the Work is completed and the date on which it was completed. Within ten (10) days after the receipt of the Request for Final Acceptance, LACMTA will commence a final review of the Work and, within 60 days will either:

a. Give the Contractor Final Acceptance; or

b. Advise the Contractor in writing of any outstanding item or items which must be furnished, completed or corrected at the Contractor’s cost. The procedure in GC-15-A,1.,shall then be repeated until such time as LACMTA is satisfied that all Work required under the Contract has been completed in accordance with the Contract Documents and no further Work is required.

2. Upon submittal of the request for Final Acceptance, the Contractor shall make no additional charges for Work under the Contract. LACMTA shall not pay for any additional charges or be liable for any costs incurred after the date of receipt of the request for Final Acceptance of Contract Work.

3. Notwithstanding Final Acceptance, the Contractor will not be relieved of its obligations hereunder, nor will the Contractor be relieved of its obligations to complete any portions of the Work, the non-completion of which was not disclosed to LACMTA (regardless of whether such non-disclosures were fraudulent, negligent, or otherwise); and the Contractor shall remain obligated
under all those provision of the Contract which expressly or by their nature extend beyond and survive Final Acceptance.

GC-15-B Contract Closeout

1. When LACMTA determines that all Work authorized under the Contract and any approved modifications, has been completed, and LACMTA requires no further Work from Contractor, or the Contract is otherwise terminated or expires in accordance with the terms of the Contract, LACMTA shall give the Contractor written notice that the Contract will be closed out. Contractor shall submit all outstanding invoices, CDRL’s, Deliverables, reports or similarly related documents as required under the Contract, within ninety (90) days of receipt of notice of Contract close-out. LACMTA will either:

a. Give the Contractor Notice that the Contract will be closed out or

b. Advise the Contractor in writing of any outstanding item or items which must be furnished, completed or corrected at the Contractor’s cost.

GC-15-C Any failure by LACMTA to reject the Work or to reject the Contractor’s Request for Final Acceptance as set forth above, shall not be deemed to be Acceptance of the Work by LACMTA for any purpose nor imply Acceptance of, or agreement with, the Contractor’s Request for Final Acceptance.

GC-16 SAFETY AND LOSS PREVENTION*

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

A. LACMTA’s Safety Principles

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

B. Contractor Responsibilities

The Contractor is responsible for:

1. Complying with all applicable safety Laws;
2. Enforcing Worksite safety practices; and
3. The discovery, determination and correction of any unsafe conditions
related to the Contractor’s performance of the Work or Goods supplied by
the Contractor on LACMTA property.

4. The Contractor shall cooperate and coordinate with LACMTA and with
other LACMTA Contractors on safety matters and shall promptly comply with
any specific safety instructions or directions given to the Contractor by
LACMTA.

C. Safety Practices

1. The Contractor shall inform its personnel of LACMTA safety practices and
the requirements of LACMTA’s safety program identified in LACMTA Safety
Manual For Other Than Major Construction.

2. If any of the Contractor’s personnel are required to visit any Worksites, the
Contractor shall furnish suitable safety equipment and enforce the use of
such equipment by those personnel. The Contractor shall cooperate and
coordinate with LACMTA and with other LACMTA Contractors on safety
matters and shall promptly comply with any specific safety instructions or
directions given to the Contractor by LACMTA.

3. The Contractor shall at all times conduct its operations in such a manner
as to avoid risk of bodily harm to persons or damage to property. The
Contractor shall promptly take all reasonable precautions to safeguard
against such risks and shall make regular safety inspections of its
operations. The Contractor shall be solely responsible for the discovery,
determination and correction of any unsafe conditions caused by the
Contractor’s performance of the Work.

4. In addition, the Contractor shall comply with all applicable safety laws,
standards, codes, rules, and regulations, including any safety program
established by LACMTA. The Contractor shall cooperate and coordinate
with LACMTA and with other LACMTA Contractors on safety matters and
shall promptly comply with any specific safety instructions or directions given
to the Contractor by LACMTA. Notwithstanding, the construction contractor
shall remain responsible for the construction site safety.

5. The Contractor shall inform its personnel of LACMTA safety practices and
the requirements of LACMTA’s safety program. If any of the Contractor’s
personnel are required to visit any Worksites, the Contractor shall furnish
suitable safety equipment and enforce the use of such equipment by those
personnel.

**GC-17 WARRANTY**

Warranty requirements are specified in Special Provisions Article, SP-21,
CONTRACT WARRANTY PROVISIONS–IRREVOCABLE LETTER OF CREDIT
and SP-22, WARRANTY REPAIR AND REPLACEMENT ITEMS PROHIBITION
OF PROSPECTIVE OPERATING COST INCREASE.
GC-18 RIGHTS IN PROPERTY

GC-18-A Title

1. All property purchased by the Contractor for LACMTA, shall be hereinafter referred to as LACMTA Property. Title to LACMTA Property shall pass to and vest in LACMTA upon the vendor’s delivery and acceptance of such property by the Contractor.

2. Title to LACMTA Property shall not be affected by its incorporation into or attachment to any property not owned by LACMTA, nor shall LACMTA Property become a fixture or lose its identity as personal property by being attached to any real property.

3. The title transferred as described above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances. The Contractor shall not pledge or otherwise encumber the items in any manner that would result in any lien, security interest, charge, and/or claim upon or against said items.

4. The Contractor shall promptly execute, acknowledge, and deliver to LACMTA proper bills of sale or other written instruments of title in a form as required by LACMTA; said instruments shall convey to LACMTA title to material free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.

GC-18-B LACMTA Property shall be used only for performing Work on the Contract, unless otherwise provided in the Contract or approved by LACMTA’s Contract Administrator.

GC-18-C PROPERTY ADMINISTRATION

1. The Contractor shall be responsible and accountable for all LACMTA Property provided under the Contract and shall submit an inventory list, or revised list, in a form acceptable to LACMTA’s Contract Administrator within thirty (30) days of acquisition of LACMTA Property.

2. The Contractor shall establish and maintain a program for the documentation, use, maintenance, repair, protection, and preservation of LACMTA Property in accordance with sound business practice.

3. If damage occurs to LACMTA Property, the Contractor shall replace the items not otherwise covered by any warranties, or the Contractor shall make the necessary repairs at LACMTA’s direction, all at no additional charge to LACMTA.

GC-18-D LACMTA and all its designees shall have access at all reasonable times to the premises in which any LACMTA Property is located for the purpose of inspecting LACMTA Property.
Upon completing the Contract or at such earlier dates as may be fixed by LACMTA: (1) the Contractor shall prepare and submit a final inventory list of all LACMTA property which includes the property's description, location and condition, and; (2) the Contractor shall prepare for shipment, and deliver F.O.B. destination, LACMTA property as may be directed or authorized by LACMTA.

**EXTENSION OF TIME**

**GC-19-A** The Contractor will be granted an extension of time for any portion of a delay in completion of the Work resulting from a Force Majeure event, or any other cause not in the reasonable control of the Contractor, providing that the:

1. Aforesaid causes were not foreseeable and did not result from the fault or negligence of the Contractor;

2. Contractor has taken reasonable precautions to prevent further delays owing to such causes; and

3. Contractor notifies LACMTA in writing of the cause(s) for the delay within five (5) days from the beginning of any such delay.

**GC-19-B** In case the Contractor is actually and necessarily delayed by any act or omission on the part of LACMTA, or others under contract with LACMTA and providing that the Contractor notifies LACMTA in writing within five (5) days from the beginning of any such delay, specifying the act or omission causing such delay, the time for completion of the Work shall be extended accordingly, and an adjustment shall be made to the Total Contract Price for any increase in the cost of performance of the Services or Work (excluding profit) necessarily caused by such delay. If the delay in the performance of the portion of Work described in the Contractor’s five (5) day notice has been similarly delayed by Contractor-induced causes, including but not limited to the fault or negligence of the Contractor or any of its Subcontractors, the time for completion of the Work will be extended for the period of any such concurrent delay with no adjustment to the TCP Price.

**GC-19-C** Within thirty (30) days after the last day of a delay, the Contractor shall supply LACMTA with detailed information concerning the 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 such information shall be sufficient cause for denying the delay claim. LACMTA will ascertain the facts and the extent of the delay; its findings thereon will be final and conclusive unless the Contractor disputes the decision. All time extensions must be approved by LACMTA prior to Contract Final Acceptance.

**GC-19-D** No extension of time will be granted under this Article for any delay in which remedies are included or excluded by any other provision of the Contract. Only the actual delay necessarily resulting from the causes specified in this Article shall be grounds for extension of time. In case the Contractor is delayed at any time or for any period by two or more of the causes specified in this Article, the Contractor shall not be entitled to a separate extension for each one of the causes; only one extension will be granted for the entire delay.
The Work shall continue and be carried on in accordance with all the provisions of the Contract. The Contract shall remain in full force and effect during the continuance and until the completion and Final Acceptance of the Services or Work covered by the Contract, unless formally suspended or terminated in accordance with the terms of the Contract. Permitting the Contractor to finish the Work, or any part thereof, after the time fixed for completion or after the date to which the time for completion may have been extended and/or making payments to the Contractor after any such periods shall not constitute a waiver on the part of LACMTA of any rights under the Contract.

**GC-19-E**

Neither the granting 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 after the time specified for the completion of the Work shall be deemed to be a waiver by the authority of LACMTA’s right to terminate the Contract for abandonment or failure to complete within the total time specified or to impose and deduct damages as may be specified.

**GC-19-F**

In all cases that the Contractor either claims or intends to claim a delay, the Contractor shall submit to LACMTA at the earliest possible date and supplement thereafter as information becomes available:

1. An analysis of the impact of the claimed delay event upon the Contractor's then current Schedule, identifying the affected activities and the actual impacts; and

2. Proposals to minimize the effects of the claimed delay.

**GC-20 CHANGES**

**GC-20-A**

The LACMTA’s Contracting Officer may, at any time, and from time to time without notice to any Surety, direct Changes within the general scope of the Contract, and may in its discretion direct immediate implementation of a Change by a Change Order, as provided herein. Upon receipt of a written Change Order or Modification, the Contractor shall promptly proceed with the Change in accordance with the applicable conditions of the Contract. Only a written direction issued in the accordance with this Article, shall be the basis for a Modification to the Contract, an increase in the Contract Price, or extension of the Contract Time. Only the Contracting Officer is authorized to issue a Modification to the Contract.

**GC-20-B**

The Contracting Officer may unilaterally issue a Change Order directing Contractor to proceed with a Change. Contractor shall not commence performance of a Change until the Contracting Officer prepares, executes and delivers the Change Order or prepares and delivers a written Modification that is executed by the Contractor. If Contractor disputes the Change Order value or Schedule Impact, and has not theretofore waived its rights or failed to meet the
conditions to submit a Claim, it may submit to LACMTA a Notice of Intent to Claim (NOIC) and a Claim, in accordance with the Article entitled Claims.

GC-20-C Any Modification arising out of a Change Order Shall:

a. Expressly state that the Work described therein is Change Work.

b. Include any and all Changes to the Project Schedule, the Contract Price, and costs of any nature arising out of the Changed Work.

c. Contain a statement that the adjustment to the Period of Performance and Contract Price, if any, includes all milestone schedules, deliverables and amounts to which the Contractor is entitled as a result of the Change(s).

d. For all Contract Modifications greater than or equal to one-hundred thousand dollars ($100,000), an Ethics Declaration and Buy America Certificate must be submitted by the Contractor.

GC-20-D Except as otherwise expressly provided in this Contract, when costs are a factor in any determination of a contract price adjustment, such costs shall be determined in accordance with the applicable cost principles of Part 31 of the Federal Acquisition Regulations (FAR). The execution of a Contract Modification by LACMTA and the Contractor shall be deemed to be an unconditional agreement to all Work and all adjustments to Contract Price and Contract Time related to the Change. Neither party shall have the right or power to issue or claim a reservation of rights, of any kind, under a Modification.

GC-20-E Change Notice Process

The Contracting Officer may issue a Change Notice (CN) to the Contractor, describing a proposed Change to the Contract and requesting the Contractor to enter into discussions and/or submit a Contractor’s Cost and Schedule Proposal responding to the Work described in the CN. A CN does not authorize the Contractor to commence performance of the proposed Changed Work.

1. Upon receipt of a CN and as soon as possible, but no later than thirty (30) days after receipt of the CN, Contractor shall submit to the Contracting Officer a detailed Cost and Schedule Proposal (CSP) for the proposed Change.

   In preparing the CSP, Contractor shall:

   a) Use the Form 60 provided by LACMTA
   b) Identify the impacts of the Change to the Critical Path Schedule.
   c) Identify any prices or other elements of the CSP that are conditional, such as time sensitive orders or events.
   d) Certify as to the current cost and pricing of the CSP.
2. If the Contractor does not submit the CSP by the required date, Metro reserves the right to unilaterally modify the Contract with a written Change Order utilizing LACMTA’s independent cost estimate.

3. If any prices or other elements of the CSP are conditional, such as orders being made by a certain date or the occurrence of a particular event at a specified time, the Contractor shall identify these conditions in its CSP.

**GC-20-F Contractor’s Request For Change (RFC)**

1. **General**

   The Contractor may submit to LACMTA, in writing, RFC(s) describing any proposed Change. Contractor shall describe the discovery of conditions or the occurrence and date of an event supporting the RFC, identifying Contract Documents that it proposes to change, including relevant circumstances and impacts on the Critical Path Schedule. The RFC(s) shall not impair the essential functions or characteristics of the Work, including service life, performance, economy of operation, ease of maintenance, desired appearance, or design and safety standards.

2. **RFC Contents**

   a) The RFC(s) shall contain the following information:

   1. A detailed scope of work defining the proposed changes to the Contract requirements;

   2. An itemized list of all the proposed modifications to the engineering drawings and specifications;

   3. An itemized list of all Work and Goods affected by the RFC(s);

   4. A itemization of the costs based on the original Contract requirements and based on the proposed Change(s);

   5. Any requested time extensions or reductions to the Contract Time or Contract Milestones;

   6. The date by which the Contractor requires a decision from the Contracting Officer concerning the RFC(s).

   b) The proposed cost shall be submitted in a cost proposal using LACMTA’s Form 60. Contractor shall also include supporting documentation for allowable and allocable costs in accordance with FAR Part 31. The Contractor’s cost of preparing the RFC(s) shall be excluded in the proposal cost.
A. Notice of Intended Claim (NOIC)

1. The Contractor shall give to LACMTA a written notice of intended claim ("Notice of Intended Claim" or "NOIC") within thirty (30) days after any act or event for which it intends to seek adjustment in the Contract Price, Contract Time, terms, or Schedule. The NOIC shall set forth the basis of the Claim and an estimate of any costs and time impacts involved.

2. The written Notice of Intent to Claim shall set forth:
   a. The reasons the Contractor believes additional compensation or time may be due;
   b. The nature of the costs involved and/or time needed;
   c. The Contractor’s plan for mitigating such cost and delay; and
   d. The Contractor’s best estimate of the amount of the potential claim and time extension, and sufficient facts to support the claim amount and time extension claimed.

The NOIC shall be submitted within thirty (30) days after the event or occurrence giving rise to the potential claim. The Notice requirements of this Article are in addition to any other Notice requirements set forth in the Contract.

B. Claim Submittal

3. The Contractor shall submit its completed Claim within 30 days after the act or event, containing facts in sufficient detail to enable LACMTA to ascertain the basis and amount of the Claim. Failure to submit a claim with sufficient detail to permit LACMTA to conduct a review of the Claim will result in rejection of the Claim.

The following must be provided with the Claim:
   a. A detailed factual statement of the Claim, with all necessary facts, events, locations and the affected Work.
   b. Date of the event giving rise to the Claim; if there are continuing or multiple events, provide all dates necessary to support the Claim.
   c. Names of all persons who made any statements with respect to, or are knowledgeable of the facts and events giving rise to the Claim.
   d. Specific provisions of the Contract supporting the Claim, with a statement of supporting rationale.
   e. Identification of all documents including meeting minutes, transcriptions of oral communications, photographs, videos, tapes and other evidence supporting the Claim.
   f. Detailed analysis of a request for an extension of time.
   g. Detailed breakdown of request for additional compensation.
4. Each Claim the Contractor submits that is related to an alleged Delay shall include:

   a. A time impact analysis and a revised schedule demonstrating how the Delay is incorporated into the Schedule; and

   b. Any alternate proposals to eliminate Delays in Completion of the Work. If any Schedule required by the Contract has not been submitted, submission and acceptance by LACMTA of the Schedule shall be a precondition to the consideration by LACMTA of any Claim related to an asserted Delay or extension of time. Failure to submit the required Schedules will be sufficient grounds to deny the Claim and will result in rejection of the Claim.

4. Depending upon nature of the relief sought, additional information and/or submittal conditions may be required by LACMTA.

5. The Contractor shall maintain cost records of all Work, which is the basis of any Claim, in the same manner as is required for Changed Work in the Section entitled CHANGES herein.

6. All Claim submittals shall include a Certificate of Current Cost and Pricing Data.

6. Any Contractor’s Claim that exceeds $100,000 shall be accompanied by a certification that:

   a. States that the Claim is made in good faith;

   b. Supporting data are accurate and complete to the best of the Contractor’s knowledge and belief; and

   c. States that the amount requested accurately reflects the Contract adjustment for which the Contractor believes LACMTA is liable.

7. A Claim submittal of $200,000 or more shall include a Certificate of Campaign Contributions on the form provided by LACMTA.

C. Claim Process

1. Within 30 days after the receipt of the Claim, LACMTA shall either:

   a. Render a decision;

   b. Provide an estimated date when a decision will be made; or

   c. If the information submitted by the Contractor is inadequate, require the Contractor to submit such further information and details as requested by LACMTA to determine the facts and contentions involved in the Claim.
2. The Contractor shall give LACMTA access to its books, records, and other materials relating to the Work, and shall cause its Subcontractors to do the same so that LACMTA can investigate the Claim. The Contractor shall provide LACMTA, on request, with copies of all such books, records, and other material determined to be pertinent to the Claim.

3. If LACMTA does not render a decision within 30 days or within an estimated date provided the Claim shall be deemed rejected by LACMTA.

4. If the Contractor fails to comply with any provision of this Article in the time and manner specified, it shall waive any relief that might otherwise be due with respect to such Claim.

5. In no event shall the Contractor’s entitlement to damages exceed such amount as LACMTA determines is verified by contemporary records.

6. If the information submitted by the Contractor in support of its Claim is insufficient to substantiate the whole of the Claim, LACMTA may at its discretion, unilaterally or in agreement with the Contractor, make payments or grant extensions of time on any part of a Claim it determines to have been substantiated to its satisfaction. Such determination and payment or time extension shall not be an admission by LACMTA as regards any other part of the Contractor’s Claim, nor shall acceptance of the payment or grant of time extension by the Contractor be deemed to be a waiver of any part of its Claim, except to the extent of the actual payment or grant of time. If the Contractor agrees to a final payment or extension of time related to a certain described portion of its Claim, such agreements shall constitute an unconditional release of LACMTA from any further obligations related to that described portion of the Claim.

7. If LACMTA finds the Claim to have merit, in whole or in part, LACMTA and Contractor will negotiate the terms of an Amendment, Changes in the Work and the terms of a Change Order in compliance with the Article entitled CHANGES herein. If the Contractor and LACMTA are unable to reach agreement on an Amendment or a Change Order, the Claim will be decided in writing by LACMTA. That decision shall constitute a final decision by LACMTA.

8. If any Claim or portion thereof remains in dispute following a final decision by LACMTA, the Contractor may file a Claim pursuant to sections 900 et. seq. of the California Government Code. For purposes of those provisions, the period of time within which a Claim must be filed shall be tolled from the time the Contractor submits its written Claim until the final decision of LACMTA. LACMTA and the Contractor acknowledge that because of the potential scope and scale of Claims as submitted by the Contractor, the forty-five (45) day statutory response or rejection period under section 912.4 of the California Government Code, shall be extended to sixty (60) days and shall not be deemed to waive any statutory limits or other rights of LACMTA.
9. Unless otherwise directed by LACMTA, the Contractor shall proceed diligently with the Work during the Claim resolution process.

D. No Claims After Final Payment

In no event shall any claims be made after Final Payment. Failure by the Contractor to submit claims in a timely manner shall result in a waiver by the Contractor as to such claims.

GC-22 RESOLUTION OF DISPUTES

A. General

Except as explicitly stated herein, all disputes shall be subject to the provisions of this Article. Contractor and LACMTA shall act promptly and diligently to mutually resolve any disputes which may arise with respect to this Contract.

B. Continuation of Performance

3. LACMTA Discretion - The existence and details of a dispute notwithstanding, both parties shall continue without delay their performance hereunder, except for any performance which LACMTA, in its sole and absolute discretion, determines should be delayed as a result of such dispute. LACMTA shall continue to pay sums not in dispute, during any such period of continued performance.

4. Failure to Continue Performance - If Contractor fails to continue its performance hereunder without delay which LACMTA, in its sole and absolute discretion, determines should not be delayed as a result of such dispute, then any additional costs which may be incurred by Contractor or LACMTA as a result of Contractor’s failure to continue to so perform shall be borne by Contractor, and Contractor shall make no claim whatsoever against LACMTA for such costs. Contractor shall promptly reimburse LACMTA for such LACMTA costs, as determined by LACMTA, or LACMTA may deduct all such additional costs from any amounts due to Contractor from LACMTA, whether under this Contract or otherwise.

C. Resolution Process

In the event of any dispute between the parties with respect to this Contract:

1. Administrative Process

   1.1 Negotiation. If a Dispute under the Contract arises, the Contracting Officer and Contractor’s Project Manager shall make their best efforts to resolve the Dispute through negotiation.

   1.2 Documentation. All Disputes and negotiations shall be documented by each Party in writing, and state the specifics of each Dispute and actions taken.
1.3 Agreement to ADR. If a Dispute cannot be resolved by the Contracting Officer and Contractor’s Project Manager, they may agree to use an ADR process for settling the Dispute, as discussed in the Section entitled Alternative Dispute Resolution (ADR) below.

1.4 Determination by Contracting Officer. In the absence of settlement, the Contracting Officer may, upon its own initiative, or upon the written request of Contractor, make a determination of the Dispute. Upon such determination, Contractor shall immediately comply with the determination.

1.5 Claims. If the Dispute involves a Claim by Contractor, Contractor shall comply with and be subject to the provisions of the Article entitled CLAIMS herein, including the time limits for the filing of a Government Code Claim.

E. Alternative Dispute Resolution (ADR)

If the Parties agree to use the ADR process to resolve a Dispute:

1. The results of the ADR shall not be binding on either LACMTA or the Contractor unless the Parties have separately and mutually agreed in writing, prior to the ADR, that the ADR will be binding, or thereafter agree by a separate settlement or other agreement that it will be binding.

2. Mediation

   a. If the ADR is mediation, it will not be binding, except by execution of a separate agreement that will confirm the result of the mediation, and in no event will a mediator make any findings or reduce their recommendations or decisions to writing.

   b. Any separate agreement executed by the Parties as a result of mediation shall be implemented as a Modification.

3. To the extent permitted by law, the Parties may agree in writing that the time for the filing of a Government Code Claim, as defined in the Article entitled CLAIMS herein, shall be tolled during the pendency of an ADR process.

4. Claim/Dispute Categories that are excluded from ADR

   a. In addition to those issues identified throughout the Contract Document GENERAL CONDITIONS, the following categories of Claims/Disputes are excluded from consideration by an Alternative Dispute Resolution (ADR) process:

      1) Interest (monetary) on Progress Payments or Final Payment.
      2) Wage and hour Disputes.
      3) Claims under the jurisdiction of the Owner’s Controlled Insurance Program (OCIP) or Contractor’s Automobile Insurance.
4) Delegated signature authority of LACMTA’s Authorized Representatives.

5) Disputes regarding matters governed by Environmental Law or any Grant Agreement from any Governmental Entity.

6) Disputes on issues covered by policies of the LACMTA Board of Directors.

7) Assessments made as a result of enforcement of the provisions set forth in the Article entitled ASSESSMENTS FOR SPECIAL CIRCUMSTANCES in Contract Document SPECIAL PROVISIONS.

8) Disputes regarding safety issues and/or matters under the jurisdiction of Cal-OSHA.

9) The right of LACMTA to issue unilateral Changes (i.e., Change Orders).

10) Issues related to subcontractor Substitutions governed by California Public Contracts Code §4100 et seq.

11) Stated dollar value of Liquidated Damages as shown in the Article entitled LIQUIDATED DAMAGES in Contract Document SPECIAL PROVISIONS.

5. Compensation for ADR

LACMTA and the Contractor shall share equally the fees and expenses of the ADR services and process, including administrative services, such as conference facilities and secretarial services. The Contractor shall pay the invoices for all such fees and expenses, after approval by both Parties. After receipt of the Contractor’s paid invoice for ADR services, LACMTA shall reimburse the Contractor fifty percent (50%) of such paid invoices within thirty (30) days.

F Contractor Rights

If the nature of a dispute is such that interim relief is necessary to prevent serious and irreparable injury to the Contractor, Contractor may seek injunctive relief to assert its rights and remedies provided under the Contract or as provided by Law.

GC-23 SUSPENSION*

GC-23-A The requirements of this Article are in addition to other audit, inspection, and record keeping requirements specified elsewhere in the Contract.

GC-23-B If LACMTA notifies Contractor that Work on a particular portion of the Project will be suspended for a period to exceed one hundred eighty (180) days, Contractor shall immediately notify LACMTA that key personnel working on that portion of the work can either:

1. Be moved to support another portion of the Program, as approved by LACMTA, or
2. Be released because there is no need for the services of the specific key personnel on the Program

If suspension is less than one hundred eighty (180) days, Contractor and LACMTA shall agree upon the short-term duties of all affected personnel.

**GC-23-C** The Contractor shall comply immediately with any written order it receives from LACMTA suspending the Work and take all reasonable steps to minimize costs allocable to the Work covered by the suspension during the period of suspended Work. The Contractor shall resume performance of the suspended Work upon expiration of the notice of suspension, or upon direction of LACMTA.

**GC-23-D** The Contractor shall be allowed an equitable adjustment in the Total Contract Price (not to include profit) and/or an extension of the Contract Time, directly attributable to any suspension and/or to recover reasonable costs incurred during suspension, provided that the Contractor makes a Claim as provided in the Article entitled NOTICE OF INTENT TO CLAIM AND CLAIMS herein. However, no adjustment shall be made under this Article for any suspension, delay or interruption to the extent that Contractor’s performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment or an extension of time is provided for or excluded under any other term or condition of the Contract.

**GC-23-E** Submittal of a Request For Change by the Contractor for an equitable adjustment of the Contract, TCP or Time extension shall be filed in compliance with the Article entitled CHANGES herein; and within thirty (30) days after the end of the Work suspension. The provisions of this Article shall only apply if a written order of suspension is issued by LACMTA.

**GC-23-F** LACMTA will make partial payments against costs authorized by LACMTA and incurred by the Contractor in connection with the suspended portion of the Contract so long as the aggregate of such payments does not exceed the authorized value of the Contract.

**GC-24** **TERMINATION FOR CONVENIENCE**

**GC-24-A** The performance of the Services or Work under the Contract may be terminated at any time, in whole or in part, as determined by LACMTA in its sole discretion. Such termination will be accomplished by delivery of a Notice of Termination to the Contractor, specifying the extent to which performance of the Services or Work under the Contract shall be terminated and the date upon which such termination shall become effective.

**GC-24-B** After receipt of a Notice of Termination, except as otherwise directed by LACMTA, the Contractor shall:

1. Stop Work under the Contract on the date and to the extent specified in the Notice of Termination.
2. Place no further orders or Subcontracts for Goods or Work, except as may be necessary for completion of such portions of the Services or Work expressly excluded from the Notice of Termination.

3. Communicate any Notice of Termination to the affected Subcontractors and Suppliers, and any other parties, at any tier.

4. Terminate all orders and Subcontracts that relate to the performance of the Work terminated by the Notice of Termination.

5. Settle outstanding liabilities and Claims arising out of such termination of orders and Subcontracts, with the acceptance of LACMTA if required (which acceptance shall be final for the purposes of this Article).

6. Assign to LACMTA in the manner, at the times, and to the extent directed by LACMTA all of the rights, titles, and interests of the Contractor under the orders and Subcontracts so terminated; in which case LACMTA will have the right, at its sole discretion, to settle or pay any or all Claims arising out of the termination of such orders and Subcontracts.

7. Transfer title and deliver to LACMTA in the manner, at the times, and to the extent directed by it:
   a. Work in process, completed Work, and other Goods procured as a part of, or acquired in connection with, the performance of the Work terminated; and
   b. The completed or partially completed plans, drawings, information, and other items that would have been required (per the Scope of Services and Scope of Work) to be furnished to LACMTA if the Contract had been completed.

8. Use its best efforts to sell the Goods of the types referred to above in the manner, at the times, to the extent, and at the price(s) directed or authorized by LACMTA, providing that the:
   a. Contractor is not required to extend credit to any purchaser;
   b. Contractor may acquire any such Goods under the prescribed conditions; and/or
   c. Proceeds of any such transfer or disposition are applied or otherwise credited to reduce payments made by LACMTA to the Contractor under the Contract.

9. Take any action that may be necessary, or that LACMTA may direct, for the protection and preservation of the property related to the Contract that is in the possession of the Contractor and in which LACMTA has or may acquire an interest.
10. Comply with all other requirements of LACMTA as may be specified in the Notice of Termination.

11. Complete performance of that portion of the Work that has not been terminated by the Notice of Termination, as applicable and in accordance with the Contract.

GC-24-C If the termination is for the convenience of LACMTA, Contractor shall submit a final invoice within 60 days of termination and upon approval by LACMTA, LACMTA shall pay Contractor a percentage of the total Contract price based on the percentage of the Work completed prior to the effective date of termination and other costs reasonably incurred by the Contractor to implement the termination.

GC-24-D Upon failure of the Contractor to submit its termination claim within the time specified, LACMTA will determine the amount due the Contractor, if any, on the basis of information available, and will pay the Contractor the amount so determined. Such payment shall constitute payment in full for the Work performed under the Contract. Any allowable costs incurred prior to the date of termination shall be handled in accordance with the Compensation and Payment Provisions.

GC-24-E Subject to the provisions of the above Subarticle, the Contractor and LACMTA may agree upon the total or partial amount to be paid to the Contractor by reason of the total or partial termination of the Work pursuant to this Article. The Contract will be amended or revised accordingly and the Contractor will be paid the agreed-upon amount. Nothing in the following Subarticle, which deals with the failure to reach agreement on the total amount to be paid to the Contractor, shall be deemed to limit, restrict, or otherwise determine or affect the amount that may be agreed upon pursuant to this Subarticle.

GC-24-F In the event of failure of the Contractor and LACMTA to agree on the total amount to be paid the Contractor by reason of the termination of Work pursuant to this Article, LACMTA will pay the Contractor the amounts determined by LACMTA as follows, exclusive of any amounts agreed upon in accordance with the preceding Subarticle:

1. The Contract Price allocable to the portion of the Work properly performed by the Contractor as of the date of termination, including overhead, and Fixed Fee or profit, as determined in accordance with the Compensation and Payment Provisions, reduced by any sums previously paid to the Contractor.

2. The cost of settling and paying Claims arising out of the termination of the Work under Subcontracts or orders as specified above, exclusive of the amounts paid or payable on account of Goods delivered or Work furnished by Subcontractors prior to the effective date of the Notice of Termination of Work under the Contract, which amounts are included in Subarticle E of this Article.

3. Profit on the cost of Work performed is included in the amount determined in Subarticle E of this Article. However, if the Contractor would have sustained a loss on the entire Contract had it been completed, the Contractor shall not
be entitled to a profit and the settlement will be reduced to reflect the indicated rate of loss.

4. The reasonable cost of preserving and protecting property will also be paid, as well as any other reasonable costs incidental to the termination of the Work under the Contract, including those reasonable expenses incurred to determine the amounts due.

**GC-24-G** Except to the extent that LACMTA will have otherwise expressly assumed the risk of loss, the fair value (as determined by LACMTA) of property that is destroyed, lost, stolen, or damaged (so as to become undeliverable to LACMTA or other buyer as described above) shall be excluded from the amounts paid to the Contractor.

**GC-24-H** In arriving at the amount due the Contractor under this Article, retention shall be made for the following:

1. The amount of the Claim that LACMTA may have against the Contractor in connection with the Contract; and

2. The agreed upon price for and/or proceeds from the sale of Goods or other items acquired or sold by the Contractor that have not been otherwise recovered by or credited to LACMTA.

**GC-24-I** Under such terms and conditions as it may prescribe and at its sole discretion, LACMTA may make partial payments against costs incurred by the Contractor in connection with the terminated portion of the Contract whenever LACMTA decides that the aggregate of such payments is within the amount to which the Contractor is entitled hereunder. If the total of such payments is in excess of the amount finally agreed-upon or determined to be due under this Article, such excess shall be payable by the Contractor to LACMTA upon demand, together with interest at a rate equal to that set forth in California Code of Civil Procedure Section 685.010.

**GC-24-J** The Contractor shall not be entitled to anticipatory or consequential damages as a result of any termination under this Article. Payment to the Contractor in accordance with this Article shall constitute the Contractor’s exclusive remedy for any termination hereunder. The rights and remedies of LACMTA provided in this Article are in addition to any other rights and remedies provided by law or under the Contract.

**GC-24-K** Anything contained in the Contract to the contrary notwithstanding, a termination under this Article shall not waive any right or claim to damages that LACMTA may have; LACMTA may pursue any cause of action that it may have by law or under the Contract.

**GC-25** **TERMINATION FOR DEFAULT**

**GC-25-A** LACMTA may terminate the Contractor's Work, in whole or in part, for default under any of the following circumstances:
1) Failure or refusal of the Contractor to perform any obligation required under the Contract, or violation of any duty required of the Contractor under the Contract.

2) Bad faith by the Contractor.

3) Violation by the Contractor of an order or requirement of LACMTA authorized by or within the scope of the Contract.

4) Abandonment of the Contract by the Contractor.

5) A filing by or against the Contractor of a petition in bankruptcy, reorganization, insolvency, conservatorship, or similar proceeding.

6) Failure of the Contractor to pay any amounts owing to any persons performing any portion of the Work, or the failure of the Contractor to pay its debts incurred on the Contract as they become due, providing that such failure continues for a period of ten (10) working days after written notice to the Contractor by LACMTA.

7) The attachment, levy, execution, or other judicial seizure of any portion of the Contractor's property, or any substantial portion of the other assets of the Contractor, which is not released, expunged, or discharged within a period of ten (10) working days.

8) Material failure to comply with any law, ordinance, rule, regulation, or order of a legal authority applicable to the Contractor, the Services, the Work, the Contract, the Program or the Project.

9) Failure to indemnify any party that the Contractor is obligated to indemnify under the Article entitled LIABILITY AND INDEMNIFICATION herein or elsewhere under the Contract.

10) Failure to promptly correct or re-perform rejected Work.

11) Conviction of the Contractor or any of its officers, partners, principals, or employees for a violation of any federal, state or local safety law or regulation, or for a crime arising out of, or in connection with, the Work to be done or payment to be made under the Contract.

GC-25-B If LACMTA determines the Contractor is in default of the Contract, LACMTA will so notify the Contractor by issuing a Cure Notice describing the default. If the Contractor fails to cure the default within five (5) days after receipt of such Cure Notice, or if the default cannot be cured within five (5) days, and the Contractor fails to commence to cure within five (5) days and diligently proceed to cure within the time LACMTA determines to be necessary, LACMTA may, by written notice, terminate the Contractor's right to proceed under all or such part of the Contract as LACMTA at its sole discretion deems to be in its best interest. Whether or not the Contract or any part thereof is terminated, the Contractor shall be liable for any damage to LACMTA resulting from the Contractor's default.
GC-25-C Upon receipt of a Notice of Termination for default from LACMTA, the Contractor shall:

1) Stop all Work under the Contract on the date and to the extent specified in the Notice of Termination.

2) Place no further orders or Subcontracts for Goods or Work, except as may be necessary for completion of such portions of the Services or Work expressly excluded from the Notice of Termination.

3) Communicate any Notice of Termination to the affected Subcontractors and Suppliers, and any other parties, at any tier.

4) Terminate all orders and Subcontracts that relate to the performance of Work terminated by the Notice of Termination.

5) Comply with all other requirements of LACMTA as may be specified in the Notice of Termination.

GC-25-D Upon LACMTA's termination of the Contract because of the Contractor's default under the Contract, LACMTA shall have the right to complete the Work by whatever means and methods it deems advisable. LACMTA will not be required to obtain the lowest prices for completing the Work, but shall make such expenditures that, in LACMTA's sole judgment, best accomplish such completion.

GC-25-E If the termination is due to the failure of the Contractor to fulfill its contractual obligations, LACMTA may take over the Work, and complete the Work by contract or otherwise. In such case, the Contractor shall be liable to LACMTA for any reasonable costs or damages occasioned to LACMTA thereby. The expense of completing the Work, or any other costs or damages otherwise resulting from failure of the Contractor to fulfill its obligations, will be charged to the Contractor and will be deducted by LACMTA out of such payments as may be due or may at any time thereafter become due to LACMTA. If such costs and expenses are in excess of the sum which otherwise would have been payable to the Contractor, then the Contractor shall promptly pay the amount of such excess to LACMTA upon notice of the excess so due.

GC-25-F If the Contract is terminated as specified in this Article, LACMTA may require that the Contractor transfer title to and deliver the following items to LACMTA as directed: any Goods, fixtures, plans, drawings, information, reports, estimates, Contract rights and other items that the Contractor has specifically produced or acquired for the terminated portion of the Contract and would have been required to be furnished to LACMTA if the Contract had been completed. The Contractor also shall, at its sole expense, protect and preserve property in its possession in which LACMTA has an interest.

GC-25-G If, after the notice of termination for failure to fulfill Contract obligations, it is determined that the Contractor has not so failed, the termination shall be deemed to have been effected for the convenience of LACMTA. In such event,
adjustment shall be made as provided in Article entitled TERMINATION FOR CONVENIENCE herein.

The Contractor shall not be entitled to anticipatory or consequential damages as a result of any termination under this Article. Payment to the Contractor in accordance with this Article shall constitute the Contractor's exclusive remedy for any termination hereunder. The rights and remedies of LACMTA provided in this Article are in addition to any other rights and remedies provided by law or under the Contract.

GC-26 COOPERATION IN EVENT OF TERMINATION

A. General

Contractor understands and agrees that LACMTA has obligations that it cannot satisfy without use of the completed Equipment. Therefore, Contractor agrees that in the event of any termination of all or any part of this Contract for any reason, Contractor shall fully cooperate with LACMTA in the transition of LACMTA to a new provider of goods and services, toward the end that there be no interruption of day-to-day operations due to the unavailability of the completed Equipment, or to the Existing Equipment to the extent they are impacted by this Contract, during such transaction.

Contractor shall have no right to withhold or limit any of the Work or any transition services on the basis of any alleged breach of this Contract by LACMTA, other than a failure by LACMTA to timely pay the amounts due for Work rendered during the transition period or the amounts due for such transition services under this Article. LACMTA shall have the right to seek specific performance of this Article in any court of competent jurisdiction, notwithstanding the provisions of the Article entitled Resolution of Disputes hereof, and Contractor hereby waives any defense that damages are an adequate remedy. Compliance with this Article by either party shall not constitute a waiver or estoppel with regard to any rights or remedies available to the parties.

B. Termination Transition Plan

In the event of Termination, Contractor shall work with LACMTA Program Director to develop a Termination Transition Plan within ten (10) days of the Notice of Termination. The Termination Transition Plan shall be subject to LACMTA’s Acceptance pursuant to the Article entitled GC-12 Performance and Inspections. If no Termination Transition Plan has been Accepted by LACMTA at the time of any termination of this Contract, then Contractor shall continue to perform the Work, at performance standards and Specifications in effect at the time of termination or expiration.

C. Acts Upon Termination

Contractor will:

(i) meet with LACMTA as soon as practicable after a Notice of Termination or notice of a decision to not extend this Contract has been given, to discuss any potential modifications to the then most current Termination Transition Plan, and
(ii) use best efforts to assist LACMTA in effecting a transition of the Work, in accordance with industry best practices, to LACMTA or another vendor chosen by LACMTA.

Provided that LACMTA is current in payment of the Contract amounts owed by LACMTA to Contractor (except for disputed amounts and withholds), Contractor shall continue to provide Work as well as transition services for a period defined in the Termination Transition Plan but in no event less than twelve (12) months following the expiration or termination of this Contract. In addition to the Work required of Contractor as set forth in this Contract, the transition services shall include, at a minimum, converting data, providing parallel services until transition to a new Equipment, providing on-site technical support, cooperating with LACMTA or its designated vendor in developing required interfaces, and such other services as shall be necessary or appropriate to facilitate, without interruption to the Work, the orderly transition of Work to LACMTA or its new provider of services in accordance with industry best practices. If Contractor is providing any Work hereunder at the time of such transition utilizing any software license from a Subcontractor, Contractor shall, at the request of LACMTA, and at the expense of Contractor, transfer such license to LACMTA or sublicense such software to LACMTA.

**GC-27 ASSIGNMENT***

**GC-27-A** The Contractor shall not assign, transfer, convey, or otherwise dispose of the Contract (or the right, title, or interest in it or any part of it) without the prior written consent and endorsement of LACMTA.

**GC-27-B** No right under the Contract shall be asserted against LACMTA, in law or in equity, by reason of any assignment of the Contract, or any part thereof, unless authorized by LACMTA as specified in this Article.

**GC-28 ENVIRONMENTAL COMPLIANCE**

**GC-28-A** The Contractor shall include the requirements of the following subarticles (except GC-28-C3) in every subcontract that is more than one hundred thousand dollars ($100,000). The Contractor shall take such action as LACMTA directs to enforce these requirements.

**GC-28-B** The Contractor shall comply with all air, water, and noise pollution provisions set forth in the Scope of Services or Scope of Work.

**GC-28-C** Air Quality Control

1. The Contractor shall comply with all applicable standards, orders, and requirements issued under the Clean Air Act (42 USC § 7401); all applicable standards of the State of California; and all clarifications, mitigation measures, and any other requirements approved by LACMTA in accordance with state and federal laws.

2. The Contractor shall comply with all rules, regulations, and ordinances of the South Coast Air Quality Management District (SCAQMD) and statutes of the
State that apply to any Work performed pursuant to the Contract, including any air quality control rules, regulations, ordinances, and statutes specified in Section 11017 of the California Government Code. Contractor, Subcontractors, and Suppliers shall submit evidence to LACMTA that the governing air quality control criteria are being met; such evidence will be retained by LACMTA.

3. The Contractor shall include the requirements of this subarticle in every subcontract with Primary Subcontractors and Primary Suppliers providing, manufacturing, or supplying Major Systems of the Heavy Rail Vehicles. The Contractor shall take such action as LACMTA directs to enforce these requirements. The Contractor shall comply with Rules 442, 481, 1107, 1140, 1146, 1168, 1171, 1401, 1470, and, if applicable, 1472 of the South Coast Air Quality Management District (SCAQMD) in all the Work performed pursuant to the Contract regardless of where such Work is performed and regardless of whether such Work would have otherwise been subject to the requirements or jurisdiction of the SCAQMD. The Rules of SCAQMD can be found at [http://www.aqmd.gov/rules/rulesreg.html](http://www.aqmd.gov/rules/rulesreg.html). Upon the request of LACMTA, Contractor, Primary Subcontractors and Primary Suppliers shall submit evidence to LACMTA that the Rules of SCAQMD cited in this subarticle are being met in the performance of the Work; such evidence will be retained by LACMTA.

4. Containers of paints, thinner, curing compound or liquid asphalt shall be labeled to indicate that the contents fully comply with the requirements of the SCAQMD.

5. The Contractor shall comply with California state law regarding pollution controls in purchasing new motor vehicles with Project funds.

6. Material to be disposed of shall not be burned.

**GC-28-D Water Quality:**

The Contractor shall comply with all applicable standards, orders, and requirements issued under the Clean Water Act (33 USC § 1251); all applicable water standards of the State of California; and all clarifications, mitigation measures, and any other requirements approved by LACMTA in accordance with state and federal laws.

**GC-28-E Environmental Protection Agency Regulations**

1. The Contractor shall comply with all applicable regulations (40 CFR Part 15) of the Environmental Protection Agency (EPA).

2. The Contractor shall not use any facility in the performance of the Contract that is listed on the EPA List of Violating Facilities, unless and until the EPA eliminates said name of such facility from said listing. The Contractor shall promptly notify LACMTA of the receipt of any communication from the Director, Office of Federal Activities, EPA (or any successor agency), indicating that a facility to be used by the Contractor is under consideration
for listing on the EPA List of Violating Facilities. The Contractor shall also report violations to LACMTA, to the FTA, and to the EPA Assistant Administrator for Enforcement.

**GC-28-F Energy Conservation:**

The Contractor shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6321). Refer to the Scope of Services or the Scope of Work for energy conservation measures.

**GC-29 HISTORICAL, ARCHAEOLOGICAL, PALEONTOLOGICAL, AND SCIENTIFIC DISCOVERIES** (Reserved)

**GC-30 THE CONTRACTOR’S INTERACTION WITH THE MEDIA AND THE PUBLIC**

1. LACMTA shall review and approve all LACMTA related copy proposed to be used by the Contractor for advertising or public relations purposes prior to publication. The Contractor shall not allow LACMTA related copy to be published in its advertisements and public relations programs prior to receiving such approval. The Contractor shall ensure that all information proposed to be published is factual and that it does not in any way imply that LACMTA endorses the Contractor's firm, service, and/or product.

2. The Contractor shall refer all inquiries from the news media to LACMTA, and shall comply with the procedures of LACMTA's Public Affairs staff regarding statements to the media relating to the Contract or the Work.

3. If the Contractor receives a complaint from a citizen or the community, the Contractor shall inform LACMTA about what action was taken to alleviate the situation.

4. All documents and documentation prepared or developed under this Contract are the property of the LACMTA, and the Contractor shall not publish any information or technical data acquired or generated by the Contractor in performing the Contract until such time as such information or technical data is released in published reports by LACMTA or otherwise authorized by LACMTA. Any requests for such information or documents shall be forwarded to LACMTA for handling.

**GC-31 WHISTLEBLOWER REQUIREMENTS**

**GC-31-A** The Contractor shall comply with, and not take any action or adopt any rule, regulation or policy which is contrary to the provisions set forth in California Labor Code Section 1102.5.

**GC-31-B** The Contractor shall post and maintain all LACMTA Phone Hotline literature provided by LACMTA ("Hotline Literature") at place(s) of performance during the
term of the Contract. All Hotline Literature is to be posted in prominent locations that are highly visible and accessible to Contractor's employees. Contractor shall not hinder or coerce its employees from using LACMTA Phone Hotline to voice ideas, suggestions, or concerns relative to the performance of any LACMTA contract. The Contractor shall provide access to LACMTA representatives for the purpose of verifying Contractor's adherence to this section. In the event LACMTA inspection finds the Contractor has failed to comply herewith, the Contractor shall promptly correct such failures in the manner directed by LACMTA, this many include, but not limited to, replacing Hotline Literature and sponsoring training sessions, with LACMTA representatives, on the use of LACMTA Phone Hotline.

**GC-32 COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT***

The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act in performing the Work under the Contract.

**GC-33 SEVERABILITY***

In the event any Article, section, Subarticle, paragraph, sentence, clause, or phrase contained in the Contract shall be determined, declared, or adjudged invalid, illegal, unconstitutional, or otherwise unenforceable, such determination, declaration, or adjudication shall in no manner affect the other Articles, sections, Subarticles, paragraphs, sentences, clauses, or phrases of the Contract, which shall remain in full force and effect as if the Article, section, Subarticle, paragraph, sentence, clause, or phrase declared, determined, or adjudged invalid, illegal, unconstitutional, or otherwise unenforceable, was not originally contained in the Contract.

**GC-34 GOVERNING LAW***

The Contract has been negotiated between LACMTA and the Contractor and shall be subject to the laws of the State of California without giving effect to the conflict of law principles thereof. By entering into the Contract, the Contractor consents and submits to the jurisdiction of the Courts of the State of California, County of Los Angeles, over any action at law, suit in equity, and/or other proceeding that may arise out of the Contract.

The parties further agree that all actions or proceedings arising in connection with this Contract shall be tried and litigated exclusively in the Courts of the State of California, County of Los Angeles. This choice of venue is intended by the parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the parties with respect to, or arising out of, this Contract in any jurisdiction other than that specified in this Article. Each party waives any right it may have to assert the doctrine of *forum non conveniens* or similar doctrine or to object to venue with respect to any proceeding brought arising under this Contract.

Changes in law that become effective after the Proposal Due Date may result in changes that affect price and/or any terms and conditions. If a price adjustment is indicated, either upward or downward, and/or a change in any terms and
conditions is indicated, it may be negotiated between LACMTA and the Contractor and the total Contract price and/or the terms and conditions may be adjusted to reflect such changes in law. Such price adjustment and/or changes in terms and conditions may be audited, where required.

GC-35  PUBLIC RECORDS ACT AND DISCLOSURE*

A. General

All records, documents, drawings, plans, specifications and other information relating to the Work and the conduct of LACMTA's business, including information submitted by the Contractor shall become the exclusive property of LACMTA and shall be deemed public records. Said materials are subject to the provisions of the California Public Records Act (Government Code sections 6250 et seq.). LACMTA's use and disclosure of its records are governed by this Act. LACMTA will use its best efforts to inform the Contractor of any request for documents provided by the Contractor to LACMTA marked “Trade Secret,” “Confidential” or “Proprietary” or any financial records provided by the Contractor to LACMTA. Contractor may seek protection of the records pursuant to the California Public records Act. However, LACMTA will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.

B. Litigation

In the event of litigation concerning the disclosure of any information submitted by the submitting parties, LACMTA's sole involvement will be as a stakeholder, retaining the information until otherwise ordered to disclose such information by a court. The submitting party, at its sole expense and risk, shall be responsible for any and all fees for prosecuting or defending any action concerning the information, and shall indemnify and hold LACMTA harmless from all costs and expenses including attorneys' fees, in connection with any such action.

C. No Contractor Disclosure

1. Publication - The Contractor shall not publish information or technical data acquired or generated by the Contractor in performing the Contract until such time as such information or technical data is released in published reports by LACMTA or otherwise authorized by LACMTA.

2. Disclosure - Contractor shall not disclose any terms or conditions of, or any circumstances or events which occur during the performance of, this Contract to any person or entity except as may be otherwise provided herein or required by Law. In the event Contractor receives any court or administrative agency order, service of process, or request by any person or entity (other than Contractor’s professionals) for disclosure of any such details, Contractor shall immediately notify LACMTA’s Program Director. Thereafter, Contractor shall comply with such order, process or request only to the extent required by applicable Law. Notwithstanding the preceding sentence, to the extent permitted by Law, Contractor shall delay such compliance and cooperate with LACMTA to obtain
relief from such obligations to disclose until LACMTA shall have been given a reasonable opportunity to obtain such relief.

D. Contractor Literature

In recognizing Contractor’s need to identify its services and related clients to sustain itself, LACMTA shall not inhibit Contractor from publishing its role under this Contract within the following conditions:

1. During the Term, Contractor shall not publish or disseminate any commercial advertisements, press releases, feature articles, or other materials using the name of LACMTA without the prior written consent of LACMTA’s Program Director.

2. Contractor may, without the prior written consent of LACMTA, indicate in its proposals and sales materials that it has been awarded this Contract with LACMTA, provided that the requirements of this Article shall apply and provided further that Contractor shall develop all publicity material conjunction with LACMTA’s review and in a professional manner.

GC-36 LIABILITY AND INDEMNIFICATION*

GC-36-A Indemnification

To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless LACMTA, its subsidiaries, and any of their respective members, directors, officers, employees and agents, from and against any and all Claims, actions, demands, costs, judgments, liens, penalties, liabilities, damages, losses, and expenses, including but not limited to workers compensation suits, breaches of contract and any fees of accountants, attorneys or other professionals arising out of, or resulting from any act, omission, fault or negligence of the Contractor or any of its officers, Authorized Representative, employees, Subcontractors or Suppliers, or any person or organization directly or indirectly employed by any of them, in connection with or relating to, or claimed to be in connection with or relating to, the Services, the Work, the Contract, or the Program, including but not limited to any costs or liability on account of:

1. Personal injury to or death of any person (including employees of the parties to be indemnified) or for damage to or loss of use of property (including property of LACMTA); and

2. LACMTA’s reasonable reliance upon the use of data or other information provided or delivered by the Contractor pursuant to the Contract.

The indemnification specified in this Article shall apply even in the event of the act, omission, fault or negligence whether active or passive, of the party or parties to be indemnified, but shall not apply to Claims, actions, demands, costs, judgments, liens, penalties, liabilities, damages, losses, and expenses arising from the willful misconduct of, or defects in design furnished by, the party or
parties to be indemnified. LACMTA shall not be responsible for any negligence, willful misconduct or defects in design caused and/or furnished by the Contractor.

The indemnification specified in this Article shall survive termination or closeout of the Contract or Final Payment thereunder and is in addition to any other rights or remedies that LACMTA may have under the law or under the Contract. In the event of any Claim or demand made against any party that is entitled to be indemnified hereunder, LACMTA may at its sole discretion reserve, retain, and/or apply any monies due the Contractor under the Contract for the purpose of resolving such Claims; provided, however, that LACMTA may release such funds if the Contractor gives LACMTA reasonable assurance that the LACMTA’s interests will be protected. LACMTA shall, at its sole discretion, determine whether such assurance is reasonable.

Claims against the indemnified parties by any employee of the Contractor, its Subcontractors, Suppliers, anyone directly or indirectly employed by any of them, and/or anyone for whose acts any of them may be liable shall not in any way limit the Contractor’s indemnification obligation as set forth above, including the amount and/or type of damages, compensation, and/or benefits payable by or for the Contractor or its Subcontractors under workers’ compensation acts, disability benefit acts, and/or other employee benefit acts and/or insurances.

**GC-36-B Third Party Liability**

Nothing contained in the Contract is intended to or shall have the effect of creating any rights in any third party against LACMTA. The inclusion of the Contract or any part thereof in any other document shall not be deemed to be creating or incorporating any obligation, duty, or liability on the part of LACMTA. The Contractor shall indemnify LACMTA in accordance with the provisions of this Article against any claim made by any third party claiming rights under the Contract.

**GC-36-C Joint Severable Liability**

If the Contractor is a joint venture or partnership, each venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of the Contractor that are assumed under or arise out of the Contract. Each of such venturers or partners waives notice of the breach or non-performance of any undertaking or obligation of the Contractor contained in, resulting from or assumed under the Contract, and the failure to give any such notice shall not affect or impair such venturer’s or partner’s joint and several liability hereunder.

**GC-36-D Professional Liability**

The Contractor shall be responsible for the professional quality, technical accuracy, completeness and coordination of all Work furnished by the Contractor (including the Work performed by Subcontractors on the basis provided herein) under the Contract. In addition to any other remedies provided LACMTA under the Contract, or in law, the Contractor or Subcontractor shall correct or revise at no additional cost or fee to LACMTA any defective Work caused by the Contractor’s or Subcontractor’s negligent acts, errors or omissions in the
performance of the Work hereunder. Neither LACMTA’s inspection of, nor failure to inspect, review, accept, make payment for, any of the Work required under the Contract shall be construed to relieve the Contractor or Subcontractor of its obligations and responsibilities under the Contract for any negligent acts, errors and omissions in its performance of Work hereunder, nor operate as a waiver of any of LACMTA’s rights under the Contract or of any cause of action arising out of the performance of the Contract. The Contractor or Subcontractor shall be and remain liable to LACMTA in accordance with applicable law for all damages to LACMTA caused by any failure of the Contractor or Subcontractor to comply with the terms and conditions of the Contract, or by the Contractor’s or Subcontractor’s negligent acts or errors or omissions in the performance of the Contract. With respect to the performance of Work by Subcontractors, the Contractor shall use its professional judgment, care and prudence in approving and accepting such Work but shall also take all action necessary to ensure correctness/accuracy of Subcontractors work. The Contractor warrants that the Work performed hereunder is of high professional quality and has been performed in full conformity with all codes, rules, regulations and statutory requirements.

In the event that the Contractor fails to perform its obligations under this Article (or under any other warranty or guarantee under the Contract) within the specified time and to the reasonable satisfaction of LACMTA, LACMTA shall have the right to correct and/or cause to be re-performed any defective or non-conforming Work and any Work of third parties damaged by such defective or non-conforming Work or the correction or re-performance thereof. The Contractor shall be obligated to fully reimburse LACMTA upon demand for any expenses incurred hereunder.

**GC-36-E Investigation Of Potential Negligence**

Contractor shall pay for all costs associated with its investigation of any negligence alleged against it under the terms and conditions of the Contract, unless there is a finding that the Contractor was not negligent; in which case LACMTA shall only pay for the reasonable cost of the Contractor’s staff time to investigate the alleged negligence. Where it has been determined Contractor was in fact negligent, Contractor shall be responsible for and charged with LACMTA’s staff time to investigate or review any alleged negligence by the Contractor, or any construction change order request, request for information, or claim related thereto, which shall not include third party costs.

The Contractor shall be a participant in the review of any construction change order request, request for information, or claim which alleges or involves potential Contractor negligence, and shall not be responsible for or charged with any claims for delay by the Construction Manager or any construction Contractor unless the Contractor has been given a reasonable opportunity to participate in the review.

**GC-36-F** The Contractor acknowledges that the rights and remedies of the AUTHORITY specified in this Article are in addition to and do not limit any rights or remedies of LACMTA, afforded by the Contract or by law.
GC-36-G  Warranty

Contractor Warranties: Contractor warrants that: it is aware of and understands the hazards which are presented to persons, property and the environment in the performing of transportation, storage, remediation and disposal Work as described within the Scope of Work of the Contract. It will transport, store, remediate and dispose of such materials in full compliance with all applicable governmental laws, regulations and orders. If the Scope of Work requires off-site storage or disposal, the selected storage and disposal facilities described in the work plan are now appropriately licensed and permitted to store and dispose of the waste, materials or hazardous substances detailed within the work plan. In the event the storage or disposal facility loses its permitted status hereafter during the terms of the Contract, Contractor will promptly notify LACMTA of such loss.

GC-36-H  Indemnification - Environmental Impairment Losses

Environmental Impairment Losses (in addition to the indemnification provisions of the Contract). It is agreed that the Contractor, at the Contractor’s sole cost and expense, shall indemnify and hold harmless LACMTA from and against the full amount of any and all present and future Environmental Impairment Losses that may arise out of the negligent performance of the activities or Work provided by the Contractor under the Contract. The term "Environmental Impairment Losses" shall mean any and all loss, liability, expense or damage (including, without limitation, all attorneys’ fees and costs and all other professional or contractors’ fees and costs), incurred by LACMTA under federal, state or local environmental law as a result of the activities conducted by the Contractor under the Contract.

GC-36-I  Environmental Indemnity

In addition to any other indemnification provisions of the Contract, Contractor shall indemnify, defend and hold harmless LACMTA, its subsidiaries, and all of their officials, officers, agents, employees, and contractors, from and against any and all present and future liability, loss, cost, damage, and expense of every kind and nature, including, but not limited to, clean-up costs, releases or substances resulting from acts of Contractor, failure to recognize or report the existence, quantity, or location of substances, remedial work required under any federal, state, or local law, regulation, or ordinance, contractors’ fees, and attorneys’ fees, resulting, directly or indirectly, from any negligent act or omission of Contractor, or any employee, Subcontractor, or Supplier of the Contractor, in the performance or failure to perform any work carried out, wholly or in part, pursuant to the Contract.

GC-37  RIGHTS IN TECHNICAL DATA, PATENTS AND COPYRIGHTS*

GC-37-A  All documents and materials prepared or developed by the Contractor and its subcontractors pursuant to the Contract shall become the property of LACMTA without restriction or limitation on their use and shall be made available upon request, to LACMTA at any time. Original copies of such shall be delivered to LACMTA upon completion of the Work or termination of the Work. The Contractor shall be permitted to retain copies of such items for the furthere of
its technical proficiency; however, publication of this material is subject to the written approval of LACMTA.

**GC-37-B** LACMTA shall have the right to use, duplicate, modify or disclose the technical data and the information conveyed therein, in whole or in part, in any manner whatsoever, and to have or permit others to do so except as limited by the Article entitled PUBLIC RECORDS ACT herein.

**GC-37-C** The Contractor shall agree to grant to LACMTA and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free license to publish, translate, reproduce, deliver, and use as they deem fit all technical data covered by copyright supplied for the Contract. No such copyrighted matter shall be included in technical data furnished hereunder without the written permission of the copyright owner for LACMTA to use such in the manner herein described.

**GC-37-D** The Contractor warrants that the Work and Goods used in providing the Work shall be delivered free of any rightful claim of any third party for infringement of any United States patent or copyright. If a suit or proceeding based on a claimed infringement of a patent or copyright is brought against LACMTA, the Contractor shall, at its own expense, defend or settle any such suit or proceeding if authorized to do so in writing by LACMTA, and indemnify and hold harmless LACMTA, its subsidiaries, agents and employees from all liability, damages, costs, and expenses associated therewith, including, but not limited to, defense costs and attorneys’ fees.

When use of these Goods and/or processes is judged to be an infringement and such use is banned, the Contractor, at its own expense, shall, with the concurrence of LACMTA, do one of the following:

1. Secure for LACMTA the right to continue using said Goods and/or processes, by suspension of the injunction or by procuring a license(s);
2. Replace said Goods and/or processes, with non-infringing Goods and/or processes;
3. Modify said Goods and/or processes, so that they become non-infringing;
4. Remove said Goods and/or processes, and refund the sum paid therefor without prejudice to any other rights of LACMTA.

The preceding subarticles shall not apply to Goods and/or processes furnished to the Contractor by LACMTA.

For LACMTA provided software, LACMTA, at its own cost, shall obtain any required license agreement(s). LACMTA shall indemnify, hold harmless and defend the Contractor from and against any and all Liability, damages, costs, and expenses, including but not limited to, defense costs and attorneys’ fees, for or by any reason of any actual or alleged infringement of any United States patent or copyright, or any actual or alleged trade secret disclosure, arising from or related to the operation and utilization of LACMTA provided software, except for
the unauthorized use of LACMTA provided software by the Contractor, its Director, Officers, employees, agents or representatives.

**GC-38 SOFTWARE LICENSING AGREEMENT AND PROVISIONS FOR USE**

**GC-38-A** The Terms Used In This Article Are Defined As Follows:

1. **Software**: The computer programs and products required to be developed and delivered by the Contractor to LACMTA under the Contract, in object code (but excludes commercial software developed at private expense and not in the public domain).


3. **Documentation**: Systems and user manuals sufficient to enable a person skilled in the applicable art to operate, maintain, and support the Software for its intended purposes.

**GC-38-B** The Contractor shall deliver to LACMTA the Software, Source Code Materials, and Documentation, in such tape, disk, or hardcopy format as LACMTA may designate.

**GC-38-C** The Contractor shall retain ownership of the Software, Source Code Materials, and Documentation with the right to exploit the same, subject to LACMTA's rights as herein provided. LACMTA shall place such copyright notices affirming the Contractor's ownership rights as the Contractor may reasonably require on all materials licensed hereunder which are reproduced by LACMTA.

**GC-38-D** The Contractor hereby grants to LACMTA a royalty-free, paid-up, non-exclusive license, in perpetuity, to use duplicate, and disclose the Software, Source Code Materials, and Documentation, and to make modifications of and enhancements to the Software, and permit others (who sign standard nondisclosure agreements) to do the same, but only for governmental purposes and not for any commercial purposes.

**GC-38-E** LACMTA shall hold the Software, Source Code Materials, and Documentation in confidence, shall use and disclose them only as expressly authorized herein or as required by law and only to its employees, agents or sublicensees to whom disclosure is necessary or appropriate for the performance and exercise of its rights hereunder, and shall take reasonable steps to ensure that unauthorized persons will have no access to them.

**GC-38-F** The Contractor warrants that the Software will perform according to the specifications set forth in the Contract, that it is owner of the Software, Source Code Materials, and Documentation that it has the right to convey and grant the license herein granted to LACMTA, and that LACMTA's use thereof as herein contemplated will not infringe any third party's proprietary rights in the United States. The foregoing warranties shall not apply to the extent the Software is modified by LACMTA.
GC-38-G  Upon LACMTA's request the Contractor shall generate modifications of and enhancements to the Software not required by the Contract, at the Contractor's rates charged for comparable Work to its most favored customers.

GC-39  AGENT TO ACCEPT SERVICE

The Contractor shall maintain within Los Angeles County a duly authorized agent as identified in the Article entitled NOTICE AND SERVICE THEREOF of the Special Provisions to accept service of legal process on its behalf, and shall keep LACMTA advised of such authorized agent name and address during the duration of the Contract and for three (3) years after Final Payment, or as long as the Contractor has warranty obligations under the Article entitled WARRANTY herein, whichever period terminates later. In the event that no such duly authorized agent is on file with LACMTA, the Contractor agrees that the Secretary of State of the State of California shall be the Contractor's authorized agent for service of legal process.

GC-40  CONFLICT OF INTEREST*

GC-40-A  Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure the Contract and that is has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of the Contract. For breach of this warranty, or violation of any other prohibition in this Article, LACMTA shall have the right to terminate the Contract for failure of Contractor to fulfill its Contract obligations.

GC-40-B  Contractor agrees that, for the term of the Contract, no member, officer, or employee of LACMTA, or of a local public body during their employment and for one (1) year thereafter, shall have any interest, direct or indirect, in the Contract, or to any benefit arising thereof as prohibited by Government Code § 1090 and 87100.

GC-40-C  The employment by Contractor of personnel on the payroll of LACMTA for the performance of Work under the Contract will not be permitted, even though such employment may be outside of the employee's regular working hours or on Saturdays, Sundays, holidays, or vacation time. The employment by the Contractor of personnel who have been on LACMTA payroll within one (1) year prior to the date of Contract award, where such employment is caused by and/or dependent upon Contractor securing the Contract or a related contract with LACMTA, is also prohibited.

GC-40-D  Neither the Contractor nor its employees nor its subcontractors or their employees shall give or offer to give any campaign contribution to any member of LACMTA in violation of Government Code Section 84308.
GC-40-E  The Contractor shall not be permitted to participate in any capacity in contracts, subcontracts or proposals (solicited or unsolicited) which may arise from its performance under the Contract and from any solicitations relating to the Project.

GC-41  COVENANT AGAINST CONTINGENT FEES*

GC-41-A  The Contractor warrants that no person or Authorized Representative has been specifically employed or retained to solicit or obtain the Contract in exchange for a contingent fee, except a bona fide employee or Agent. A breach or violation of this warranty shall be considered a breach of Contract pursuant to the Article entitled TERMINATION FOR DEFAULT herein. In addition to any rights and remedies otherwise provided for in the Contractor by law, LACMTA may deduct from the TCP or consideration, or otherwise recover, the full amount of the contingent fee.

GC-41-B  "Bona fide Agent", as used in this Article, means an established commercial or selling entity that is maintained by the Contractor for the sole purpose of securing business and that neither exerts nor proposes to exert improper influence to solicit or obtain LACMTA contract(s) nor holds itself out as being able to obtain any LACMTA contract(s) through improper influence.

GC-41-C  "Bona fide employee", as used in this Article, means a person who is employed by the Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance and who neither exerts nor proposes to exert improper influence to solicit or obtain LACMTA contract(s) nor holds itself out as being able to obtain any LACMTA contract(s) through improper influence.

GC-41-D  "Contingent fee", as used in this Article, means any commission, percentage, or other sum that is payable only upon success in securing a LACMTA contract.

GC-41-E  "Improper influence," as used in this Article, means any influence that induces or tends to induce a LACMTA employee, officer, Contractor, Subcontractor, Authorized Representative, or Consultant to give consideration or to act regarding an LACMTA Contract on any basis other than the merits of the matter.

GC-42  NO WAIVER

GC-42-A  Failure of LACMTA to enforce at any time, or from time to time, any provision of the Contract shall not be construed as a waiver thereof.

No waiver by LACMTA of any breach of any provision of the Contract shall constitute a waiver of any other breach or of such provision.

Failure or delay by LACMTA to insist upon strict performance of any terms or conditions of the Contract, or to exercise any rights or remedies provided herein by law, shall not be deemed a waiver of any right of LACMTA to insist upon strict performance of the Contractor's obligations set forth in the Contract, or any of its rights or remedies as to any prior or subsequent default hereunder.
A. LACMTA Confidential Records

All information, data, figures, records, findings and the like (“Confidential Records”) received or generated by the Contractor in the performance of the Contract shall be the private and privileged records of LACMTA, and Contractor shall not divulge any such Confidential Records to any person, firm, corporation, or other entity at any time, either during or after the performance or termination of the Contract, except on the direct authorization of LACMTA. Contractor shall maintain the confidentiality of all Confidential Records in accordance with all applicable Laws relating to confidentiality. Contractor shall inform all of its officers, employees, and agents, Subcontractors, and Suppliers providing Components or Work hereunder of the confidentiality provisions of this Contract, and all such officers, employees or agents shall execute a Confidentiality and Non-Disclosure Agreement before receiving examining or reviewing Confidential Records.

B. Contractor’s Confidential Materials

Any and all materials which are developed or were originally acquired by Contractor outside the scope of this Contract, which Contractor desires to use hereunder, and which Contractor considers to be proprietary or confidential, must be specifically identified by Contractor to LACMTA’s Program Director as proprietary or confidential, and shall be plainly and prominently marked by Contractor as “PROPRIETARY” or “CONFIDENTIAL.”

LACMTA shall not reproduce, distribute, or disclose to non-LACMTA entities (other than outside counsel or consultants subject to non-disclosure agreements) Contractor’s proprietary and confidential material without the prior written permission of Contractor or as required by Law or pursuant to the Article entitled Resolution of Disputes.

Notwithstanding any other provision of this Contract, LACMTA shall not be obligated in any way under this Contract for (i) any Contractor’s proprietary and/or confidential materials not plainly and prominently marked with restrictive legends required above, or

(ii) any disclosure of any materials which LACMTA is required to make under the California Public Records Act or otherwise by Law, provided however, that in such event, LACMTA shall use its reasonable efforts to protect Contractor’s proprietary information.

C. Data and Security

Contractor shall not reproduce, distribute, or disclose to any person or entity any information identifying, characterizing, or relating to any risk, threat, vulnerability, weakness, or problem regarding data security in LACMTA’s computer and/or the Equipment, or to any safeguard, countermeasure, or contingency plan, policy or procedure for data security contemplated or implemented by LACMTA, without LACMTA’s prior written consent. Contractor shall provide to LACMTA an executed Employee Acknowledgment and Confidentiality Agreement for each of its...
employees, Subcontractors and Suppliers having access to LACMTA materials, data, or information. Contractor shall deliver such Agreements to LACMTA Program Director prior to any personnel having access to LACMTA materials, data or information.

D. Protection from Disclosure

Contractor shall ensure, during the Term and perpetually thereafter, that Confidential Information will be protected from disclosure to anyone other than the employees of Contractor and Subcontractors who need to have access to such information to perform obligations and authorized activities under this Contract. Contractor represents and warrants that it currently has, and in the future will maintain in effect and enforce, rules and policies to protect against access to or use or disclosure of Confidential Information other than in accordance with this Contract, including without limitation written instruction to and Contracts with employees and agents to ensure that such employees and agents protect the confidentiality of Confidential Information in the form of an executed Contractor Employee Acknowledgment and Confidentiality Contract (see paragraph C above) for all employees performing work under this Contract.

E. Prevention of Disclosure

Contractor expressly will instruct its employees and agents not to disclose Confidential Information to third parties, including without limitation customers, Subcontractors, Suppliers or consultants. Contractor, at its own expense, will take all steps, including without limitation the initiation and prosecution of actions at law or in equity, necessary or appropriate to prevent use or disclosure, and upon any unauthorized disclosure further unauthorized disclosure or use, of any Confidential Information received or obtained by it except as expressly permitted by the terms of this Contract. Contractor will not make any use whatsoever at any time of LACMTA’s Confidential Information except as expressly authorized in this Contract, and Contractor will notify LACMTA immediately of any unauthorized disclosure or use, and will cooperate with LACMTA to protect all proprietary rights in and ownership of LACMTA’s Confidential Information.

F. Disclosure Pursuant to Lawful Order

To the extent required by applicable Law or by lawful order or requirement of a court or governmental authority having competent jurisdiction over Contractor, Contractor may disclose Confidential Information, in accordance with such Law or order or requirement, subject to the following conditions: As soon as possible after becoming aware of such Law, order or requirement and prior to disclosing Confidential Information, Contractor will provide LACMTA notice not less than five (5) business days prior to the required disclosure. Contractor will use reasonable efforts not to release Confidential Information, pending the outcome of any measures taken by LACMTA to contest, otherwise oppose or seek to limit such disclosure by Contractor and any subsequent disclosure or use of Confidential Information that may result from such disclosure. Contractor will cooperate with LACMTA regarding such measures. Notwithstanding any such disclosure, Contractor will not affect its obligations hereunder with respect to Confidential Information so disclosed.
G. **Transfer of Information to Third Party**

Without limiting any other warranty or obligation of Contractor under this Contract, during the term of this Contract and thereafter in perpetuity, Contractor will not gather, store, or use any LACMTA Confidential Information in any manner, and will not disclose, distribute, sell, share, rent or otherwise transfer any LACMTA Confidential Information to any third party, except as expressly provided in this Contract. Contractor represents, covenants, and warrants that Contractor will use LACMTA Confidential Information only in compliance with: (i) this Contract; (ii) LACMTA’s reasonable privacy policies; and (iii) all applicable laws, policies and regulations (including but not limited to applicable laws, policies and regulations related to spamming, privacy, and consumer protection). Contractor hereby agrees to indemnify and hold harmless LACMTA and its affiliates from and against any and all damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys’ fees) in connection with any claim or action that arises from an alleged violation of the warranty set forth in the previous sentence.

H. **Security Procedures**

Contractor will maintain and enforce safety and physical security procedures with respect to its access and maintenance of LACMTA’s Confidential Information that are (a) at least equal to industry standards for such types of locations, (b) in accordance with LACMTA’s reasonable security requirements, and (c) which provide reasonably appropriate technical and organizational safeguards against accidental or unlawful destruction, loss, alteration or unauthorized disclosure or access of LACMTA Confidential Information and all other data owned by LACMTA and accessible by Contractor under this Contract. Without limiting the generality of the foregoing, Contractor will take all reasonable measures to secure and defend its location and equipment against “hackers” and others who may seek, without authorization, to modify or access Contractor Equipments or the information found therein without the consent of LACMTA. Contractor will periodically test its Equipments for potential areas where security could be breached. Contractor will report to LACMTA immediately any breaches of security or unauthorized access to Contractor’s Equipments that Contractor detects or becomes aware of. Contractor will use diligent efforts to remedy such breach of security or unauthorized access in a timely manner.

I. **Secure Storage**

All LACMTA Confidential Information must be stored in a physically and logically secure environment that protects it from unauthorized access, modification, theft, misuse and destruction. In addition, the general standards set forth above, Contractor will maintain an adequate level of physical security controls over its facility including, but not limited to, appropriate alarm systems, fire suppression, access controls (including off-hour controls) which may include visitor access procedures, security guard force, video surveillance, and staff egress searches. Further, Contractor will maintain an adequate level of data security controls, including, but not limited to, logical access controls including user sign-on identification and authentication, data access controls (e.g., password protection of Contractor’s applications, data files and libraries), accountability tracking, anti-
virus software, secured printers, restricted download to disk capability and provision for system backup.

J. Security Tests

During the Term, LACMTA or its third party designee may, but is not obligated to, perform audits of Contractor’s environment, including unannounced penetration and security tests, as it relates to the receipt, maintenance, use or retention of LACMTA Confidential Information. Any of LACMTA’s regulators shall have the same right upon request. Contractor agrees to comply with all reasonable recommendations that result from such inspections, tests, and audits within reasonable timeframes.

GC-44 ENGLISH REQUIREMENTS *

At all times, all Contractor personnel on site must have sufficient knowledge of the English language to comprehend safety related directions and requirements. At all times the Contractor shall have a lead representative on site who has sufficient comprehension of the English language to read, write, speak and understand all job related directions and discussions. In addition, all correspondence, drawings, data, and other oral or written communications pertaining to this contract shall be conveyed in the English language. See Technical Specification Section TS-23, for additional requirements

GC-45 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA

Without limiting the requirements contained elsewhere in the Contract:

A. The Contractor agrees to submit a Material Safety Data Sheet (Department of Labor Form OSHA-20), as prescribed in Federal Standard No. 313B, for all hazardous substances five (5) days before delivery of the substance, whether or not listed in Appendix A of the Standard. This obligation applies to all substances delivered under the Contract which will involve exposure to hazardous substances or items containing these substances.

B. "Hazardous substance", as used in this clause, is as defined in the Special Provision entitled CONTRACT SPECIFIC DEFINITIONS.

C. Neither the requirements of this article nor any act or failure to act by LACMTA shall relieve the Contractor of any responsibility or liability for the safety of LACMTA, Contractor, or Subcontractor personnel or property.

D. Nothing contained in this article shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous substances.

E. LACMTA’s rights in data furnished under the Contract with respect to hazardous substances are as follows:
1. To use, duplicate, and disclose any data to which this article is applicable. The purposes of this right are to:
   a. apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous substance;
   b. obtain medical treatment for those affected by the substance; and
   c. have others use, duplicate, and disclose the data for LACMTA for these purposes.

2. To use, duplicate, and disclose data furnished under this article, in accordance with sub-subarticle E.1 above, in precedence over any other article of the Contract providing for rights in data.

3. That LACMTA is not precluded from using similar or identical data acquired from other sources.

4. That the data shall not be duplicated, disclosed, or released outside LACMTA, in whole or in part for any acquisition or manufacturing purpose.

5. The Contractor shall insert this article, including this paragraph, with appropriate changes in the designation of the parties, in subcontracts at any tier (including purchase designations or purchase orders) under the Contract involving hazardous material.

GC-46 WORKSITE ACCESS/RESTORATION

A. Work Site Access

A. Contractor shall determine accessibility to LACMTA work sites with equipment proposed for Work to install and Implement the Equipment. Some adjustment in work site locations can and will be made upon the approval of LACMTA to avoid obstructions or to allow better accessibility for equipment.

B. Legal Access

LACMTA will provide access to hazardous locations, if applicable. It will be the Contractor's responsibility to comply with the terms of the access agreements which are required for such access and with any special requirements which may be contained in the Special Provisions or any other part of this Contract.

C. Work Site Restoration

Work site restoration will be accomplished by the Contractor (in the event the Contractor's, or Subcontractor's, vehicle, equipment or personnel disturb the work sites) in accordance with the Statement of Work and upon the completion of Work at the work site or as further directed by LACMTA.

GC-47 CLEAN UP
Without limiting the requirements contained elsewhere in the Contract, while on LACMTA premises, Contractor shall at all times keep its work areas, including storage areas, free from accumulations of waste materials. Before completing the Services, the Contractor shall remove from its work areas any rubbish, tools, goods that are not the property of LACMTA. Upon completing the Work, the Contractor shall leave its work areas in a clean, neat, and orderly condition satisfactory to LACMTA.

End of General Conditions
COMPENSATION & PAYMENT PROVISIONS (FIRM FIXED PRICE)
Note:

Articles flagged with an asterisk (*) are Flow-down requirements as defined in Article SUBCONTRACTORS AND SUPPLIERS in Contract Document GENERAL CONDITIONS.

CP-01 BASIS OF COMPENSATION*

This Contract is a Firm Fixed Price (FFP) contract as defined in the Federal Regulations, Title 48, of the Code of Federal Regulations. Under this Contract, upon successful completion of the Contract, Contractor shall be paid the lump sum price as shown in the Schedules of Prices and Quantities (Forms PF-1 through PF-7), in accordance with the following provisions, 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.

With respect to any unit price item as to which an estimated quantity is set forth in the Schedules of Prices and Quantities including Option items, such unit price shall apply regardless of the actual quantity of such item ultimately utilized in, or required by, the Work; except that, if the actual quantity for a unit price of an item differs from the estimated quantity in the Schedules of Prices and Quantities by more than twenty-five percent (25%), then LACMTA shall review whether application of the unit price would cause a substantial inequity to either party, and, if so, the unit price for such item will be equitably adjusted, upward or downward, at the sole discretion of LACMTA.

CP-02 MILESTONE PAYMENTS

A. Applicability

This Article applies only if the Contract Payment Schedule provides for Milestone Payments.

B. Definition

A Milestone Payment is a payment of a portion to the Contract Price for completion of the Work based upon the Payment Schedule defined below.

C. Application for Milestone Payment

Contractor’s Applications for Milestone Payments (“Applications”) shall contain:

1. The original and two copies of the invoice, dated and identifying the Contract Number;

2. A description of the Work completed and how the Milestone Payment was calculated.
3. Certification or proof from subcontractors / suppliers that payments have been made to them for the portion of their work that has been accepted by LACMTA and for which Contractor has been paid;

4. Any other documentation LACMTA requires to process the Milestone Payment;

5. The Contractor’s signature and certification that the Work has been performed in accordance with the Contract, using the form attached hereto as Exhibit 1; and

6. Signature of LACMTA’s Authorized Representative acknowledging that the Work described in the Application has been done in accordance with the Contract.

D. Terms of Payment

1. Contractor shall submit the Application to LACMTA, based on the Milestone Schedule.

2. LACMTA will make Milestone Payments within thirty (30) days after its receipt of an undisputed and properly submitted Application. Upon receipt of an Application, LACMTA shall:

   a. Review the Application to determine if it is complete and meets Contractual requirements.

   b. Return any Application that is not complete or does not meet Contractual requirements, setting forth in writing the reasons for the determination.

   c. No Milestone Payments shall be made for Work not performed in accordance with the Contract.

E. The Contractor shall be paid for the Milestone Payments for Earned Value Categories listed below upon completion and approval of the milestone requirements as follows:

1. LACMTA will make payments for the Price Proposal Items as provided in Price Proposal Form (PF-1), Contract Price Summary, with the payment schedule as described below.

2. Milestone Payments are generally listed in the sequence of the Work to be performed. LACMTA at its discretion may elect to pay a Milestone Payment out of sequence if Contractor has completed Work for that portion of the Milestone. LACMTA also at its discretion may elect to make partial payment for a Milestone Payment if it is determined that a discrete portion of the Work has been completed and the remaining portion of the milestone does not have any material impact on the schedule or quality of the Work.
3. **Milestone Payments for total price of Price Proposal Form (PF-1), Contract Price Summary, Item 1, Heavy Rail Vehicles for base buy are specified below as percentages of the total price for each Milestone listed.**

### Contract Price Summary Item No. 1

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Descriptions for Contract Line Item.</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
<th>CDRL</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Mobilization following Notice-to-Proceed of contract.</td>
<td>5</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>B)</td>
<td>Acceptance of Contractor's Project Management Plan (0.5%) (TS-23), System Integration Plan (0.5%) System Safety Program (0.5%) (TS-25), Project Quality Plan (0.5%) (TS-21), Reliability Plan (0.5%) (TS-02), Maintainability Plan (0.5%).</td>
<td>3</td>
<td>8</td>
<td>23-01, 23-02, 25-04, 21-02, 02-13, 02-15</td>
</tr>
<tr>
<td>C)</td>
<td>Project Baseline Schedule (TS-23).</td>
<td>1</td>
<td>9</td>
<td>23-04, 23-06, 01-01</td>
</tr>
<tr>
<td>D)</td>
<td>Delivery of copies of fully executed subcontracts for the following subsystems: Carbody (1.5%), Coupler (0.5%), Propulsion (2%), Braking (0.5%), Door, (0.5%) HVAC (0.5%) and ATC (0.5%)</td>
<td>6</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>E)</td>
<td>Close-out of Conceptual Proposal Review meeting(s) actions (1.5%) (TS-23) and Configuration Management Plan (0.5%).</td>
<td>2</td>
<td>17</td>
<td>02-01, 02-02, 02-03, 02-04, 02-05, 03-01, 03-03, 03-10, 03-11, 03-12, 04-01, 05-01, 06-01, 07-01, 08-01, 09-01, 10-01, 11-01, 12-01, 13-01, 14-01, 15-01, 17-01, 18-01</td>
</tr>
<tr>
<td>F)</td>
<td>Close out of Pre-</td>
<td>2</td>
<td>19</td>
<td>02-10, 02-12,</td>
</tr>
<tr>
<td>Milestone</td>
<td>Descriptions for Contract Line Item.</td>
<td>Milestone Percentage</td>
<td>Cumulative Percentage</td>
<td>CDRL</td>
</tr>
<tr>
<td>-----------</td>
<td>------------------------------------</td>
<td>---------------------</td>
<td>----------------------</td>
<td>------</td>
</tr>
<tr>
<td>G)</td>
<td>Production Configuration Review meeting(s) actions (TS-23)</td>
<td></td>
<td></td>
<td>02-14, 02-15, 03-07, 14-03, 14-04, 19-02</td>
</tr>
<tr>
<td></td>
<td>G) Close out of Final Configuration Review meeting(s) actions (TS-23)</td>
<td>2</td>
<td>21</td>
<td>02-06, 02-12, 03-02, 04-02, 05-02, 06-02, 07-02, 08-02, 09-02, 10-02, 11-02, 12-02, 13-02, 14-02, 15-02, 17-02, 18-02</td>
</tr>
<tr>
<td>H)</td>
<td>Acceptance of drawings per TS-24.</td>
<td>4</td>
<td>25</td>
<td></td>
</tr>
<tr>
<td>I)</td>
<td>Completion and Acceptance of First Article Inspections (FAI) (TS-21) for Married Pair (4%), Carbody (1%), Truck Frames (.5%), Fully assembled Truck (1%) Coupler (0.25%), Doors (.5%) Propulsion (2%), Friction Brake (0.25%), HVAC (0.25%) and Communications (0.25%).</td>
<td>10</td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>J)</td>
<td>Acceptance of Carbody Structural test reports (TS-03).</td>
<td>1</td>
<td>36</td>
<td></td>
</tr>
<tr>
<td>K)</td>
<td>Acceptance of Truck Design Conformance test reports (TS-11).</td>
<td>1</td>
<td>37</td>
<td></td>
</tr>
<tr>
<td>L)</td>
<td>Acceptance of Propulsion System (TS-10) and Friction Brake System (TS-12) Design Conformance tests.</td>
<td>1</td>
<td>38</td>
<td></td>
</tr>
<tr>
<td>M)</td>
<td>Acceptance of Vehicle Climate Room test report (TS-22).</td>
<td>1</td>
<td>39</td>
<td></td>
</tr>
<tr>
<td>N)</td>
<td>Upon successful completion of Vehicle Level Qualification Tests (TS-22).</td>
<td>10</td>
<td>49</td>
<td>02-07, 02-08, 02-09, 02-11, 02-16</td>
</tr>
<tr>
<td>Milestone</td>
<td>Descriptions for Contract Line Item.</td>
<td>Milestone Percentage</td>
<td>Cumulative Percentage</td>
<td>CDRL</td>
</tr>
<tr>
<td>-----------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------</td>
<td>-----------------------</td>
<td>------</td>
</tr>
<tr>
<td>O)</td>
<td>Acceptance by LACMTA of the completed carshells at Contractor’s facility, payment to be made on a pro-rated basis @ 0.125% per Vehicle for 64 Vehicles.</td>
<td>8</td>
<td>57</td>
<td></td>
</tr>
<tr>
<td>P)</td>
<td>Authorization by LACMTA to ship each Vehicle upon successful completion of Vehicle Level Production Conformance Tests (TS-22) and Vehicle System Functional Verification (TS-22) from Contractor’s plant to LACMTA delivery site, payment to be made on a pro-rated basis @ 0.234% per Vehicle for 64 Vehicles.</td>
<td>15</td>
<td>72</td>
<td></td>
</tr>
<tr>
<td>Q)</td>
<td>Upon delivery of each Vehicle to LACMTA and successful completion of Post-Arrival Tests (TS-22), payment to be made on a pro-rated basis @ 0.156% per Vehicle for 64 Vehicles.</td>
<td>10</td>
<td>82</td>
<td></td>
</tr>
<tr>
<td>R)</td>
<td>Upon successful completion of On-site Acceptance Tests and Operational Tests (TS-22), and receipt of Conditional Acceptance for each Vehicle, payment to be made on a pro-rated basis @ 0.125% per Vehicle for 64 Vehicles.</td>
<td>8</td>
<td>90</td>
<td></td>
</tr>
</tbody>
</table>
Upon successful completion of the Notice of Corrective Actions for each Vehicle, as defined in SP-12. Payment to be made on a pro-rated basis @ 0.156% per Vehicle for 64 Vehicles. **Milestone S)**

### Contract Price Summary Item No. 2

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
<th>CDRL</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Acceptance of Repair Parts and Consumable Items necessary to support the first 22 Vehicles, to be delivered upon Delivery of the 2(^{nd}) Production Vehicle (TS-24).</td>
<td>33</td>
<td>33</td>
<td>24-10, 24-11</td>
</tr>
<tr>
<td>Milestone</td>
<td>Description</td>
<td>Percentage</td>
<td>Cumulative</td>
<td>CDRL</td>
</tr>
<tr>
<td>-----------</td>
<td>-------------</td>
<td>------------</td>
<td>------------</td>
<td>------</td>
</tr>
<tr>
<td>B)</td>
<td>Acceptance of Spare Parts and Consumable Items necessary to support 44 Vehicles, to be delivered upon Delivery of the 24th Production Vehicle (TS-24).</td>
<td>33</td>
<td>66</td>
<td>24-08, 24-09</td>
</tr>
<tr>
<td>C)</td>
<td>Acceptance of all remaining Spare Parts and Consumable Items to be delivered upon Delivery of the 44th Production Vehicle (TS-24).</td>
<td>34</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>

5. Milestone Payments for total price of Price Proposal Form (PF-1), Contract Price Summary, Item 3, Special Tools, from Schedule C, Form PF-4 for base buy, shall be made upon delivery and acceptance of special tools to LACMTA. The special tools shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA’s review and acceptance a list of special tools to be delivered from the total list of special tools on Form PF-4, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

**Contract Price Summary Item No. 3**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Percentage</th>
<th>Cumulative</th>
<th>CDRL</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 1st Production Vehicle (TS-24)</td>
<td>100</td>
<td>100</td>
<td>24-08, 24-09</td>
</tr>
</tbody>
</table>

6. Milestone Payments for total price of Price Proposal Form (PF-1), Contract Price Summary, Item 4, Diagnostic Test Equipment (DTE) for base buy, from Schedule D, Form PF-5, shall be made upon delivery and acceptance of DTE to LACMTA. The DTE shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA’s review and acceptance a list of DTE to be delivered from the total list of DTE on Form PF-5, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items.
shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
<th>CDRL</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 1st Production Vehicle (TS-24)</td>
<td>100</td>
<td>100</td>
<td>24-07</td>
</tr>
</tbody>
</table>

7. 7. Milestone payments for total price of Price Proposal Form (PF-1), Contract Price Summary, Item 5, Training for base buy are specified below as percentages of the total price for each milestone listed.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
<th>CDRL</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Acceptance of Training Program Outline and schedule (TS-24).</td>
<td>10</td>
<td>10</td>
<td>24-12</td>
</tr>
<tr>
<td>B)</td>
<td>Acceptance of training materials, manuals, guides and aids (TS-24).</td>
<td>30</td>
<td>40</td>
<td>24-13, 24-14, 24-15, 24-16, 24-17</td>
</tr>
<tr>
<td>C)</td>
<td>Successful completion of operating and maintenance training programs (TS-24).</td>
<td>60</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>

8. 8. Milestone payments for total price of Price Proposal Form (PF-1), Contract Price Summary, Item 6, Manuals (Technical Publications) for base buy are specified below as percentages of the total price for each milestone listed.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
<th>CDRL</th>
</tr>
</thead>
<tbody>
<tr>
<td>B)</td>
<td>Acceptance of draft Heavy Repair Maintenance Manual,</td>
<td>25</td>
<td>50</td>
<td>23-05, 24-01</td>
</tr>
</tbody>
</table>
9. Milestone payments for total price of Price Proposal Form (PF-1), Contract Price Summary, Item 7, Cab Mock-Up for base buy are specified below as percentages of the total price for each milestone listed.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
<th>CDRL</th>
</tr>
</thead>
<tbody>
<tr>
<td>C)</td>
<td>Acceptance of each category of final conformed manuals and parts catalogs (TS-24).</td>
<td>50</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>

10. Full payment for Price Proposal Form (PF-1), Contract Price Summary, Item 8, Performance Bond for base buy shall be made upon providing the executed certificate.

11. Milestone payment for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 12 - Option 1 Additional Vehicles are specified below as percentages of the total price for each milestone listed.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Acceptance of draft Cab Mock Up design and renderings (TS-24).</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>B)</td>
<td>Final Acceptance and delivery of Cab Mock Up and Scale Models (TS-24).</td>
<td>75</td>
<td>100</td>
</tr>
<tr>
<td>C)</td>
<td>Mobilization following Notice-to-Proceed of Option 1 contract.</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>B)</td>
<td>Project Baseline Schedule (TS-23)</td>
<td>2</td>
<td>12</td>
</tr>
<tr>
<td>C)</td>
<td>Acceptance by LACMTA of the completed carshells at Contractor’s facility,</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td>Milestone</td>
<td>Description</td>
<td>Milestone Percentage</td>
<td>Cumulative Percentage</td>
</tr>
<tr>
<td>-----------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td></td>
<td>payment to be made on a pro-rated basis @ 0.75% per Vehicle for 24 Option 1 Vehicles.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D)</td>
<td>Authorization by LACMTA to ship each vehicle upon successful completion on each Vehicle of Vehicle Level Production Conformance Tests (TS-22) and Vehicle System Functional Verification (TS-22) from Contractor’s plant to LACMTA Los Angeles delivery site, payment to be made on a pro-rated basis @ 1.041% per vehicle for 24 Option 1 Vehicles.</td>
<td>25</td>
<td>55</td>
</tr>
<tr>
<td>E)</td>
<td>Upon delivery of each vehicle to LACMTA and successful completion of Post-Arrival Tests (TS-22), payment to be made on a pro-rated basis @ 1.041% per Vehicle for 24 Option 1 vehicles.</td>
<td>25</td>
<td>80</td>
</tr>
<tr>
<td>F)</td>
<td>Upon successful completion of Acceptance Tests and Operational Tests (TS-22), and receipt of Conditional Acceptance for each vehicle, payment to be made on a pro-rated basis @ 0.417% per Vehicle for 24 Option 1 Vehicles.</td>
<td>10</td>
<td>90</td>
</tr>
<tr>
<td>G)</td>
<td>Upon successful completion of the Notice of Corrective Actions, as defined in SP-12. Payment to be</td>
<td>10</td>
<td>100</td>
</tr>
<tr>
<td>Milestone</td>
<td>Description</td>
<td>Milestone Percentage</td>
<td>Cumulative Percentage</td>
</tr>
<tr>
<td>-----------</td>
<td>------------------------------------------------------------------------------</td>
<td>----------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td></td>
<td>made on a pro-rated basis @ 0.417% per vehicle for 24 Vehicles.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

13. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 13, Spare Parts, from Schedule B, Form PF-3 for Option 1, shall be made upon delivery and acceptance of Spare Parts to LACMTA. The Spare Parts shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA's review and acceptance a list of Spare Parts to be delivered for milestone 13 A and B below, from the total list of Spare Parts on Form PF-3, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below. In the following milestone schedule, the terms Consumable Items, Replacement Parts, Repair Parts and Consumables shall have the meanings assigned to them in Section TS-24 of the Technical Specification.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Acceptance of Repair Parts and Consumable Items necessary to support the first 12 vehicles, to be delivered upon Delivery of the 1st Option 1 Vehicle (TS-23).</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>B)</td>
<td>Acceptance of all remaining Repair Parts and Consumable Items to be delivered upon Delivery of the 14th Vehicle of the 1st Option.</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

14. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 14, Special Tools, from Schedule C, Form PF-4 for Option 1, shall be made upon delivery and acceptance of special tools to LACMTA. The special tools shall be delivered in partial separate shipments and shall be of the latest configuration.
configuration. The Contractor shall submit for LACMTA’s review and acceptance a list of special tools to be delivered for milestone 14 A below, from the total list of special tools on Form PF-4, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 1st option (TS-24).</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

15. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 15, Diagnostic Test Equipment (DTE), from Schedule D, Form PF-5 for Option 1, shall be made upon delivery and acceptance of DTE to LACMTA. The DTE shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA’s review and acceptance a list of DTE to be delivered for milestone 15 A below, from the total list of DTE on Form PF-5, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 1st Option (TS-24).</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

16. Full payment for Price Proposal Form (PF-1), Contract Price Summary, Item 16, Performance Bond for Option 1 shall be made upon providing the executed certificate.
17. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 17, Option 2
Additional Vehicles are specified below as percentages of the total price for each milestone listed.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Mobilization following Notice-to-Proceed of Option 2 contract.</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>B)</td>
<td>Project Baseline Schedule (TS-23)</td>
<td>2</td>
<td>12</td>
</tr>
<tr>
<td>C)</td>
<td>Acceptance by LACMTA of the completed carshells at Contractor’s facility, payment to be made on a pro-rated basis @ 0.214% per Vehicle for 84 Option 2 Vehicles.</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td>D)</td>
<td>Authorization by LACMTA to ship each vehicle upon successful completion on each vehicle of Vehicle Level Production Conformance Tests (TS-22) and Vehicle System Functional Verification (TS-22) from Contractor’s plant to LACMTA delivery site, payment to be made on a pro-rated basis @ 0.297% per vehicle for 84 Option 2 Vehicles.</td>
<td>25</td>
<td>55</td>
</tr>
<tr>
<td>E)</td>
<td>Upon delivery of each vehicle to LACMTA and successful completion of Post-Arrival Tests (TS-22), payment to be made on a pro-rated basis @ 0.297% per vehicle for 84 Option 2 Vehicles.</td>
<td>25</td>
<td>80</td>
</tr>
<tr>
<td>Milestone</td>
<td>Description</td>
<td>Milestone Percentage</td>
<td>Cumulative Percentage</td>
</tr>
<tr>
<td>-----------</td>
<td>------------------------------------------------------------------------------</td>
<td>----------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>F)</td>
<td>Upon successful completion of Acceptance Tests and Operational Tests (TS-22), and receipt of Conditional Acceptance for each Vehicle, payment to be made on a pro-rated basis @ 0.119% per Vehicle for 84 Option 2 vehicles.</td>
<td>10</td>
<td>90</td>
</tr>
<tr>
<td>G)</td>
<td>Upon successful completion of the Notice of Corrective Actions, as defined in SP-12. Payment to be made on a pro-rated basis @ 0.119% per Vehicle for 84 Option 2 Vehicles.</td>
<td>10</td>
<td>100</td>
</tr>
</tbody>
</table>

18. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 18, Spare Parts, from Schedule B, Form PF-3 for Option 2, shall be made upon delivery and acceptance of Spare Parts to LACMTA. The Spare Parts shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Acceptance of Repair Parts and Consumable Items necessary to support the first 42 Vehicles, to be delivered upon Delivery of the 2nd Vehicle of the 2nd Option (TS-24).</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>B)</td>
<td>Acceptance of all remaining Repair Parts and Consumable Items to</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>
19. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 19, Special Tools, from Schedule C, Form PF-4 for Option 2, shall be made upon delivery and acceptance of special tools to LACMTA. The special tools shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 2nd Option (TS-24).</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

20. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 20, Diagnostic Test Equipment (DTE), from Schedule D, Form PF-5 for Option 2, shall be made upon delivery and acceptance of DTE to LACMTA. The DTE shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 2nd Option (TS-24).</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>
21. Full payment for Price Proposal Form (PF-1), Contract Price Summary, Item 21. Performance Bond for Option 2 shall be made upon providing the executed certificate.

22. Milestone payment for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 22 - Option 3 Additional Vehicles are specified below as percentages of the total price for each milestone listed.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Mobilization following Notice-to-Proceed of Option 3 contract.</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>B)</td>
<td>Project Baseline Schedule (TS-23)</td>
<td>2</td>
<td>12</td>
</tr>
<tr>
<td>C)</td>
<td>Acceptance by LACMTA of the completed carshells at Contractor’s facility, payment to be made on a pro-rated basis @ 0.90% per Vehicle for 20 Option 3 Vehicles.</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td>D)</td>
<td>Authorization by LACMTA to ship each vehicle upon successful completion on each vehicle of Vehicle Level Production Conformance Tests (TS-22) and Vehicle System Functional Verification (TS-22) from Contractor’s plant to LACMTA Los Angeles delivery site, payment to be made on a pro-rated basis @ 1.25% per Vehicle for 20 Option 3 Vehicles.</td>
<td>25</td>
<td>55</td>
</tr>
<tr>
<td>Milestone</td>
<td>Description</td>
<td>Milestone Percentage</td>
<td>Cumulative Percentage</td>
</tr>
<tr>
<td>-----------</td>
<td>------------------------------------------------------------------------------</td>
<td>----------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>E)</td>
<td>Upon delivery of each vehicle to LACMTA and successful completion of Post-Arrival Tests (TS-22), payment to be made on a pro-rated basis @ 1.25% per Vehicle for 20 Option 3 Vehicles.</td>
<td>25</td>
<td>80</td>
</tr>
<tr>
<td>F)</td>
<td>Upon successful completion of Acceptance Tests and Operational Tests (TS-22), and receipt of Conditional Acceptance for each vehicle, payment to be made on a pro-rated basis @ 0.500% per Vehicle for 20 Option 3 Vehicles.</td>
<td>10</td>
<td>90</td>
</tr>
<tr>
<td>G)</td>
<td>Upon successful completion of the Notice of Corrective Actions, as defined in SP-12. Payment to be made on a pro-rated basis @ 0.500% per vehicle for 12 Option 3 Vehicles.</td>
<td>10</td>
<td>100</td>
</tr>
</tbody>
</table>

23. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 23, Spare Parts, from Schedule B, Form PF-3 for Option 3, shall be made upon delivery and acceptance of Spare Parts to LACMTA. The Spare Parts shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA’s review and acceptance a list of Spare Parts to be delivered for each milestone 23 A and B below, from the total list of Spare Parts on Form PF-3, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items.
shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below. In the following milestone schedule, the terms Consumable Items, Replacement Parts, Repair Parts and Consumables shall have the meanings assigned to them in Section TS-24 of the Technical Specification.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Acceptance of Repair Parts and Consumable Items necessary to support the first 10 Vehicles, to be delivered upon Delivery of the 2\textsuperscript{nd} Vehicle of the 3\textsuperscript{rd} Option.</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>B)</td>
<td>Acceptance of all remaining Repair Parts and Consumable Items to be delivered upon Delivery of the 10\textsuperscript{th} Vehicle of the 3\textsuperscript{rd} Option.</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

24. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 24, Special Tools, from Schedule C, Form PF-4 for Option 3, shall be made upon delivery and acceptance of special tools to LACMTA. The special tools shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA’s review and acceptance a list of special tools to be delivered for milestone 24 A below, from the total list of special tools on Form PF-4, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2\textsuperscript{nd} Vehicle of the 3\textsuperscript{rd} Option (TS-24).</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>
25. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 25, Diagnostic Test Equipment (DTE), from Schedule D, Form PF-5 for Option 3, shall be made upon delivery and acceptance of DTE to LACMTA. The DTE shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA’s review and acceptance a list of DTE to be delivered for each milestone 25 A below, from the total list of DTE on Form PF-5, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 3rd Option (TS-24).</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

26. Full payment for Price Proposal Form (PF-1), Contract Price Summary, Item 26, Performance Bond for Option 3 shall be made upon providing the executed certificate.

27. Milestone payment for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 27 - Option 4 Additional Vehicles are specified below as percentages of the total price for each milestone listed.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Mobilization following Notice-to-Proceed of Option 4 contract.</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>B)</td>
<td>Project Baseline Schedule (TS-23)</td>
<td>2</td>
<td>12</td>
</tr>
<tr>
<td>C)</td>
<td>Acceptance by LACMTA of the completed carshells at Contractor’s facility, payment to be made on a pro-rated basis @ 1.125% per Vehicle for</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td>Milestone</td>
<td>Description</td>
<td>Milestone Percentage</td>
<td>Cumulative Percentage</td>
</tr>
<tr>
<td>-----------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td></td>
<td>16 Option 4 Vehicles.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D)</td>
<td>Authorization by LACMTA to ship each vehicle upon successful completion on each vehicle of Vehicle Level Production Conformance Tests (TS-22) and Vehicle System Functional Verification (TS-22) from Contractor’s plant to LACMTA Los Angeles delivery site, payment to be made on a pro-rated basis @ 1.5625% per Vehicle for 16 Option 4 Vehicles.</td>
<td>25</td>
<td>55</td>
</tr>
<tr>
<td>E)</td>
<td>Upon delivery of each vehicle to LACMTA and successful completion of Post-Arrival Tests (TS-22), payment to be made on a pro-rated basis @ 1.5625% per Vehicle for 16 Option 4 Vehicles.</td>
<td>25</td>
<td>80</td>
</tr>
<tr>
<td>F)</td>
<td>Upon successful completion of Acceptance Tests and Operational Tests (TS-22), and receipt of Conditional Acceptance for each vehicle, payment to be made on a pro-rated basis @ 0.625% per Vehicle for 16 Option 4 Vehicles.</td>
<td>10</td>
<td>90</td>
</tr>
<tr>
<td>G)</td>
<td>Upon successful completion of the Notice of Corrective Actions, as defined in SP-12. Payment to be made on a pro-rated basis.</td>
<td>10</td>
<td>100</td>
</tr>
</tbody>
</table>
28. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 28, Spare Parts, from Schedule B, Form PF-3 for Option 4, shall be made upon delivery and acceptance of Spare Parts to LACMTA. The Spare Parts shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA’s review and acceptance a list of Spare Parts to be delivered for each milestone 28 A and B below, from the total list of Spare Parts on Form PF-3, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below. In the following milestone schedule, the terms Consumable Items, Replacement Parts, Repair Parts and Consumables shall have the meanings assigned to them in Section TS-24 of the Technical Specification.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Acceptance of Repair Parts and Consumable Items necessary to support the first 8 vehicles, to be delivered upon Delivery of the 2nd Vehicle of the 4th Option.</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>B)</td>
<td>Acceptance of all remaining Repair Parts and Consumable Items to be delivered upon Delivery of the 10th Vehicle of the 4thOption.</td>
<td>50</td>
<td>100</td>
</tr>
</tbody>
</table>

29. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 29, Special Tools, from Schedule C, Form PF-4 for Option 4, shall be made upon delivery and acceptance of special tools to LACMTA. The special tools shall be delivered in partial separate shipments and shall be of the latest configuration.
configuration. The Contractor shall submit for LACMTA's review and acceptance a list of special tools to be delivered for milestone 29 A below, from the total list of special tools on Form PF-4, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 4th Option (TS-24).</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

30. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 30, Diagnostic Test Equipment (DTE), from Schedule D, Form PF-5 for Option 4, shall be made upon delivery and acceptance of DTE to LACMTA. The DTE shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA's review and acceptance a list of DTE to be delivered for each milestone 30 A below, from the total list of DTE on Form PF-5, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 4th Option (TS-24).</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

31. Full payment for Price Proposal Form (PF-1), Contract Price Summary, Item 31, Performance Bond for Option 4 shall be made upon providing the executed certificate.

32. Milestone payment for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 32 - Option 5 Additional Vehicles are specified below as percentages of the total price for each milestone listed.
<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Mobilization following Notice-to-Proceed of Option 5 contract.</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>B)</td>
<td>Project Baseline Schedule (TS-23)</td>
<td>2</td>
<td>12</td>
</tr>
<tr>
<td>C)</td>
<td>Acceptance by LACMTA of the completed carshells at Contractor’s facility, payment to be made on a pro-rated basis @ 0.243% per Vehicle for 74 Option 5 Vehicles.</td>
<td>18</td>
<td>30</td>
</tr>
<tr>
<td>D)</td>
<td>Authorization by LACMTA to ship each vehicle upon successful completion on each vehicle of Vehicle Level Production Conformance Tests (TS-22) and Vehicle System Functional Verification (TS-22) from Contractor’s plant to LACMTA Los Angeles delivery site, payment to be made on a pro-rated basis @ .338% per Vehicle for 74 Option 5 Vehicles.</td>
<td>25</td>
<td>55</td>
</tr>
<tr>
<td>E)</td>
<td>Upon delivery of each vehicle to LACMTA and successful completion of Post-Arrival Tests (TS-22), payment to be made on a pro-rated basis @ .338% per Vehicle for 74 Option 5 Vehicles.</td>
<td>25</td>
<td>80</td>
</tr>
<tr>
<td>F)</td>
<td>Upon successful completion of Acceptance Tests and Operational Tests (TS-22), and receipt of</td>
<td>10</td>
<td>90</td>
</tr>
<tr>
<td>Milestone</td>
<td>Description</td>
<td>Milestone Percentage</td>
<td>Cumulative Percentage</td>
</tr>
<tr>
<td>-----------</td>
<td>-----------------------------------------------------------------------------</td>
<td>----------------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>G)</td>
<td>Upon successful completion of the Notice of Corrective Actions, as defined in SP-12. Payment to be made on a pro-rated basis @ 0.135% per Vehicle for 74 Option 5 Vehicles.</td>
<td>10</td>
<td>100</td>
</tr>
</tbody>
</table>

28. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 33, Spare Parts, from Schedule B, Form PF-3 for Option 5, shall be made upon delivery and acceptance of Spare Parts to LACMTA. The Spare Parts shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA’s review and acceptance a list of Spare Parts to be delivered for each milestone 28 A and B below, from the total list of Spare Parts on Form PF-3, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below. In the following milestone schedule, the terms Consumable Items, Replacement Parts, Repair Parts and Consumables shall have the meanings assigned to them in Section TS-24 of the Technical Specification.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
<th>Milestone Percentage</th>
<th>Cumulative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>Acceptance of Repair Parts and Consumable Items necessary to support the first 38 vehicles, to be delivered upon Delivery of the 2nd Vehicle of the 5th Option.</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>B)</td>
<td>Acceptance of all remaining Repair Parts</td>
<td>50</td>
<td>100</td>
</tr>
<tr>
<td>Milestone</td>
<td>Description</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------</td>
<td>-----------------------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>and Consumable Items to be delivered upon Delivery of the 40th Vehicle of the 5th Option.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

29. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 34, Special Tools, from Schedule C, Form PF-4 for Option 5, shall be made upon delivery and acceptance of special tools to LACMTA. The special tools shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA's review and acceptance a list of special tools to be delivered for milestone 29 A below, from the total list of special tools on Form PF-4, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 5th Option (TS-24).</td>
</tr>
</tbody>
</table>

30. Milestone payments for total price of Price Proposal Options in Price Proposal Form (PF-1), Contract Price Summary, Item 35, Diagnostic Test Equipment (DTE), from Schedule D, Form PF-5 for Option 5, shall be made upon delivery and acceptance of DTE to LACMTA. The DTE shall be delivered in partial separate shipments and shall be of the latest configuration. The Contractor shall submit for LACMTA's review and acceptance a list of DTE to be delivered for each milestone 30 A below, from the total list of DTE on Form PF-5, prior to any shipment. The Contractor shall furnish to LACMTA at the time of the shipment, an itemized breakdown of the quantities and prices of items shipped. The shipments shall be made no earlier than thirty (30) days prior to the anticipated date of the milestones described below.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 5th Option (TS-24).</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 5th Option (TS-24).</td>
</tr>
</tbody>
</table>

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**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 5th Option (TS-24).</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 5th Option (TS-24).</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 5th Option (TS-24).</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Special Tools to be delivered and Accepted, upon Delivery of the 2nd Vehicle of the 5th Option (TS-24).</td>
</tr>
</tbody>
</table>

---

**MILESTONE**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A)</td>
<td>All Diagnostic Test Equipment to be delivered and Accepted, upon Delivery of the 2nd</td>
</tr>
</tbody>
</table>
31. Full payment for Price Proposal Form (PF-1), Contract Price Summary, Item 36, Performance Bond for Option 5 shall be made upon providing the executed certificate.

**CP-03 RETENTIONS, ESCROW ACCOUNTS AND DEDUCTIONS**

**A. Applicability**

Except for the Section herein entitled Additional Deductions, this Article applies only if (1) the Payment Schedule in the Contract provides for Progress Payments, as described in the Article herein entitled Progress Payments, and (2) a portion of each Progress Payment will be retained by LACMTA.

**B. Retention**

LACMTA shall retain from each Progress Payment five percent (5%) of the Progress Payment as part security for the fulfillment of the Contract by the Contractor. However, if the Contractor’s delivery and Conditional or Final Acceptance of prototype or production cars is delayed by sixty (60) days without an Extension of Time granted by LACMTA, LACMTA may increase retentions in amounts necessary to increase the total retention to an amount not to exceed ten percent (10%) of the Total Contract Price.

**C. Substitution of Securities**

To ensure performance under the Contract, the Contractor may, at its sole expense, substitute securities equivalent to the retention withheld by LACMTA. Such securities shall be deposited with an escrow agent approved by LACMTA, who shall then pay such retention to the Contractor. Upon satisfactory completion of the Contract, the securities shall be returned to the Contractor. The Contractor shall be the beneficial owner of any security substituted for monies withheld and shall receive any accrued interest thereon. Securities eligible for investment shall include those listed in Government Code §16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and LACMTA. No such substitution shall be accepted until the Escrow Agreement, securities, and any other documents related to the substitution are reviewed and accepted in writing by LACMTA.

**D. Payment to Escrow Agent**

In lieu of substitution of securities as provided above, the Contractor may request and LACMTA shall make payment of retention earned directly to the escrow agent described in the previous Section at the expense of the Contractor. At the expense of the Contractor, the Contractor may direct the investment of the payments into securities consistent with Government Code...
§16430 and the Contractor shall receive the interest earned on the investments upon the same terms provided for in this Article for securities deposited by the Contractor. Upon satisfactory completion of the Contract, the Contractor shall receive from the escrow agent all securities, interest and payments received by the escrow agent from LACMTA, pursuant to the terms of this Article. The Contractor shall pay to each Subcontractor, not later than twenty (20) days after receipt of the payment, the respective amount of interest earned, net of costs attributed to retention withheld from each Subcontractor, on the amount of retention withheld to ensure the performance of the Subcontractor. The escrow agreement used by the escrow agent pursuant to this Article shall be substantially similar to the form set forth in §22300 of the California Public Contract Code.

E. Release of Retention

Release of retention shall be in accordance with the Article herein entitled FINAL PAYMENT.

F. Additional Deductions

LACMTA may deduct from each Progress Payment any or all of the following:

1. Liquidated Damages that have accrued as of the date of the Application for Progress Payment;

2. Deductions from previously paid Progress Payments, due to LACMTA’s discovery of Deficiencies in the Work or non-compliance with the Specifications or any other requirement of the Contract;

3. Sums expended by LACMTA in performing any of the Contractor’s obligations under the Contract that the Contractor has failed to perform; and

4. Other sums that LACMTA is entitled to recover from the Contractor under the terms of the Contract including without limitation insurance deductibles and assessments.

The failure of LACMTA to deduct any of the above-identified sums from a Progress Payment shall not constitute a waiver of LACMTA’s right to such sums or to deduct them from a later Progress Payment.

CP-04  PAYMENT TO SUBCONTRACTORS *

A. Applicability

This Article applies only if the Contractor has employed Subcontractors.
B. Requirements

1. Progress Payments - Contractor shall pay each Subcontractor under this Contract for satisfactory performance of its Subcontract no later than ten (10) days after its receipt of each Progress Payment from LACMTA.

2. Final Payment to Subcontractors - The Contractor shall pay to each Subcontractor all amounts it has retained from payments under the Subcontract within ten (10) days after the Subcontractor’s Work is satisfactorily completed.

3. Delay in Payment – Contractor shall not delay payment beyond the ten (10) day time limit except for good cause, and only upon the prior written approval of LACMTA.

C. Failure to Comply

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

CP-05 PAYMENT OF TAXES *

Unless otherwise specifically provided in this Contract, the Contract Price includes compensation for all taxes the Contractor is required to pay by Laws in effect on the date the Contractor’s bid was opened. The Contractor shall pay all federal, state, and local taxes, and duties applicable to and assessable against any Work, including but not limited to retail sales and use, transportation, export, import, business, and special taxes. The Contractor shall ascertain and pay the taxes when due. The Contractor will maintain auditable Records, subject to LACMTA reviews, confirming that tax payments are current at all times.

Note: Heavy Rail Vehicles and Spare Parts are exempt from California State Sales and Use Taxes due to ruling from California State Board of Equalization. These taxes shall not be included in any prices quoted in the Proposal.

CP-06 FINAL PAYMENT *

A. Final Acceptance

After Final Acceptance of the Work, as provided in the General Conditions of this Contract, Final Payment will be made as follows:

1. Prior to Final Acceptance of the Contract, as provided in the General Conditions of this Contract, the Contractor shall prepare and submit an Application for Final Payment to LACMTA including:
a. The proposed total amount due the Contractor, segregated by items on the Payment Schedule, Amendments, Change Orders, and other bases for payment;

b. Deductions for prior Progress Payments;

c. Amounts retained;

d. List of Claims the Contractor is filing concurrently with the Application for Final Payment, or a statement that no Claims will be filed with the Application for Final Payment; and

e. List of pending unsettled Claims, stating claimed amounts.

2. Prior Progress Payments shall be subject to correction in LACMTA’s review of the Application for Final Payment. Claims filed with the Application for Final Payment, or at any time thereafter prior to Final Payment, must be otherwise timely under the Contract and applicable Law.

3. LACMTA will review the Contractor’s Application for Final Payment will forward any required changes or corrections to the Contractor. Within ten (10) days after receipt of required changes from LACMTA, the Contractor will make the changes, and, if applicable, list Claims that will be filed as a result of the required changes, and shall submit the revised Application for Final Payment. Upon acceptance by LACMTA, the revised Application for Final Payment will become the approved Application for Final Payment.

4. If no Claims have been filed with the initial or any revised Application for Final Payment and no Claims remain unsettled within thirty (30) days after Final Acceptance of the Work by LACMTA, and agreements are reached on all issues regarding the Application for Final Payment, LACMTA, in exchange for an executed release, satisfactory in form and substance to LACMTA, will pay the entire sum found due on the approved Application for Final Payment, including the amount, if any, allowed on settled Claims.

5. The release from the Contractor shall be from any and all Claims arising under the Contract, except for Claims that with the concurrence of LACMTA are specifically reserved, and shall release and waive all unreserved Claims against LACMTA and its officers, directors, employees and Authorized Representatives. The release shall be accompanied by a certification by the Contractor that:

a. It has resolved all Subcontractor, Supplier and other Claims that are related to the settled Claims included in the Final Payment;

b. It has no reason to believe that any party has a valid Claim against the Contractor or LACMTA which has not been communicated in writing by the Contractor to LACMTA as of the date of the Certificate;
c. All warranties are in full force and effect; and

d. The releases and warranties shall survive final payment.

6. If any Claims remain open, LACMTA may make final Payment subject to resolution of those Claims. LACMTA may withhold from the Final Payment an amount not to exceed one hundred fifty percent (150%) of the amount of the open Claims.

B. Discovery of Deficiencies *

Notwithstanding LACMTA’s acceptance of the Application for Final Payment and irrespective of whether it is before or after Final Payment has been made, LACMTA shall not be precluded from subsequently showing that:

1. The true and correct amount payable for the Work is different from that previously accepted;

2. The previously accepted Work did not conform to the Contract requirements; or

3. A previous payment, or portion thereof, for Work was improperly made.

LACMTA shall not be estopped from demanding and recovering damages from the Contractor, as appropriate, under any of the foregoing circumstances as permitted under the Contract or applicable Law.

CP-07 AUDIT REQUIREMENTS *

A. Applicability

This Section applies to the Contractor, its Subcontractors and Suppliers. The Contractor, its Subcontractors and Suppliers shall be subject to audit at any reasonable time by the Authorized Auditors for:

1. Any Costs proposed for a Modification, or
2. Defective Cost or pricing on the Contract including any Modification.
3. Verification and validation of adherence to the U.S. Employment Plan, including verification of work hours and Contractor employees allocated to the HR4000 Contract.

B. Defined Terms

Audit: audit, examine, verify, review, excerpt, vouch or transcribe Contractor’s, Subcontractors’ or Suppliers’ Records.

Authorized Auditors: LACMTA employees, any firms appointed by LACMTA or other authorized agencies acting as agents of a Governmental Entity. For federally funded Contracts, Authorized Auditors shall also include
the FTA Administrator, the Comptroller General of the United States, or any of
their duly authorized representatives.

Costs: Amounts (both direct and indirect) claimed to be due and payable, or
anticipated to be incurred in performing the proposed Modification.

Records: All of the Contractor’s, Subcontractors’ or Suppliers’ Cost or pricing
data supporting the Modification or Element thereof, including but not limited
to books, data, Records, documents, reports, computations and projections,
accounting procedures and practices and other evidence, in all forms (e.g.
paper or machine readable media such as disk, tape, etc.) or types (e.g.,
databases, applications software, database management software, utilities,
etc.), sufficient to properly reflect the performance of the Work and all Costs
claimed to have been incurred or anticipated to be incurred in performing the
Work on a proposed Modification. Any information provided by the Contractor,
Subcontractor or Supplier on machine-readable media shall be provided in a
format accessible and readable by the Authorized Auditors. The detail and
depth of Records required as backup support for Audits shall be that which
adequately establishes and maintains visibility of both allowable, and
identified unallowable costs including directly associated costs.

Reproduce: copy, download, transcribe, print etc. by any means whatsoever
free of charge.

C. Access

1. Records

Upon reasonable written advance notice to the Contractor, Subcontractors
or Suppliers, with a copy sent to the Contractor’s Authorized
Representative, the Authorized Auditors shall have access during
Contractor’s normal business hours to all Records related to Costs or
performance of the proposed Modification for the purpose of Auditing.

2. Worksites

For any federally funded major capital project, the Authorized Auditors
shall include the FTA Administrator or his authorized representatives
including any PMO Contractor. Access shall include the Worksite.

D. Records Retention

The Contractor, Subcontractors and Suppliers shall maintain all Records
required under this Contract for a period of not less than three years after the
date of Termination, in whole or in part or Final Payment, whichever is later.
In the event of litigation or settlement of claims arising from the performance
of this Contract, the Contractor, Subcontractor and Suppliers shall maintain all
Records related to this Contract until LACMTA or any Governmental Agency
or their duly authorized representatives have disposed of all such litigation,
appeals, claims or exceptions related thereto.
E. Reproduction of Records

The Authorized Auditors shall have the right to Reproduce any Contractor, Subcontractor or Supplier Records related to Costs proposed for a Modification. The Contractor, Subcontractor or Supplier shall make said evidence (or to the extent accepted by the Authorized Auditors, photographs, micro-photographs or other authentic reproductions thereof) available to the Authorized Auditors at the Contractor’s offices at all reasonable times and without charge.

F. Modifications

The Contractor, Subcontractors or Suppliers shall maintain and segregate Cost and pricing data and Records sufficient to properly reflect all direct and indirect Costs of whatever nature claimed to have been incurred or anticipated to be incurred in connection with a Modification to the Contract.

G. Defective Cost and Pricing Data

FAR 52-215-10 Price Reduction for Defective Cost or Pricing Data and 52.215-11 Price Reduction for Defective Cost or Pricing Data-Modifications shall apply to this Contract. The term Government referred to in the FAR clauses shall include LACMTA for purposes of this Contract.

H. Disposition of Audit Findings

The Contracting Officer may use all evidence in the Records including the Audit findings to:

1. Negotiate Modifications, or

2. Demand payment from the Contractor or adjust any Contractor’s invoice to:

   a. Reduce amounts found by the Contracting Officer to be unallowable costs; or

   b. Adjust for prior overpayments or underpayments.

CP-08 LIQUIDATED DAMAGES

If the Work and specified portions of the Work are not completed and delivered or shipped according to the delivery schedule within the number of days set forth in Section SP-24 of the Special Provisions and the Master Project Schedule, CDRL-23-04 (TS-23) damage will be sustained by LACMTA. It is and will be impracticable to ascertain the actual damage which LACMTA will sustain. Damage to LACMTA in the case of failure by the Contractor to complete specified portions of Work within the time as required therefore by the terms of this Contract will include, but not be limited to, the following:
1. Delays in the completion and operation of LACMTA’s Transit System;
2. Unreasonable inconvenience to the public;
3. Loss of revenue;
4. Increased costs of Contract and Program administration; and
5. Delays and increased costs to other Contractors.

In the event of and by reason of such delay, subject to the provisions of Section GC-20.0 of the General Conditions entitled EXTENSION OF TIME, the Contractor shall pay to LACMTA the amount set forth in these provisions as liquidated damages for each day’s delay or fraction thereof in completion of the Work as specified in the Special Provisions. LACMTA 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 LACMTA 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. Compensation

In lieu of actual damages, in the event of late submittal, delivery, or acceptance of any deliverables, including vehicles, explicitly defined in Section SP-24, and the Contractor’s Master Project Schedule, CDRL-23-04 (TS-23), the Contractor agrees to pay LACMTA an amount of money as a reasonable estimate of just compensation for damages contemplated in this Article. The liquidated damages shall be for the Heavy Rail Vehicles and for the following deliverables:

- Technical Manuals and Catalogs (TS-24)
- Schematic Diagrams (TS-24)
- Carbody Structure test reports (TS-03)
- Truck Design Conformance test reports (TS-11)
- Spare Parts (TS-24 )
- Special Tools (TS-24)
- Diagnostic Test Equipment (TS-24)
- Training (TS-24)
- Mock Ups (TS-24)

And will be assessed as follows:

1. From the 1st calendar day to 90 calendar days of delay: One Thousand Three Hundred Ten Dollars and Zero Cents ($1,310.00) per Married Pair or Deliverable (s) for each day of delay.
B. The Contractor agrees to make payment in the above amounts in the event of late delivery, and agrees that LACMTA may withhold monies for such from any funds due.

C. Limitations of Liability

Liquidated Damages for late delivery of HRV’s will be limited, for all causes, to a maximum of ten (10) percent of the total price of the Contract.

D. LACMTA Rights

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

E. Liquidated Damages for Overweight Vehicles

There will be no liquidated damages for overweight vehicles. Vehicles with weight in excess of limit in TS-02 will not be accepted.

CP-09  OPTION PRICES AND ADJUSTMENT

The price for the five Options defined in the Contract shall each be subject to a one-time adjustment (either up or down) at the time the Option is exercised. The Option price shall not be eligible for price adjustment if the Option is properly exercised in accordance with SP-25, 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. If the Option exercise date is greater than 12 months from the Notice to Proceed for the Base Vehicle, the Option price defined in the Contract shall be subject to a single adjustment based on the United States Department of Labor, Bureau of Labor Statistic’s Producer Price Index for Railroad Rolling Stock Manufacturing, serial identification, PCU3365-3365, www.bls.gov/ppi/.

The Base Index Data Point for all Option adjustments shall be the month and year of the Contract award date. The applicable Option Index Data Point used to calculate the price adjustment shall be the Preliminary Index Number for the month prior to Notice of Exercise Option.

The escalation percentage change and corresponding price adjustment for any Option price is calculated as follows: The sum of the Option Index Data Point minus the Base Index Data Point is divided by the Base Index data Point, times 100.

The following example is used solely for illustrative purposes.
If the Contract Award Date was August 2008, then the Base Index Data Point = 170.4

If the Option Exercise Date was August 2010, then the Option Index Data Point (Preliminary Data Point from July 2010) = 174.2

\[ 174.2 - 170.4 = 3.8 \]
\[ \frac{3.8}{170.4} = .0223 \]
\[ .0223 \times 100 = 2.23\% \text{ escalation} \]

If the Option price defined in the Contract equaled $2,000,000, that price would be adjusted as follows:

\[ \$2,000,000 \times 2.23\% = \$44,600 \text{ price escalation} \]
\[ \$2,000,000 + \$44,600 = \$2,044,600 = \text{Total Adjusted Option Price} \]
RFP NO. HR4000
PURCHASE OF NEW HEAVY RAIL VEHICLES

EXHIBIT 1 - PAYMENT CERTIFICATION

1. I hereby certify to the best of my knowledge and belief that:

   A. This Payment Request represents a true and correct statement of the Work performed;

   B. The Work completed to date under this Contract is in full accordance with the terms of the Contract; and

   C. All Subcontractors and/or Suppliers who have performed Work on the project through the closing date of the prior Payment Request have been paid their proportionate share of all previous payments from LACMTA.

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

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

Firm: ____________________________________________

Signature: __________________________________________

Name of Certifying Official: ____________________________

Title: _____________________________________________

Date of Execution: ________________________________

END OF COMPENSATION & PAYMENT PROVISIONS