REQUEST FOR PROPOSALS

THIS IS NOT AN ORDER

ADVERTISED RFP #1213-125 RELEASE DATE: 11/1/12

INTRODUCTION:

Carson City invites qualified firms to submit proposals for consulting services for design of a Fleet Facility Expansion as described herein. Proposals shall be submitted in accordance with the Documents and Requirements as set forth in the formal "Request for Proposals."

PURPOSE AND OBJECTIVES:

The purpose of the Request for Proposals (RFP) is for the City to hire a consultant to initially prepare a feasibility study/needs assessment for expansion of the City's existing fleet facility located at the Public Works Corporate Yard, 3505 Butti Way, Carson City, NV 89701. The goal for the expansion project is to add space for maintenance and cleaning of transit busses, as well as upgrading mechanical equipment, restroom, break room and storage areas within the existing facility. Based on the outcome of the study, the same consultant will prepare design documents and assist Public Works staff through the permitting, bidding, and construction phases of a successful Fleet Facility Expansion project.

The objective is to utilize available grant money from the Federal Transit Administration (FTA) coupled with City funds to construct a Fleet Facility Expansion project. It is estimated that the FTA funding component will be about 70% of the entire budget, thus necessitating compliance with certain federal regulations for the entire project, including the Brooks Act and the required Federal clauses in Attachment A. The total available project budget is estimated at \$1.5 million.

<u>ADDENDA:</u> All addenda will be posted on Carson City's website: http://www.carson.org/index.aspx?page=998. It is each bidder's responsibility to ensure that they have received all addenda prior to submission of their sealed bid.

<u>PROPOSALS</u> shall be submitted to the **CARSON CITY FINANCE DEPARTMENT**, 201 N. Carson Street, Suite 3, Carson City, Nevada 89701, by no later than 5:00 p.m. on November 20, 2012.

RECOMMENDATION FOR AWARD will be made by the Public Works Department based on the evaluation results of the City Review and Selection Committee. The City Review and Selection Committee may narrow the field to three or four consultants for possible oral interviews. Interviews will allow for a 20 minute presentation, 20 minutes questions and answers and a 15 minute set-up and tear down. If needed, interviews would be conducted the week of December 10, 2012. Once the committee has made a recommendation and a contract is negotiated, the results will be posted on http://www.carson.org/Index.aspx?page=998 and all respondents will be notified by fax of the Recommendation for Award to the successful respondent.

FINAL SELECTION will be made by Carson City, and is tentatively scheduled for December 14, 2012. Should it become necessary to reschedule the date set for award, notice will be provided to those finalists selected. In all instances, a decision rendered by Carson City shall be deemed final

1 **INTRODUCTION** (General Information)

- 1.1 Carson City invites interested parties to submit proposals for Architectural and Engineering (A&E) Services for design of a Fleet Facility Expansion.
- 1.2 A City Review and Selection Committee will evaluate the proposals submitted.
- 1.3 During evaluation, the City Review and Selection Committee reserves the right, where it may serve the City's best interest, to request additional information or clarification from the Consulting Firm, or to allow corrections of errors or omissions. Oral interviews may be conducted by the City Review and Selection Committee for the Consultants who submit a Proposal and were short listed.
- 1.4 Submission of a proposal indicates acceptance by the Consulting Firm of the conditions contained in this Request for Proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the resultant contract between Carson City and the Firm selected.
- 1.5 The use of the term "firm" refers to Consultant Firms with certified personnel, doing business in the United States and duly registered in the state of Nevada with business license paid to the City and County of Carson City after selection of the firm. With this type of project, the City may accept one or more firms teaming up for joint venture with a Nevada-based firm to prepare the required services, but the City will recognize such a consortium as a single entity only with one juridical personality.
- 1.6 There is no expressed or implied intent or obligation for Carson City to reimburse responding firms for any expenses incurred in preparing proposals as well as travel expenses during interviews in response to this Request for Proposals.
- 1.7 Carson City shall reserve the right to terminate any agreement resultant from this solicitation and subsequent action for cause but not limited to inadequacy of performance.

2 CARSON CITY CONTACT PERSON:

2.1 Until the receipt and opening of proposals, the proposers' principal contact with Carson City will be as listed below. All questions are to be submitted in writing and potential Proposers will receive copies of all questions and answers except for the questions that are considered proprietary. Questions that are considered proprietary by Public Works will only be answered to the proposer who asked the question. Questions will only be received through 12:00 p.m. on November 14, 2012.

Kim Belt
Carson City Finance Department – Purchasing and Contracts
201 N. Carson Street, Suite 3
Carson City, NV 89701
775-283-7137

e-mail: kbelt@carson.org FAX: 775-887-2107

2.2 All contacts regarding the proposal should be with the above-named individual only. Proposers contacting other City staff or City officials may be disqualified for doing so.

3 SCOPE OF WORK:

3.1 The project shall include, but is not limited to the following activities:

A. Feasibility Study/Needs Assessment

- 1. Consultant to tour the existing Fleet facility and review available construction plans.
- 2. Consultant to meet with Public Works staff to assess facility needs and develop goals for the project.
- 3. Consultant to document the condition and adequacy of the existing facility.
- 4. Consultant to develop a list of priorities based on needs and available funding.
- 5. Consultant to prepare a Feasibility Study/Needs Assessment document which summarizes the work described above and includes desirable project alternatives including cost estimates.

B. Conceptual Design

Consultant to prepare preliminary conceptual plans, elevations and cost estimates based on the preferred alternatives selected by the Carson City Board of Supervisors.

C. Special Use Permit

Consultant to prepare application and supporting documents for obtaining a Special Use Permit from the Carson City Planning Commission.

D. Environmental Impact Categorical Exclusion

Consultant to prepare documentation for obtaining an environmental impact categorical exclusion in accordance with 23 CFR 771.117.

3.2 Based on the outcome of the study, the project shall also include the following activities:

A. Final Design Documents

Consultant to prepare final plans, specifications and bid documents, including an estimate of probable construction cost.

B. Building Permits

Consultant to assist Public Works staff with obtaining required building permit(s) from the Carson City Building Department.

C. Bidding and Award

Consultant to assist Public Works staff during bidding and award, including attendance at a pre-bid meeting, review of bidder questions, preparation of bid addenda, and evaluation of the final bids.

D. Construction Support

Consultant to assist Public Works staff during construction including submittal review, review and response to contractor Requests For Information (RFI's), issuance of design clarifications, attendance at construction meeting on a monthly basis, construction observation to develop final punch list, final walk through, and commissioning of the building.

3.3 Other RFP Requirements:

To be considered, consultant must acknowledge receipt of the attached Required Federal Clauses (Professional Services, A&E Contracts Exceeding \$100,000) and must submit the signed Lobbying Certification with the proposal.

3.4 The RFP information will be used to select Independent Contractor and potentially enter into a contractual agreement upon approval of the Carson City Board of Supervisors. It is the responsibility of the firm to ensure that the RFP is submitted in a timely manner.

Completing an RFP is not a confirmation that the Independent Contractor has been selected to enter into a contractual agreement with Carson City. Independent Contractor selection and contract agreement is as follows:

4 RFP REQUIREMENTS:

4.1 Submission of RFP Proposals:

4.1.1 A master copy (so marked) of the Proposal and five (5) copies to include a title page showing the RFP subject; the firm's name, address, telephone number and fax number of a contact person. The Proposal must be received on or before the date and time set for receipt of proposals.

Proposals shall be clear and straightforward, and not exceed 15 pages in length not including company brochures. Company brochures are provided as attachments to the 15 pages referenced above.

4.1.2 Proposals shall contain the following information:

A. Agents and Address

List the address, telephone and FAX numbers of the office from which the services are to be provided, and designate the person to serve as project manager. Resumes summarizing the qualifications and experience of the individuals who will be conducting the study must be provided.

B. Statement of Methods and Procedures

Provide a statement describing the Scope of Work as you understand it, and describe the approach, means, methods and procedures to be employed to gather the data, analyze findings and develop recommendations as requested.

C. Structure and Content of Work Product

Describe the way in which the work product will be structured and presented upon completion. Include computer and software compatibility information.

D. Work Schedule

Provide a timeline indicating tasks required and the start/completion dates for each.

E. References

All proposals should include names, addresses, telephone numbers, and contact persons at five (5) other public jurisdictions for which comparable services have recently been rendered.

4.1.3 **Proposals shall NOT include the following:**

Proposals shall NOT include a fee proposal or estimate of the number of consultant hours to be spent on the project. Consultant selection will be based on qualifications. The consultant will only be asked for a fee proposal once all RFP's have been evaluated and a final selection has been made.

4.1.4 Proposers shall send their <u>completed Proposals</u> to the following person at the address indicated. Further, they should indicate the RFP number and Firm Name on the outside of the sealed Proposal Package to:

Kim Belt, Purchasing and Contracts Manager Carson City Finance Department – Purchasing and Contracts 201 N. Carson Street, Suite 3 Carson City, Nevada 89701

5 EVALUATION OF PROPOSALS:

5.1 Proposals submitted will be evaluated by the City Review and Selection Committee.

5.2 The Committee may call for <u>oral interviews</u>. The City reserves the right to retain all proposals submitted and use any idea in a proposal regardless of whether or not said proposal is selected.

5.3 The following categories will be evaluated in the selection process:

- Approach to the performance of the tasks and satisfaction of City requirements (10%).
- Demonstrated experience in designing similar facilities (35%).
- Demonstrated professional skills and credentials of staff to be assigned to the project (35%).
- Proposal quality and references(10%).
- Ability to perform the work within the stated timeframe(10%).

6 **RIGHT TO REJECT PROPOSALS**:

- 6.1 Submission of proposal indicates acceptance by the Consulting Firm of the conditions contained in this RFP unless clearly and specifically noted in the proposal submitted and confirmed in the subsequent contract between Carson City and the Consulting Firm selected.
- 6.2 Carson City reserves the right to reject any or all proposals and to award to the proposer the City deems most qualified and whose award of the contract will accrue to the best interests of the City.
- 6.3 <u>Late proposals will not be accepted.</u> Prospective proposers are held responsible that their proposals arrive at the Carson City Finance Department Purchasing & Contracts on or before the designated time and date.

7 WITHDRAWAL OF PROPOSALS:

7.1 Requests to withdraw proposals received after the time and date set for opening and acknowledging proposals will not be considered.

8 **CONTRACT TERMINATION**:

- 8.1 Carson City reserves the right to terminate the contract if the Consultant does not perform as required by the terms of the contract. Reasons for termination may include, but are not limited, to the following:
 - 8.1.1 Failure to provide sufficient personnel as identified in the RFP.
 - 8.1.2 Failure to provide the principal Team as submitted.
 - 8.1.3 Substitution of the Team or other identified personnel without prior approval of Carson City.

9 **INSURANCE**

9.1 **General Liability:**

9.1.1 The successful Proposer shall be required to furnish and maintain throughout the term of the proposed Agreement, such general liability and property damage insurance as shall protect him/her and any subconsultants, agents, and employees performing work covered by the proposed Agreement from claims for, but not limited to, bodily injury, sickness, disease, death, or property damage arising or resulting from the proposer's performance, or by any sub-consultant, person, firm, or employee directly or indirectly employed by him/her. The successful Proposer shall furnish the City a certificate of said insurance, with limits no less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury as well as property damage and with the City added as a co-insured.

9.2 Worker's Compensation:

9.2.1 The successful Proposer shall purchase and maintain throughout the term of the contract such Industrial Insurance (SIIS) as will protect him from claims which may arise out of or result from the Consultant's execution of the work on this project, whether such execution be by the Consultant or by any sub-consultant, or by anyone directly or indirectly employed by any of the consultants, or by anyone for whose acts any of them may be liable.

10 OBJECTION BY UNSUCCESSFUL PROPOSER:

- 10.1 Any unsuccessful Proposer may file an objection to the City regarding the selection of the City Review and Selection Committee by following the procedure outlined in Paragraph 10.2 below. Information on the results of the Committee's evaluation may be obtained on http://www.carson.org/Index.aspx?page=998 and will be faxed to each respondent.
- 10.2 Any objection shall be written and submitted to the Finance Department before the recommendation shall be scheduled to be heard by the Board of Supervisors. The objection will be placed on the next available Board of Supervisors meeting agenda.

* * * END OF DOCUMENT * * *

Attachment A Required Federal Clauses (Professional Services, A&E Contracts Exceeding \$100,000)

By submitting a proposal, the Proposer agrees to comply with the following Federal certifications and clauses for third-party contracts.

NOTE: <u>The Lobbying certification must be signed by an Authorized Official of the Proposer and returned</u> with the proposal.

NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

- (1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

FALSE STATEMENTS OR CLAIMS; CIVIL AND CRIMINAL FRAUD

- (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- (2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- (3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

ACCESS TO THIRD PARTY CONTRACT RECORDS

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA City or a subgrantee of the FTA City in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, 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 his authorized representatives including any PMO 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.

- 2. Where the Purchaser is a State and is the FTA City or a subgrantee of the FTA City in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the 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. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
- 3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA City or a subgrantee of the FTA City in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- 4. Where any Purchaser which is the FTA City or a subgrantee of the FTA City in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, 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.
- 5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 6. The Contractor agrees to 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 the Purchaser, 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. Reference 49 CFR 18.39(i)(11).
- 7. FTA does not require the inclusion of these requirements in subcontracts.

CHANGES TO FEDERAL REQUIREMENTS

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by referenced in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

CIVIL RIGHTS (TITLE VI, EEO, ADA)

The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment

because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

- (2) <u>Equal Employment Opportunity</u> The following equal employment opportunity requirements apply to the underlying contract:
- (a) Race, Color, Creed, National Origin, Sex In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (b) <u>Age</u> 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, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (c) <u>Disabilities</u> In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

INCORPORATION OF FTA TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are 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 Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City requests which would cause City to be in violation of the FTA terms and conditions.

ENERGY CONSERVATION

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

TERMINATION

- a. Termination for Convenience (General Provision) City may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to City to be paid the Contractor. If the Contractor has any property in its possession belonging to City, the Contractor will account for the same, and dispose of it in the manner City directs.
- b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, City may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by City that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, City, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.
- **c. Opportunity to Cure (General Provision)** City in its sole discretion may, in the case of a termination for breach or default, allow the Contractor an appropriate number of days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.
- If Contractor fails to remedy to City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the time period specified after receipt by Contractor of written notice from City setting forth the nature of said breach or default, City shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude City from also pursuing all available remedies against Contractor and its sureties for said breach or default.
- **d. Waiver of Remedies for any Breach** In the event that City elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by City shall not limit City's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- **e.** Termination for Convenience (Professional or Transit Service Contracts) City, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, City shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- **f. Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, City may terminate this contract for default. City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.
- If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of City.
- **g.** Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, City may terminate

this contract for default. City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of City goods, the Contractor shall, upon direction of City, protect and preserve the goods until surrendered to City or its agent. The Contractor and City shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of City.

SUSPENSION AND DEBARMENT

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to 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.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by City. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

RESOLUTION OF DISPUTES, BREACHES OR OTHER LITIGATION

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of City (Purchasing and Contracts Administrator). This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Purchasing and Contracts Administrator. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Purchasing and Contracts Administrator shall be binding upon the Contractor and the Contractor shall abide be the decision.

Performance During Dispute - Unless otherwise directed by City, Contractor shall continue performance under the contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between City and Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which City is located.

Rights and Remedies - The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by City or Contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

LOBBYING

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies 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, officer or employee of Congress, or an employee of 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 are forwarded from tier to tier up to City.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements (to be submitted with each bid or offer exceeding \$100,000).

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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 [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq .)]
- (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 was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails

to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]	
accuracy of each statement of its certifi	, certifies or affirms the truthfulness and cation and disclosure, if any. In addition, the Contractor ions of 31 U.S.C. A 3801, et seq., apply to this certification and
	Signature of Contractor's Authorized Official Name/Title of Contractor's Authorized Official

Date

CLEAN AIR

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

CLEAN WATER

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et <u>seq</u>. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

SEISMIC SAFETY

The contractor agrees that any new building or addition to an existing building will 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 will certify to compliance to the extent required by the regulation. The contractor also agrees to 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.

DISADVANTAGED BUSINESS ENTERPRISES (DBEs)

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 0%. A separate contract goal has not been established for this procurement.
- b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as City deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. The successful bidder/Proposer will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from City. In addition, the contractor may not hold retainage from its subcontractors.
- e. The contractor must promptly notify City whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of City.

ADA ACCESS

The Contractor agrees to comply with 49 CFR Part 27, the purpose of which is to carry out the intent of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) as amended, to the end that no otherwise qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

The Contractor shall ensure that the design, construction or alteration of buildings or other fixed facilities by the City – a recipient of Federal financial assistance from the Department of Transportation – shall be in conformance with 49 CFR Part 27.