



BIRMINGHAM-JEFFERSON COUNTY TRANSIT AUTHORITY
REQUEST FOR QUALIFICATIONS# 10-04

ARCHITECTURAL & ENGINEERING SERVICES

KEY DATES:

Pre-Proposal Conference:	Monday, July 19, 2010, 10:00 AM
Questions, Clarifications Due:	Monday, July 19, 2010, 5:00 PM
BJCTA Response to Questions/Clarifications:	Tuesday, July 20, 2010, 5:00 PM
Submittal of Proposals Due:	Tuesday, July 27, 2010, 12:00 PM (CST)

NOTICE TO PROPOSERS

NOTICE IS HEREBY GIVEN that the Birmingham-Jefferson County Transit Authority (“BJCTA”) is establishing a list of pre-qualified, on-call Consultants that can be called upon to support specific projects. As such, the BJCTA is soliciting qualifications from firms interested in providing Architectural and Engineering Consulting Services, Program management/program oversight services, and construction management services for a number of large and small planned/proposed projects. Projects will be issued by task order. Once pre-qualified, BJCTA will select consultants to complete projects at its convenience. Firms selected and placed under contract in the consultant pool are neither required to accept specific task order assignments, nor are they guaranteed to be selected for work. Technical areas that will be required at a minimum:

- Electrical Engineering
- Architectural Design
- Mechanical Engineering
- Process Control (6 sigma lean)
- Civil Engineering
- Financial Modeling
- NEPA Experience
(National Environmental Policy Act)
- SHIPO Experience
(State Historic Preservation Officer)
- Urban/Regional Planning
- Transportation Engineer

As the need for services arises, BJCTA will issue a brief request to the list of pre-qualified, on-call Consultants. The request will summarize the proposed task order scope of work. Interested Consultants shall prepare a written response to the task order request. Selection of Consultants responding to the task order request will be based on the Consultant’s proposed scope of work and other factors. These factors include, but are not limited to:

- The Consultant’s availability
- The Consultant’s experience
- The Consultant’s understanding of the task order and BJCTA’s needs
- The Consultant’s task management plan, and
- Key personnel

Upon selection of the Consulting firm to complete the task order, the BJCTA and the Consultant shall discuss and adjust the scope of work as necessary until an agreement between the BJCTA and the Consultant is achieved on individual task activities. The Consultant shall finalize the scope of work and compensation will be negotiated. A task order and purchase order for the specific work shall be issued at that point. Any awarded contract will not be an exclusive contract for work. BJCTA may also elect to hire consultants for the work described through other competitive procurement process.

One (1) original and three (3) copies of sealed proposals will be received by the Birmingham-Jefferson County Transit Authority, 1735 Morris Avenue - 2nd Floor, Birmingham, AL 35203, in accordance with these instructions and specifications, until **12:00 P.M (CST), Tuesday, July 27, 2010**, at which time all proposals must be received. All proposal packages must be sealed and clearly marked "**RFQ #10-04 A&E Services.**"

Questions or clarifications must be received by BJCTA, in writing, by not later than close of business (5:00 p.m. CST) Monday, July 19, 2010. Responses will be made available by not later than close of business Tuesday, July 20, 2010.

A mandatory **Pre-Proposal Conference** will be held **Monday, July 19, 2010, at 10:00 AM** at Central Station, 1735 Morris Ave, Birmingham. All potential Proposers must attend this conference. Attendance will be noted and only those attending will be allowed to submit a proposal.

This solicitation does not commit the Authority to award a contract, or pay any cost incurred in preparation of bids, or to produce or contract for services. To be considered, proposals must arrive at BJCTA on or before the date specified. If mailing proposals, please allow normal mail delivery time to ensure timely receipt of your proposal. Proposals received prior to the advertised hour of opening will be kept securely sealed. Any proposals received after the time to which reference is made will not be considered and will be returned to the Proposer unopened.

The award of this proposal is contingent upon a financial assistance contract between the Birmingham-Jefferson County Transit Authority and the United States Department of Transportation. The successful Proposer agrees to comply with any and all provisions and regulations relative to that financial assistance contract. Proposers will be required to certify that they have not been suspended or debarred from participation in federally-funded contracts. Proposers must also disclose lobbying activities. Full compliance with all applicable Safety and Health Standards, DBE requirements, Equal Employment Opportunity, and Americans with Disabilities Act laws and regulations will be required of the successful Proposer.

Proposals will be examined and reported to the BJCTA's Board of Directors within thirty (30) days after the proposals have been opened. The BJCTA reserves the right to reject any or all proposals, or to waive any irregularities or informalities in any proposal or in the proposal procedure, or to postpone the opening for good cause. No Proposer may withdraw his proposal for a period of one hundred and twenty days (120) after the scheduled time for the proposal opening. Award of this proposal shall be made to the most responsive and responsible Proposer as determined through the evaluation of the proposals, and which is in the best interest of BJCTA. Each Proposer will be notified, in writing, of award of contract, if award is made.

A Vendor Registration Form, included in this packet, is required to be completed and returned to BJCTA in order for your proposal to be considered and to ensure that your name is listed on the "List of Potential Proposers." This will ensure that you receive timely notification of addenda to this solicitation. Failure to do so may delay immediate notification of any changes or addenda to this solicitation. Ultimately, however, it is the responsibility of the Proposer to check the BJCTA's website for addenda that may be issued relative to this solicitation. For additional information, you may contact Collina Washington, Manager of Procurement, at (205) 521-0144 or cwashington@bjcta.org.

GENERAL GUIDELINES FOR COMPLETING THE REQUESTS FOR PROPOSALS PACKAGE

This document is intended as a guideline to assist Proposers in successfully completing the necessary paperwork. You are strongly encouraged to read the Notice to Proposers Section very carefully. This document is NOT intended to replace the more detailed instructions that are included in the attached Proposal Package.

- **It is extremely important that all required forms be filled out completely.** Federal and State Regulations mandate that these forms be filled out properly. Failure to complete all forms included in this package will result in your Proposal being ruled non-responsive. Non-Responsive Proposals will not be awarded the contract.
- **Remember to completely fill out ALL required forms.** If a form does not apply to your business or proposal, please mark the form “Not Applicable,” or some other similar wording at your discretion. Please also sign and date this form.
- **DBE (Disadvantaged Business Enterprise) Obligation:** The Birmingham-Jefferson County Transit Authority (“BJCTA”) agrees to ensure that DBEs, as outlined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts. Therefore, it is imperative that you read the DBE Section and complete the necessary paperwork.
- **Please read the Notice to Proposers page to make sure that you have returned the correct number of copies to the solicitation.**
- Make sure the Proposal Response is received by the BJCTA Procurement Department before the designated date and time. **LATE PROPOSALS WILL NOT BE ACCEPTED.**
- Make sure that the proposal is returned in an envelope or box clearly labeled with the following information: **RFP # 10-04 A&E Services.** This information should be in the lower left hand corner. The envelope should also be labeled **PROPOSAL DOCUMENTS ENCLOSED.**
- When required, attendance at Pre-Proposal Conferences is mandatory. Those not attending will be excluding themselves from the bid process.

When in doubt concerning any issue, please contact Collina Washington, BJCTA Procurement Manager, 1735 Morris Avenue, 2nd Floor, Birmingham, AL 35203, (205) 521-0144 or cwashington@bjcta.org for assistance.

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SECTION I. SCOPE OF SERVICES/SPECIFICATIONS

Overview

The Birmingham Jefferson County Transit Authority seeks to pre-qualify:

- (A) One or more Full Service On-Call Architectural and Engineering (A/E) Consultant(s) to provide A/E services, program management, program oversight, and construction management services for large projects with a total cost of \$100,000 or more, and;
- (B) One or more On-Call A/E Consultant(s) for small projects with a total project cost less than \$100,000. The “total project cost” determination will be based on BJCTA’s preliminary project cost estimate for the proposed project, and the actual total project cost may be above or below \$100,000.

This will be a Task Order Contract, meaning that each project will be initiated through separate task orders having its own budget and schedule.

Qualifications

Each Consultant will be pre-qualified based on their ability to bring the necessary and desired services and skill sets to BJCTA’s projects. Consultants must have current licenses in the state of Alabama for both architects and engineers, and perform all work in accordance with the laws of the State of Alabama and the municipal jurisdictions within which the work is being performed.

A. Full Service On-Call A/E Consultant Services for Large Projects

BJCTA is seeking one or more Full Service On-Call (A/E) Consultant(s) that integrate architectural, engineering, landscaping, environmental, and other necessary services as the need arises. The A/E consultant(s) will need to incorporate a full range of sub-consultant services into their work, as well as possibly work with other consultants on projects as needed. The successful A/E Team will need to be able to provide the following services:

- Engineers (civil, mechanical, electrical, and structural) to design major new transit facilities and to renovate existing functioning facilities to include central and community focused transit centers, and transit maintenance and operational facilities.
- Design Architect/Architects for special projects including the proposed Community Super Stops and bus rapid transit stations/shelters, park and ride lots (with structures), and transit maintenance and operational facilities.
- Environmental Consultants for new park and ride lots, maintenance and operational facilities (including refueling), and site location evaluation. NEPA documentation, public participation, contacting resource agencies, floodplain analysis, Brownfield remediation, air and noise analysis, environmental justice, hazardous materials, historical preservation, and other resource specific concerns.

- Project Cost Estimator for small to large, new and or expanded capital projects including: park and ride lots, new facilities/buildings for both existing and proposed maintenance and operations site locations, office remodels and potential improvements to incorporate tenants.
- Construction Manager/Oversight for major and minor transit projects including: park and ride lot construction, Community Super Stop construction, refueling and heavy maintenance facility construction, and major renovations to existing facilities. Construction oversight service would likely include: project construction administration, taking meeting minutes, and coordination/routing/processing submittals, requests for information, special inspections, change orders, etc.
- Traffic Engineering for project traffic impact analysis and mitigation reports for proposed new park and ride lots and Community Super Stops, expanded transit maintenance and operational facilities, transit signal priority system design/redesign to support proposed enhanced bus and BRT services, and specific travel lane and intersection analysis and recommended solutions.
- Geotechnical Services for new park and ride lots, renovations/expansion to existing maintenance and operational facility, evaluation of proposed new maintenance and operational facility i.e. proposed paratransit operations and maintenance facility.
- Landscaping Designers for new park and ride lots and Community Super Stops

In addition, BJCTA may request the Full Service On-Call A/E Consultant to include the following services/sub-consultants as the need arises:

- Special Inspections for major and minor transit projects including: park and ride lot construction, new maintenance and operations facility construction, major renovations at existing facilities. Special Inspections would be capable and licensed to perform Special Inspections according to all requirements of the International Building codes including: welding, high performance coatings, concrete construction, post-tension and Pre-tension concrete, footings and foundations, rebar placement, soils moisture and compaction testing, high strength bolts and fabrication, and wind resistance.
- Security Specialists for park and ride lots, passenger facilities, maintenance and operations facilities, construction sites, and administrative buildings.
- Economic Markey Analysts to assist BJCTA to define preferred site development for park and ride lots Community Super Stops, and other public/private development opportunities to support proposed enhanced bus and bus rapid transit services.
- Public Art Facilitator to assist the BJCTA in working with the public in identifying opportunities for public art and/or special projects to enhance park and ride lots, Community Super Stops, route specific transit stops/stations. This would include:

coordinating with architects and engineers, defining art budgets for specific projects, technical knowledge/experience for the proposed project/material, and providing a studio workspace to complete the art project.

- AutoCAD Drawing Expert/Technician for all projects, including as-built information, existing file storage and archival recommendations, and development of software standards.
- Lighting Consultants to assist with exterior lighting at proposed park and ride lots, Central Station, Community Super Stops, new and proposed maintenance and operations facilities, and some interior work office and maintenance shop lighting.
- Interior Decorator/Space Planning for administrative offices, Central Station, and other potential passenger terminals.
- Signage Consultant for all signage needs at proposed new park and ride lots, Central Station, transit stops and stations, Community Super Stops, administrative offices and both existing and proposed maintenance and operating facilities.

B. On-Call A/E Consultant for Small Projects

BJCTA is seeking to prequalify one or more Architecture and/or Engineering (A/E) Consultant(s) for less complicated projects with a total project cost of less than \$100,000. Each A/E consultant will be prequalified based on their ability to bring the necessary and desired services and skill sets to BJCTA's projects.

BJCTA is seeking On-Call Architecture and Engineering Consultants that are well suited to work on small project design, permitting, and construction management. Examples of work may include:

- minor park and ride lot renovations and repairs,
- bus pull outs within the public right of way,
- new and existing bus stop pads, shelters, and benches to be located within the municipal jurisdictions of the Birmingham urbanized area.

These projects typically require:

- pre-project coordination with the local permitting agency,
- survey, permitting, connecting drainage into existing underground utilities,
- limited site lighting modifications,
- traffic control and storm water management during construction,
- construction safety,
- civil construction experience,
- knowledge of area soils and compaction requirements, and
- concrete work inspection.

The A/E Consultant may need to work with other consultants on other projects as needed.

Selection Criteria and Considerations

The criteria outlined below will be used in evaluating Statements of Qualifications and are listed in order of priority.

A. On-Call A/E Firms for Large Projects

CRITERIA	DESCRIPTION
Technical Qualifications	(1) The breadth and depth of the firm's experience as a whole in the performance of comparable assignments; (2) Client references in which comparable work was performed; (3) Financial capacity based on submitted financial information; (4) Form 330 Part 36 of the Federal Acquisition Regulation (FAR), – Architect Engineering and Related Services Questionnaire and Brooks A/E Act (40 U.S.C. 1101-1104).
Experience	Demonstrated experience of successfully completed transit-related projects as outlined by construction cost range. i.e. \$100k <.
Organization/Management Plan	A demonstration of an understanding of BJCTA's needs as based on proposed approach to organizing, managing, and implementing the task orders.
Key Personnel	Key personnel with past experience related to tasks required in the scope of work for this solicitation.

B. On-Call A/E Firms for Small Projects

CRITERIA	DESCRIPTION
Technical Qualifications	(1) The firms experience as a whole in the performance of comparable work assignments; (2) References; (3) Financial capacity based on submitted financial information; (4) Form 330 Part 36 of the Federal Acquisition Regulation (FAR), – Architect Engineering and Related Services Questionnaire and Brooks A-E Act (40 U.S.C. 1101-1104).
Experience	Demonstrated experience of successfully completed transit-related projects as outlined by construction cost range. i.e. \$100k >.
Organization/Management Plan	A demonstration of understanding of BJCTA's needs as based on proposed approach to organizing, managing, and implementing the task orders.
Key Personnel	Key personnel with past experience related to tasks required in the scope of work for this request for qualifications.

Planned and Proposed Projects

Following is a listing of projects that are currently planned and/or proposed for the next 5 years. Additions and deletions may occur as the organization adjusts its plans and budgets.

- **Transit Facilities:**

BJCTA will be renovating its existing Operations and Maintenance Facility located at 3105 8th Avenue North, Birmingham, Alabama 35203. This building has been in operation since 1967. It has been renovated twice - once in 1979, and again in 1989.

In anticipation of fleet expansion, BJCTA proposes to renovate this facility in order to accommodate new technology and updated equipment. Renovation will also include modifications to administrative areas to include offices, training facilities, driver staging areas, and parts management.

Ideally, the project will be completed in multiple phases. Phase 1 will encompass the renovation of the garage area/maintenance bays, body shop, and bus wash areas. Phase 1 should be completed by not later than October 31, 2010. Subsequent phases will include renovation of administrative areas and other technologies as described above.

- **Environmental Evaluation:**

BJCTA will likely acquire property on which it might construct, manage, and maintain a paratransit facility. This facility will house operations, garage space for 80 or more vehicles as well as a maintenance area for routine repairs. This facility will also require space for the performance of ADA assessments.

In advance of this acquisition, the BJCTA has need of third party services to provide an environmental evaluation of the proposed site, noting potential impacts to both the natural and built environments, as well as the social and economic conditions of the adjacent community. This evaluation should also assess the feasibility of acquiring the site, noting its overall value to the BJCTA, particularly in light of the probable costs of mitigation and/or remediation measures.

In the end, an environmental document should be assembled and presented to the Federal Transit Administration for review and approval.

- **Feasibility Studies:**

BJCTA is replacing and expanding its fleet of fixed route, paratransit, and service vehicles. The Authority has overwhelmingly invested in clean natural gas technology. However, the rest of the region, in particular the two largest municipalities - The City of Birmingham and the City of Hoover - have invested heavily in clean diesel fuel technologies. This has presented a synergistic opportunity for the BJCTA.

It is expected that the transit service area will increase as new service types are brought online. The growth of the transit service area will undoubtedly require the continued expansion of the vehicle fleet. In anticipation of this expansion, the feasibility of additional alternative fuel sources such as clean burning diesel and hybrid electric will need to be investigated in more detail along with the feasibility of revamping existing fueling/refueling facilities, using fueling facilities owned by local municipalities, and any other "green" initiatives regarding energy production.

- **Various Construction Projects and Upgrades**

There may be various build outs required during the contract period at the BJCTA's main intermodal passenger facility as well as at potential remote intermodal passenger facilities i.e. super stops, and suburban park and ride facilities.

- **Bus Stop/BRT Station Design**

The BJCTA fields a large number of requests to locate and install bus stops, benches, and shelters. As the BJCTA develops its bus stop policies, there will be a need to design multiple stop types ranging from a simple, signed stop to Bus Rapid Transit-like stations. It is expected that some stops will have benches and trash receptacles and some will have physical, prefabricated shelters.

Bus stop development activities will require design work related to ROW (right of way), sidewalk and ramp design, site location plans and specifications, and technology specifications for communications, lighting, and security. All will need to comply with ADA requirements as well as the zoning and permitting guidelines for the cities in which they will be located.

- 1.02 Bids will not be accepted from suppliers that are on federal and state debarment lists.
- 1.03 This solicitation does not commit the Authority to award a contract, to pay any cost incurred in preparation of bids, or to produce or contract for services. There is no assurance that the successful proposer for the current RFP will receive any award of contract for final design, bidding and related professional services during construction of the Project. Accordingly, all work product of the successful proposer hereunder, and all back-up documentation, project software, plans, drawings, etc., shall be and become the exclusive property of BJCTA at the time of its or their creation, with unlimited and unrestricted right to use thereof by BJCTA, without separate or additional compensation to Architect/Engineer.
- 1.04 The Authority has the right to reject any and all bids or to waive technical defects as it may deem necessary.
- 1.05 At a minimum, the following information must be provided:
 - a. A Cover Letter including a narrative description of the Proposer's understanding of the Scope of the Work including a description of the Proposer's experience performing this type work.
 - b. Personnel Qualifications
 - c. Past Performances/References
 - d. DBE Participation
 - e. Cost
 - 1. Employee/Labor
 - 2. Materials/Supplies
 - f. Work Schedule for Personnel

SECTION II. GENERAL INFORMATION FOR BIDDERS

This information provides prospective contractors with information to enable them to prepare and submit proposals for consideration by the Birmingham-Jefferson County Transit Authority (BJCTA) for architectural and engineering services in the renovations of the operations and vehicle maintenance facility located at 3105 8th Avenue North, Birmingham, AL 35203.

2.01 Definition of Terms

The terms "Contractor," "Proposer" and "Bidder" used in this solicitation means the person or firm or their duly authorized representatives proposing to provide the services covered by the scope of services covered in the "scope of services/specifications".

The term "Purchaser" or "BJCTA" or "Recipient" used in this solicitation means the Birmingham-Jefferson County Transit Authority or its duly authorized representative having to do with the purchase, inspection, testing, accepting or rejecting of the service called for in the scope of services/specifications.

The term "Proposal" used in this solicitation means the response to the Request for Proposal submitted by a Contractor, Proposer, or Bidder providing the bid for the work in accordance with the scope of services/specifications.

2.02 Solicitation of Bids

All bids will be solicited in accordance with Policy No. P-130 of the BJCTA's Purchasing Policies and Procedures Manual.

2.03 Type of Contract

Services covered under this contract are to begin upon Notice of Award and shall extend for a period covered through agreed upon warranty. It is proposed that, if a contract is entered into as a result of this solicitation, it will be a fixed price contract, not to exceed the submitted bid amount unless specifically agreed upon by the owner.

2.04 Proposal Form

Proposals must be submitted on the form provided. Proposals submitted on any other form may be considered non-responsive and may be rejected. All Proposals must state the full and correct name, address, telephone number and capacity of the bidder. If the Bidder is a partnership or joint venture, the full names and addresses of all partners or joint ventures, and the address of the partnership or joint venture shall be given, and the authority of the partner, joint venture, or other person signing on its behalf shall appear. If the Bidder is a corporation, an authorized officer shall sign the Proposal in the corporation's name or agent of said corporation. The person signing the Proposal must initial any erasures, corrections, or other changes appearing on the proposal form. BJCTA may request that the low Bidder(s) complete a Statement of Qualifications and Business References for the purpose of demonstrating the Bid's responsibility to satisfactorily perform the contract. BJCTA reserves the right to reject any and all Proposals received as a result of this Request for Proposals (RFP) or to negotiate separately with any source whatsoever in any manner necessary to serve the best

interests of BJCTA. This RFP is made for information or planning purposes only. BJCTA does not intend to award a contract solely on the basis of any response made to this request or otherwise pay for information solicited or obtained.

2.05 Conditional Bids

Conditional bids and any bid taking exception to these instructions or conditions or to the General Conditions or Scope of Services, or to other contract requirements, will be considered non-responsive and may be rejected.

2.06 Addendum

Any change in these instructions, the General Conditions or Scope of Services/Specifications, or other requirements will be accomplished by an addendum in writing, sent to all prospective Bidders. All such addenda shall become a part of the contract. Each prospective Bidder is required to acknowledge receipt of all addenda in writing. Failure to acknowledge receipt of all addenda may cause the Proposal to be considered non-responsive, and therefore, rejected.

2.07 Work Duties

The Contractor agrees to perform all work as outlined by BJCTA in accordance with the Scope of Services/Specifications, as well as observe BJCTA's legal holidays except when so prevented by an act of God, accident, strike or circumstances beyond the Contractor's control.

2.08 References

The Contractor shall submit with its Proposal five (5) references from customers now being serviced. The customer's name, contact person's name and telephone number must be submitted with the Proposal.

2.09 Proposals Received

One original and three (3) copies of sealed Proposals will be received by the Birmingham-Jefferson County Transit Authority, 1735 Morris Avenue, Birmingham, Alabama 35203, in accordance with these instructions and specifications, Tuesday, July 27, 2010, 12:00 p.m. at which time all Proposals properly received. To be considered, Proposals must arrive at BJCTA on or before the date specified in the advertisement. Contractors mailing Proposals should allow normal mail delivery time to ensure timely receipt of their Proposals. Proposals received prior to the advertised hour of opening will be kept securely sealed. Any Proposals received after the time to which reference is made will not be considered and will be returned to the Proposer. All Proposals must be sealed and marked appropriately.

2.10 Withdrawal of Contract Proposals

- a) Proposals may be withdrawn on written request received by BJCTA prior to the time fixed for the Proposal opening. The bid security of any Bidder withdrawing its Proposal, in accordance with the foregoing condition, will be returned promptly.

- b) No Proposal may be withdrawn for a period of one hundred twenty (120) days after the time set herein for the public opening and reading of Proposals.

2.11 Approved Equals

Request for approved equals or clarification of specifications must be received by BJCTA in writing, by not later than Monday, July 19, 2010, 5:00 p.m. Any request for an approved equal must be fully supported with the technical data, test results, or other pertinent information as evidence that the substitute offered is equal to, or better than, the specification requirement. The Bidder must demonstrate the equality of its product to BJCTA and must furnish sufficient information to enable BJCTA to determine whether the Proposal's product is or is not equal to that specified.

PLEASE NOTE THAT ALL BRAND NAMES AND PART NUMBERS IDENTIFIED IN THIS DOCUMENT ARE FOR DESCRIPTIVE PURPOSE ONLY AND APPROVED EQUALS ARE WELCOMED.

2.12 One Bid Situation

In the event a single bid is received, BJCTA may conduct a price analysis of the Proposal or a cost analysis, or both. A price analysis is the process of examining the Proposal and evaluating a prospective price without evaluating the separate cost elements. It should be recognized that a price analysis through comparison to their similar procurements must be based on an established or competitive price of these elements used in comparison. The comparison must be made to a purchase of similar quantity and involving similar specifications. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto. Where it is impossible to obtain a valid price analysis, it may be necessary for BJCTA to conduct a cost analysis of the Proposal price. If only one Proposal is received, the sole Bidder must, if a price or cost analysis is conducted, cooperate with BJCTA as necessary in order for its Proposal to be considered.

2.13 Tax Exempt

BJCTA is exempt from payment of Federal, State and local taxes, and such taxes must not be included in the Proposal price. BJCTA will furnish the successful Bidder the necessary tax-exempt certificates.

2.14 Substitution

Written approval for any proposed substitution must be requested specifically from BJCTA's Executive Director, 1735 Morris Avenue, Birmingham, Alabama 35203.

2.15 Contractor Responsibilities

The selected Contractor will be required to assume responsibility for all services offered in its Proposal regardless of who provides them. Further, BJCTA will consider the selected Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the Contract.

2.16 News Release

News releases pertaining to this RFP will not be made without prior BJCTA written approval.

2.17 Separate Contracts

BJCTA reserves the right to issue separate contracts as deemed necessary.

2.18 Proposal Familiarity

Each Bidder shall thoroughly examine and be familiar with all the Contract Documents, including, but not limited to, the legal and procedural documents, bid conditions, scope of work and addenda, if any, as well as any related requirements of these bid conditions and scope of services. The submission of a Proposal shall constitute an acknowledgement that the Bidder has thoroughly examined and is familiar with the Contract Documents and scope of services in every detail.

2.19 Bid Security

Each Proposal shall be accompanied by a certified check or Bidders bond in the amount of five percent (5%) of the bid price made payable to Birmingham-Jefferson County Transit Authority (BJCTA). The bid bond shall be forfeited by the successful Bidder if the successful Bidder fails or refuses to enter into the contract award. Bid security of all Bidders will be held by the Authority until the contract is awarded. Bid security of the unsuccessful Bidders shall be returned within one week after the award of the contract.

2.20 Pre-Award Inspections

The Purchaser reserves the right to perform a pre-award inspection of any Bidder. The purpose of the evaluation will be to assure that the following items, if applicable to the stated services exist:

- A. Has adequate service personnel to satisfy any service problems that may arise during the warranty period.
- B. Has the necessary facilities and financial resources, or has the capability to obtain such facilities and resources, to complete the contract in a satisfactory manner within the required time.
- C. Has adequate quality control to assure that workmanship will comply with the scope of services/specifications.

2.21 Proposal Evaluation

- A. BJCTA will evaluate all Proposals in accordance with Policy No. P-160 of the BJCTA's Purchasing Policies and Procedures Manual:
 - 1. Qualifications and Experience of the Firm

2. The capabilities of each responding firm will be evaluated in these specific areas:
 - a. Recent relevant experience of the firm with urban, public-oriented projects similar in scope and/or function.
 - b. Experience of recent clients under contracts for similar services.
3. Proposed Work Plan
4. Demonstrated understanding of the requirements of the RFP and the Proposer's basic goals, objectives, strategy and approach to performing the Contract.
5. Capacity for the Contract Requirements- The ability to perform the required services as reflected by workload and the availability of adequate personnel, equipment and facilities to do so expeditiously.
6. The written Proposal and formal presentation (if applicable) will be evaluated on the basis of thoroughness, and responsiveness to RFP criteria, as well as preparedness for questions from the Evaluation Team.

2.22 Award of Contract

- A. The contract will be awarded to the most responsive and responsible bidder in accordance with Policy No. P-190 of the BJCTA's Purchase Policies and Procedures Manual.
- B. BJCTA reserves the right to reject any or all Proposals submitted and to waive any formalities when necessary for the protection of the interest of BJCTA. Any such waivers by BJCTA must be in writing and may not otherwise be implied by any action or inaction by BJCTA.

2.23 Insurance

Contractor shall not commence work until proper evidence of insurance coverage of the types and amounts specified in this section has been provided to the BJCTA. Contractor shall not violate or permit to be violated any conditions or provisions of said policies of insurance, and at all times shall satisfy the requirements of the insurer for the purpose of maintaining said insurance in effect.

If any claim is made by any third person against Contractor on account of any incident connected to the Contract, Contractor shall promptly report the fact in writing to BJCTA, giving full details of the claim.

Any person, firm, or corporation that Contractor authorizes to work upon the BJCTA's property, including any subcontractor, shall be deemed to be Contractor's agent and shall be subject to all applicable terms of this Contract. Prior to the Contractor's start of

the work or entry onto the BJCTA's property, Contractor agrees to require its subcontractors to procure and maintain, at Contractor's (or its subcontractor's) sole cost and expense (and to prove to the BJCTA's reasonable satisfaction that it remains in effect throughout the performance of the work under the Contract), the kinds of insurance described below. Such insurance must remain in effect throughout the term of the Contract and will be at the sole cost and expense of Contractor (or its subcontractor(s)).

Simultaneously with the execution of the Contract, the Contractor shall furnish BJCTA with certificates of insurance and any other documents which BJCTA may require, such as copies of policies or endorsements as evidence of compliance with the following insurance requirements:

- A. **Commercial General Liability Insurance** – The Contractor shall, at its own expense, procure and maintain Commercial General Liability insurance providing bodily injury and property damage coverage with a combined limit of at least One Million Dollars (\$1,000,000) each occurrence and a general aggregate limit of at least Two Million Dollars (\$2,000,000). This insurance shall include, but not be limited to, premises and operations; contractual liability covering the indemnity provisions contained in this Contract; personal injury; products and completed operations; and broad form property damage, and include a Cross Liability endorsement. Said policy shall protect Contractor and BJCTA in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.
- B. **Product Liability** – Five Million Dollars (\$5,000,000) per occurrence; Ten Million Dollars (\$10,000,000) annual aggregate for a period of five (5) years.
- C. **Business Automobile Liability** – Contractor shall, at its own cost and expense, procure and maintain Business Automobile Liability insurance providing bodily injury and property damage with a combined single limited of at least One Million dollars (\$1,000,000) per occurrence for all owned, non-owned and hired automobiles. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.
- D. **Workers' Compensation and Employers' Liability Insurance** – The Contractor shall provide insurance to protect its agents, servants and employees, who are now or subsequently become, subject to the Workers' Compensation law, in conformance with the statutory limits of the State of Alabama, where applicable:

Admitted in Alabama	YES
Employers' Liability	Shall not be less than One Million Dollars (\$1,000,000) for each accident; not less than One Million Dollars (\$1,000,000) for each disease, with a policy limit of One Million Dollars (\$1,000,000)
All States Endorsement	Statutory
Voluntary Compensation	Statutory

The Policy shall contain a waiver of subrogation in favor of the Birmingham-Jefferson County Transit Authority and its officers, directors, employees, volunteers, and agents, while acting in such capacity, and their successors and assignees, as they now or as they may hereafter be constituted, singly, jointly, or severally.

E. Public Liability and Property Damage

1. The Contractor shall have its Public Liability and Property Damage policy endorsed to include the Birmingham-Jefferson County Transit Authority as additionally insured thereunder.
2. The limits of liability of the Public Liability and Property Damage policy shall not be less than the following amounts:
 - i. \$100,000 for bodily injuries to or death of one person in any one occurrence.
 - ii. \$500,000 for bodily injuries to or death of two or more persons in any one occurrence.
 - iii. \$100,000 for damage to or destruction of property in any one occurrence.
3. The Contractor shall have attached to said liability policy a Contractual Liability Endorsement containing a specific reference to and designation of this contract.

F. Errors and Omissions Insurance

G. General Insurance Requirements

1. Acceptable Insurance – All policies will be issued by insurers acceptable to BJCTA. This insurance shall be issued by an insurance company or companies authorized to do business in the State of Alabama with a *minimum* “Best’s” rating of B+ and with minimum policyholder surplus of Twenty-Five Million Dollars (\$25,000,000) or a company acceptable to BJCTA, in its sole discretion. All policies shall be issued in a form satisfactory to the Executive Director of the BJCTA and shall be issued specifically as primary insurance.

2. Procure and Maintain Insurance – Contractor must, at its own expense, procure and maintain at all times during the performance of this Contract, all of the required policies specified above. The failure to procure or maintain the required insurance policies and/or an adequately funded self-insurance program acceptable to the BJCTA will constitute a material breach of the Contract.

- i. Terms of Policies – All insurance is to remain in full force and effect until all work under the contract has been satisfactorily completed and accepted by the BJCTA. If the insurance is provided on a claims-made basis, it must remain in force for the entire term of the Contract and a minimum three (3) years thereafter.
- ii. Certificate of Insurance – Proposers are requested to provide a completed sample Certificate evidencing the coverage types and the minimum limits required under this Contract with their Bid. The BJCTA requires this information to facilitate completing Contract formalities in a timely manner if an award is made. The BJCTA may request additional information or clarification if necessary. Prior to commencing of work or entering onto the BJCTA's property, Contractor shall file a Certificate of Insurance with the BJCTA evidencing the foregoing coverages, including the following endorsements:
 1. The insurance company(ies) issuing such policy(ies) will provide at least thirty (30) days' notice to the BJCTA of cancellation or non-renewal.
 2. That the policy(ies) is primary insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim that contractor is liable for under this Section, up to and including the total limit liability, without right of contribution from any other insurance maintained or which may be maintained by the Birmingham-Jefferson County Transit Authority.
 3. Such insurance shall include as additional insureds the BJCTA, and its respective directors, officers, employees, and agents while acting in such capacity, and their successors or assignees, as they now or as they may hereafter be constituted, singly, jointly or severally.
 4. The policy must also contain either a Cross Liability endorsement or Severability of Interests Clause and stipulate that inclusion of the BJCTA as an additional insured will not in any way affect the BJCTA's rights as respects any claim, demand, suit or judgment made, brought or recovered against the Contractor. Said policy shall protect Contractor

and the BJCTA in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amounts or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

- iii. Consequence of Lapse – Should any required insurance not be procured or lapse during the term of this Contract, requests for payment originating after such lapse will not be processed until the BJCTA receives satisfactory evidence of reinstated coverage as required by the Contract. If insurance is not reinstated, the BJCTA, may, at its sole option, terminate this Contract effective on the date of such lapse of insurance.
- iv. Certificate of Insurance must be furnished by the Contractor for all required insurance and must be approved by BJCTA in writing before notice to proceed will be given.

2.24 Terms of Payment

In the event the Contractor's performance is satisfactory in all respects, the BJCTA shall make full payment within thirty (30) days following receipt of notice of completion and receipt of an invoice. The BJCTA shall not be obligated to make full payment until such time as it is reasonably satisfied that the work has been completed in accordance with the terms of the contract. BJCTA is not liable for any costs incurred by the Contractor prior to issuance of a contract.

2.25 Protests

The purpose of this bid protest provision is to establish procedures for processing complaints of an interested party on the award of a contract or bid specification and requirements.

Filing Instructions

A protest must be submitted in writing and include the following information:

1. The name and address of the protester.
2. The name and telephone number of the protester contact.
3. A complete statement of the grounds of the protest with full documentation of the protester's claims.

This information must be submitted to the BJCTA's Executive Director who will act as the contact point for all protests.

Review of Protests

BJCTA shall establish a committee to review and evaluate a protest. This committee shall be appointed by the Executive Director and shall include, but not be limited to the following:

1. Procurement Manager
2. Facilities Manager
3. Grants & Revenue Officer

The Executive Director may, at his discretion, appoint other staff as members to this committee based on their technical expertise or special knowledge of the procurement.

Upon receipt of protest, the Executive Director shall notify the protest committee and establish a time for a committee meeting that will be held no later than two (2) working days after receipt of the protest. This committee shall evaluate the material provided by the protester and shall prepare a written recommendation for the Executive Director concerning the validity of the protest and if appropriate, any corrective action to be taken.

If the initial procurement has been acted upon by the BJCTA Executive Director, the recommendation of the staff shall be reported to the Board and the Board will issue a decision and authorize the staff to take corrective action, if necessary. In all other cases the Executive Director will make the final decision.

Time for Filing

- (a) Any potential Bidder believing that the bid documents or drawings contain restrictive specifications or any other improprieties regarding the solicitation for bids may file a protest with BJCTA which shall be received by BJCTA not later than seven (7) working days prior to the bid opening and shall contain all reasons for the protest. The Authority will respond to the protest within five (5) working days of receipt of the protest, and the protester will have five (5) working days to appeal BJCTA's initial response to the Authority. Once an appeal has been received, the Authority will render its final decision in writing within ten (10) working days.
- (b) Protests received before contract award will be responded to by the Authority within five (5) working days upon receipt of the protest by the Executive Director. The protester will have five (5) working days to appeal the Authority's initial response to the Authority. Once an appeal has been received, the Authority will render its final decision in writing within ten (10) working days.
- (c) Protests filed after contract award must be received by the Authority within five (5) working days after notification of award. The Authority will respond within five (5) working days following the next scheduled BJCTA Board meeting provided the protest is received at least ten (10) working days before the next Board meeting. If the protest is received less than ten (10) working days before a board meeting, the response to the protest shall be received by the protestor within five

- (5) working days after the next scheduled Board meeting. The protestor will have five (5) working days to appeal the Authority's initial response to the Authority. Once an appeal has been received, the Authority will render its final decision in writing within ten (10) working days. In all cases, if deadlines are not met, BJCTA will proceed with awards.
- (d) Protestors dissatisfied with the Authority's final decision may utilize the appeal procedure set forth in FTA Circular 4220.1F.

SECTION III. GENERAL CONTRACT CONDITIONS

Pursuant to Federal, State, and local law, the Contractor agrees to comply with all applicable provisions of Federal, State, and local laws, regulations, and FTA directives. The terms of the most recent amendment to any Federal, State, or local laws, regulations, FTA directives, and amendments to the grant cooperative agreement that may be subsequently adopted, are applicable to the Contract to the maximum extent feasible, unless FTA provides otherwise in writing.

3.01 Documentation of Contract Costs

All costs charged to the Contract, including any approved services contributed by Birmingham-Jefferson County Transit Authority (BJCTA) or others shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in detail the nature and propriety of the charges.

3.02 Audit and Inspection

The Contractor shall permit the BJCTA, Secretary and the Comptroller General of the United States, or any of their duly authorized representatives to inspect all work, materials, payrolls, and other data and records with regard to the Project, and to audit the books, records, and accounts pertaining to such contracts with regard to the Project.

3.03 Prohibition Against Use of Federal Funds for Lobbying

The Contractor shall not use Federal assistance funds for publicity or propaganda purposes designed to support or defeat legislation pending before Congress.

3.04 Equal Employment Opportunity

The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. All Contractors must insert this clause in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

3.05 Small, Minority and Women's Business Enterprise/Disadvantaged Business Enterprise

- a. Policy. It is policy of the BJCTA and the United States Department of Transportation (U.S. DOT) that Disadvantaged Business Enterprises (DBE), as defined in 49 C.F.R. Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this agreement. Consequently, the DBE requirements of 49 C.F.R. Part 23 applies to this agreement.
- b. DBE Obligation. The BJCTA and its contractors agree to ensure that disadvantaged business enterprises as defined in 49 C.F.R. Part 23 have the

maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard all recipients and contractors shall take all necessary and reasonable steps in accordance with 49 C.F.R. Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts assisted by the Department of Transportation.

In connection with the performance of this contract, the bidder will cooperate with BJCTA in meeting his/her commitments and goals with regard to the maximum utilization of small business enterprises owned and controlled by socially or economically disadvantaged individuals. BJCTA will take steps to assure that DBEs have the opportunity to bid on this project and that majority bidders will use their best efforts to ensure that DBE's have the maximum practicable opportunity to compete for subcontract work under this contract.

BJCTA's goal is 18% of the total bid amount to be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs) as defined by Section 8(d) of the Small Business Act (15 U.S.C. Section 637 (d)). The bidder must demonstrate ability to attain each of these minimum amounts or a good faith effort to do so.

The bidder shall submit a "DBE Utilization Commitment" form showing each DBE to be utilized. If the bidder will be subcontracting less than the stated goal with DBEs then the bidder must complete a "Schedule of DBE Unavailability" form and demonstrate a good faith effort to achieve the goals. Any bidder responding as a small business firm owned and controlled by a socially or economically disadvantaged individual or individuals, must complete a copy of BJCTA's certification form. Copies of all of these forms are included as a part of the RFP.

Contractors and subcontractors shall note that failure to carry out the requirements set forth in 49 C.F. R. 23.43 (a) shall constitute a breach of contract and, may result in termination of the Agreement.

3.06 Title VI Civil Rights Act of 1964

All contractors must comply with all requirements of Title VI of the Civil Rights Act of 1964 (49 U.S.C. 2000d), the regulations of the Department of Transportation set forth at C.F.R. Part 21, and the Assurance by BJCTA pursuant thereto.

3.07 Interest of Members of or Delegates to Congress

No member of or delegates to the Congress of the United States shall be admitted to any share or part of this Project or to any benefit therefrom.

3.08 Non-construction Contracts

The requirements of the clauses contained in 29 C.F.R. 5.5 (b) or paragraphs (10) through (13) of Section 112.a of Part II Terms and Conditions of the Federal Transit Administration Agreement, are applicable in any contract subject only to the contract work hours and safety standards act and not to any of the other statutes cited in 29 C.F.R. 5.1. The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all employees working on the contract. Such records shall contain the correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor and/or subcontractor for inspection, copying, or transcription by authorized representatives of FTA, DOT, or the Department of Labor, and the Contractor and/or subcontractor will permit such representatives to interview employees during working hours on the job.

3.09 State and Local Government Employees

The provisions of the Fair Labor Standards Act, as amended by Pub. L. 99-150, November 13, 1985, or as may be amended further, are applicable to State and local government employees that participate in the FTA assisted project with the Recipient.

3.10 Environmental Policy

The National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq.; Section 14 of the Federal Transit Administration Act of 1964, as amended, 49 U.S.C. 1601 et seq.; the Council on Environmental Quality regulations set forth at 40 C.F.R. Part 1500; and the FHWA/FTA regulation, "Environmental Impact and Related Procedures," set forth at 23 C.F.R. Part 771 are applicable to FTA assisted projects of BJCTA.

3.11 Compliance with Environmental Standards

Contractors must comply with all applicable standards, orders, or requirements issued pursuant to Federal statute or regulation. The recipient and any third party contractor thereof shall be responsible for reporting any violations to FTA and to the EPA Assistant Administrator for Enforcement.

3.12 Air Pollution

Contractors must assure BJCTA before acquiring, constructing or improving facilities or equipment, that they are (or will be) designed and equipped to limit air pollution as provided in accordance with the appropriate FTA directives and in accordance with all other applicable standards.

3.13 Energy Conservation

BJCTA and its third party contractors shall recognize 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 U.S.C. 6321 et seq.

3.14 Patent Rights

If any invention, improvement, or discovery of the Contractor or any of its third party contractors is conceived or first actually reduced to practice in the course of or under this Contract, which invention, improvement, or discovery may be patentable under the laws of the United States of America or any foreign country, BJCTA shall immediately notify the Government (FTA) and provide a detailed report. The rights and responsibilities of BJCTA, third party contractors and the Government with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, policies, and any waiver thereof.

3.15 Rights in Data

- a. The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. 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: engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term does not include financial reports, costs analysis, and similar information incidental to contract administration.
- b. All "subject data" first produced in the performance of this Agreement shall be the sole property of the BJCTA. The Contractor agrees not to assert any rights at common law or equity and agrees not to establish any claim to statutory copyright in such data. Except for its own internal use, the contractor shall neither publish nor reproduce such data in whole or in part, or in any manner or form, nor authorize others to do so, without the written consent of the Contractor until such time as the Contractor may have released such data to the public; this restriction, however, does not apply to Agreements with academic institutions.
- c. The Contractor agrees to grant and does hereby grant to the BJCTA and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, non-exclusive, irrevocable license throughout the world:
 - (1) To publish, translate, reproduce, deliver, perform, use and dispose of, in any manner, any and all data not first produced or composed in the performance of this agreement but which is incorporated in the work furnished under this Agreement; and
 - (2) To authorize others to do so.
- d. The Contractor shall indemnify, save and hold harmless the BJCTA, 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 the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Agreement.
- e. Nothing contained in this clause shall imply a license to the BJCTA under any patent or be construed as affecting the scope of any license or other right otherwise granted to the BJCTA under any patent.
 - f. Part II, subsections 115.c and 115.d of the "Federal Transit Administration Agreement, Terms and Conditions" are not applicable to material furnished to the Contractor by the BJCTA and incorporated in the work furnished under the contract; provided that such incorporated material is identified by the Contractor at the time of delivery of such work.
 - g. In the event that the work, which is the subject of this Agreement, is not completed, for any reason whatsoever, all data generated under the Contract shall become subject data as defined in Part II, subsection 115.a of this Agreement and shall be delivered as the BJCTA may direct.

3.16 Cargo Preference-Use of United States-Flag Vessels

The Contractor agrees

- a. To utilize 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, materials, or commodities pursuant to this section, to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels.
- b. To furnish within 30 days following the date of loading for shipments originating within the United States, or within 30 days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "On-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) above to the recipient (through the prime contractor in the case of subcontractor bills-of-lading) and to the division of National Cargo, Office of Market Development, Washington, D.C. 20590, marked with appropriate identification of the project.

3.17 Buy America

All contractors must comply with Section 165 of the Surface Transportation Assistance Act of 1982, Public Law 97-424, 49 U.S.C. 1601 note (Buy America provision), and FTA to implement this statutory provision. Each party contract resulting from a solicitation issued on or after April 2, 1987, shall conform to the requirements of the Surface Transportation and Uniform Relocation Assistance Act of 1987, Public Law 100-17, 337, April 2, 1987, and any implementing regulations issued thereunder.

3.18 Financial Assistance Grant

The services in the Scope of Services are to be purchased with the assistance of a capital grant from the Federal Government under the Federal Transit Administration Act of 1964 as amended. The successful Bidder and all subcontractors will be required to comply with all terms and conditions prescribed for third party contracts in a grant contract between the United States Federal Government and the purchaser. This grant contract is available for examination by prospective Bidders at the Birmingham-Jefferson County Transit Authority, 1735 Morris Avenue, Birmingham, Alabama 35203.

3.19 Approval of U.S. Department of Transportation

Where required, the award of a contract will be subject to the concurrence of the Federal Transit Administration (FTA).

3.20 Federal Regulations

1. It is required that the attached Non-Collusion Affidavit shall be executed and delivered with the Proposal.
2. Bidders must certify that they are not on any U.S. Controller General's list of ineligible Bidders or the Consolidated List of Persons or Firms Currently Debarred for Violation of Various Contracts Incorporating Labor Standards Provision.
3. The bidder shall comply with all applicable Federal, State and local laws and their respective rules and regulations. This compliance shall be at the Contractor's expense.

SECTION IV
REQUIRED FORMS

**ATTACHMENT A-1
QUESTIONNAIRE**

A. SUBMITTING BUSINESS ENTITY IDENTIFICATION & OWNERSHIP DISCLOSURE

Company: _____

Contact Person: _____

Title: _____

Address: _____

Telephone No.: _____

Indicate which of the following apply:

- Corporation
- Partnership
- Sole Proprietor
- Small Business
- Disadvantaged Business Enterprise (DBE)

Certified by _____

Organized under the laws of the State of _____

Principal place of business located at _____

B. CONFLICTS OF INTEREST & PUBLIC PROCUREMENT

The Proposer (____) is (____) is not aware of any information bearing on existence of any potential conflicts of interest or violation of ethics in public contracting. If yes, explain.

C. OTHER INFORMATION

1. General character of work performed by your firm:

2. Has your firm every failed to complete any work awarded to you? If yes, explain.

3. Has your firm ever defaulted on a contract? If yes, explain.

4. Indicate the names of subcontractors, if any, proposed for this project, anticipated role, anticipated level of effort, address, phone number, and contact person. Indicate if the subcontractor is a certified Disadvantaged Business Enterprise (DBE) and by whom they are certified.

5. Please indicate if your firm, subcontractor or any persons associated therewith in the capacity of owner, partner, director, officer or any other position involving the administration of federal funds:

- is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility of any federal agency;
- has been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the last three (3) years;
- has a proposed debarment pending; or
- has been indicted, convicted, or had a civil judgment rendered against it or them by a court competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

Any of the above conditions will not necessarily result in denial of award, but will be considered in determining Offeror responsibility. For any condition noted, indicate to whom it applies, initiating agency, and date of action. Providing false information may result in federal criminal prosecution or administrative sanctions.

CERTIFICATION

I certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same services, materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of the State and Federal law and can result in fines, prison, sentences, and civil damage awards.

I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of this Request for Proposals and certify that I am authorized to sign for the Proposer.

Signature _____ Date _____

Name (Printed) _____ Title _____

ATTACHMENT B
CERTIFICATION OF PRIMARY PARTICIPANTS REGARDING DEBARMENT,
SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

The Firm (or subcontractor), _____,
certifies, by submission of this proposal, that neither it nor its principals are presently debarred,
suspended, proposed for debarment, declared ineligible or voluntarily excluded from
participation in this transaction by a federal department or agency.

(If the Firm or subcontractor is unable to certify to any of the statements in this certification,
such participant shall attach an explanation to this proposal).

THE FIRM (OR SUBCONTRACTOR), _____,
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 31 U.S.C. SECTIONS 3801 ET. SEQ. ARE
APPLICABLE THERETO.

Signature of Authorized Official

Title of Authorized Official

The undersigned chief legal counsel for the _____
(entity)

hereby certifies that the _____ has authority under state and local
law to comply with the subject assurances and that the certification above has been legally
made.

Signature of Firm's Attorney

Date

ATTACHMENT D ACKNOWLEDGMENT OF ADDENDA

The following form shall be completed and included in the Proposal.

Failure to acknowledge receipt of all addenda may cause the Proposal to be considered non responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Offer.

ACKNOWLEDGMENT OF ADDENDA

The undersigned acknowledges receipt of the following addenda to the documents:

Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	
Addendum No.	,	Dated	

Offeror:	
	Name
	Street Address
	City, State, Zip
	Signature of Authorized Signer
	Title
	Phone

**ATTACHMENT E
AFFIDAVIT OF NON-COLLUSION**

I hereby swear (or affirm) under penalty of perjury:

1. That I am the bidder (if the bidder is an individual), a partner of the bidder (if the bidder is a partnership), or an officer or employee of the bidding corporation, having authority to assign on its behalf (if the bidder is a corporation); and
2. That the attached bid or bids have been arrived at by the bidder independently, and have been submitted without collusion with, and without any agreement, understanding or planned common course of action with any other vendor of materials, supplies, equipment or services described in the request for proposal, designed to limit independent bidding or competition; and
3. That the contents of the bid or bids have not been communicated by the bidder or its employees or agents to any person not an employee or agent of the bidder or its surety on any bond furnished with the proposal or proposals, and will not be communicated to any such person prior to the official opening of the proposal or proposals; and
4. That no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by _____; and
5. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

_____ hereby certifies that it is/ is not included on the United States Comptroller General's consolidated list of persons or firms currently debarred for violations of various public contracts incorporated labor standards provisions.

Authorized Signature

Printed or Typed Name of Affiant

Firm Name

Firm's Employee Identification Number

Subscribed and sworn to before me this _____ day of _____, 20 _____.

Notary Public

My Commission expires _____, 20 _____.

ATTACHMENT F
BUY AMERICA CERTIFICATION
CERTIFICATE OF COMPLIANCE

To: Birmingham-Jefferson County Transit Authority

In accordance with Section 165 of the Surface Transportation Assistance Act of 1982, Public Law 97-424, Parts 660-661, and implementing guidelines and regulations, the bidder hereby certifies that all steel, cement, and manufactured products used in connection with this contract are produced and assembled in the United States.

Listed below are end products that are of foreign or unknown origin (end items considered to have been mined, produced, or manufactured outside the United States) that does not comply with the requirements of Section 165 and the regulations as set forth. For each item listed, I have submitted to the Birmingham-Jefferson County Transit Authority an application for exception and will abide by the decision for granting or denying the request.

Certificate of Compliance

The Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 C.F.R. 661.11 and any implementing guidance FTA may issue:

Authorized Signature: _____
Title: _____
Company Name: _____
Date: _____

Certificate of Non-Compliance

The Offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7:

Authorized Signature: _____
Title: _____
Company Name: _____
Date: _____

One of the four certifications (one in (a) OR (b) below), as appropriate, must be marked; AND the information in (c) must be provided.

a. Certificate requirement for PROCUREMENT OF STEEL OR MANUFACTURED PRODUCTS (Mark one with an "X"):

_____ (1) CERTIFICATE OF COMPLIANCE WITH 49 U.S.C. 5323(j) (l). The proposer or Proposer hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j) (l) and the applicable regulations in 49 CFR Part 661.5; or

_____ (2) CERTIFICATE FOR NON-COMPLIANCE WITH 49 U.S.C. 5323 (j) (l). The proposer or Proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j) (l) and 49 CFR 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j) (2) (A), 5323(j) (2) (B), or 5323(j) (2) (D), and 49 CFR 661.7.

b. Certificate requirement for PROCUREMENT OF BUSES, OTHER ROLLING STOCK, AND ASSOCIATED EQUIPMENT (Mark one with an "X"):

_____ (1) CERTIFICATE OF COMPLIANCE WITH 49 U.S.C. 5323 (j) (2) (C). The proposer or Proposer hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j) (2) (C) and the regulations at 49 CFR Part 661.11; or

_____ (2) CERTIFICATE FOR NON-COMPLIANCE WITH 49 U.S.C. 5323(j) (2) (C). The proposer or Proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j) (2) (C) and 49 CFR 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j) (2) (A), 5323(j) (2) (B), or 5323(j) (2) (D), and 49 CFR 661.7.

c. If the Proposer/Proposer certifies compliance with Buy America it shall submit documentation which lists (1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and (2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and cost of final assembly.

ATTACHMENT G
MANUFACTURER'S SELF-CERTIFICATION OF COMPLIANCE WITH
FEDERAL MOTOR VEHICLE SAFETY STANDARDS

On behalf of the manufacturer of the vehicles and parts to be provided under this contract, I certify that such equipment complies with the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in 49 CFR Part 571, and any other applicable federal or Alabama regulations.

Signature

Type Name and Title

Type Manufacturer's Name

Date

ATTACHMENT H CONFLICT OF INTEREST STATEMENT

Proposers shall provide a list of all entities/individual(s) with which it has relationships that create, or would appear to create, a conflict of interest with the work that is contemplated by this RFP. The list should indicate the name of the entity/individual, the relationship to the Proposer, and a discussion of the conflict.

Because Final Award of this RFP will be decided upon by the Birmingham-Jefferson County Transit Authority's Board of Directors, a listing of its members has been included below. Please also provide a description of relationships with any or all Board Members that would create, or would appear to create, a conflict of interest.

BOARD MEMBER	MEMBER ENTITY
Frank C. Galloway, Jr., Esq.	City of Mountain Brook
Brian Hamilton	City of Birmingham
Walter R. Jones	City of Homewood
Johnnye P. Lassiter	City of Bessemer
Joyce Brooks	City of Birmingham
Ronald Lyas	City of Birmingham
Doris Powell	City of Birmingham
Guin Robinson	City of Birmingham
Rev. Patrick Sellers	Jefferson County

I hereby disclose the following persons, entities, or interests and with which there is an interest or involvement that may result in an actual or potential conflict of interest, directly or indirectly:

Witness

Signature

Title

Date

**ATTACHMENT I
LOBBYING CERTIFICATION**

The Offeror certifies, to the best of its 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 a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. 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 thereof.
- (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 instruction, as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).
- (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.

THE OFFEROR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

Signature of the Offeror's Authorized Official

Name and Title of the Offeror's Authorized Official

Date

Note: The filing of Standard Form LLL (Rev. 7-97, OMB 0348-0046) and full disclosure is required pursuant to 31 U.S.C. section 1352 for each instance described above, whether or not federal monies are used. The information requested through this certification is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance is placed by the Birmingham-Jefferson County Transit Authority when the transaction referred to in this solicitation is made or entered into.

GOOD FAITH EFFORT

(For information only – NOT TO BE RETURNED with proposal)

1. BJCTA has established a 30% overall goal to be expended with DBE's. Therefore a Proposer must, in order to be responsible and responsive, make a good faith effort to meet the goal. The Proposer can meet this requirement in either of two ways. First, the Proposer can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the Proposer can document adequate good faith efforts. This means that the Proposer must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part, which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
2. BJCTA will use the good faith efforts mechanism as required by 49 CFR Part 26. It is up to BJCTA to make a fair and reasonable judgment whether a Proposer that did not meet the goal made adequate good faith efforts. BJCTA will consider the quality, quantity, and intensity of the different kinds of efforts that the Proposer had made. The efforts employed by the Proposer should be those that one could reasonably expect a Proposer to take if the Proposer were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract requirements. As emphasized by the Alabama Department of Transportation, BJCTA's determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.
3. BJCTA will not require that a Proposer meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the Proposer makes an adequate good faith effort showing. The rule specifically prohibits BJCTA from ignoring bona fide good faith efforts.
4. The following is a list of types of actions that BJCTA will consider as part of the Proposer's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
 - a. Soliciting through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising and written notices) the interest of all certified DBE's who have the capability to perform the work of the contract. The Proposer must solicit this interest within sufficient time to allow the DBE's to respond to the solicitation. The Proposer must determine with certainty if the DBE's are interested by taking appropriate steps to follow up initial solicitations.
 - b. Selecting portions of the work to be performed by DBE's in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

- c. Providing interested DBE's with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- d. Negotiating in good faith with interested DBE's. It is the Proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBE's that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBE's to perform the work.

A Proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBE's is not in itself sufficient reason for a Proposer's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Proposer of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBE's if the price difference is excessive or unreasonable.

- e. Not rejecting DBE's as being unqualified without sound reasons based on a thorough investigation of their capabilities.

ATTACHMENT J DBE Letter of Intent

To: _____
(Name of Prime Proposer)

The undersigned intends to perform work in connection with the above project as a DBE in the following capacity (check one):

- Individual Corporation
 Partnership Joint Venture

The Disadvantaged Business status of the undersigned is confirmed:

- (a) On the reference list of Disadvantaged Business Enterprises dated _____, or
 (b) On the attached Disadvantaged Business Enterprise Identification Statement.

The undersigned is prepared to perform the following work in connection with the above project (*specify in detail the particular work items or parts thereof to be performed*):

At the following price: \$ _____

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

Items	Projected Date of Commencement	Projected Date of Completion

The above work will not be sublet to a non-Disadvantaged Business Enterprise at any tier. The undersigned will enter into a formal agreement for the above work with you, conditioned upon your execution of an agreement with BJCTA.

Date _____
Name of Disadvantaged Business Enterprise

By _____

ATTACHMENT K
DBE AFFIDAVIT
(To be completed by the DBE)

STATE OF _____ (DATE _____)
COUNTY OF _____

The undersigned being duly sworn, deposes and says that he/she is the (*sole owner, partner, president, treasurer or other duly authorized official of a corporation*) _____ of (*Name of Company*) _____ and certifies that since the date of its certification by the Alabama Department of Transportation or other state DOT, the certification has not been revoked nor has it expired nor has there been any change in the minority status of (*Name of DBE*) _____.

(Signature and Title of Person Making Affidavit)

Sworn to before me this _____ day of _____, 20_____

(Notary Public)

NOTE: The Offeror must attach the DBE's most recent certification letter or document to this affidavit.

ATTACHMENT L DBE UNAVAILABLE CERTIFICATION

I, _____, _____ of
(Name) (Title)

_____ certify that on _____ I contacted _____
Name/Prime Contractor (Date) (Company)
 the following Disadvantaged Business Enterprise to obtain a proposal/bid for the following work items.

Disadvantaged Contractor	Work Items Sought	Form of Proposal or Bid Sought (Unit price, materials & labor, labor only, etc.)

To the best of my knowledge and belief, said Disadvantaged Business Enterprise was unavailable for work on this project, or unable to prepare a proposal/bid for the following reason(s):

Signature: _____ Date: _____

_____ was offered an opportunity to bid on
(Name of Disadvantaged Business Enterprise)
 the above identified work on _____ by _____
(Date) (Source)

The above statement is a true and accurate account of why I did not submit a proposal/bid on this project.

_____ (Date)
(Signature of Disadvantaged Business Enterprise)

_____ (Date)
(Title)

ATTACHMENT M

DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

This contract is subject to the provisions of the Davis Bacon Act. Contractors must submit certified payroll documentation with every invoice. Failure to do so will result in invoice being rejected.

Minimum wages - All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and

- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall

be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

Withholding - The BJCTA 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 the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the BJCTA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to

cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

Payrolls and basic records - Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b) (2) (B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the BJCTA for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a) (3) (i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a) (3) (i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions

have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

The contractor or subcontractor shall make the records required under this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

Apprentices and Trainees –

Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in

excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on

the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

Equal Employment Opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

Contract Termination – Debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

Compliance with Davis-Bacon and Related Act Requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

Disputes Concerning Labor Standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

Certification of Eligibility -

- (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

- (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Background and Application

The Contract Work Hours and Safety Standards Act is codified at 40 USC 3701, et seq. The Act applies to grantee contracts and subcontracts “financed at least in part by loans or grants from ... the [Federal] Government.” 40 USC 3701(b) (1) (B) (iii) and (b) (2), 29 CFR 5.2(h), 49 CFR 18.36(i) (6). Although the original Act required its application in any construction contract over \$2,000 or non-construction contract to which the Act applied over \$2,500 (and language to that effect is still found in 49 CFR 18.36(i)(6)), the Act no longer applies to any “contract in an amount that is not greater than \$100,000.” 40 USC 3701(b) (3) (A) (iii).

The Act applies to construction contracts and, in very limited circumstances, non-construction projects that employ “laborers or mechanics on a public work.” These non-construction applications do not generally apply to transit procurements because transit procurements (to include rail cars and buses) are deemed “commercial items.” 40 USC 3707, 41 USC 403 (12). A grantee that contemplates entering into a contract to procure a developmental or unique item should consult counsel to determine if the Act applies to that procurement and that additional language required by 29 CFR 5.5(c) must be added to the basic clause below.

CONTRACT WORK HOURS AND SAFETY STANDARDS

- (1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve 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 clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such 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 clause set forth in paragraph (1) of this section, in the sum of \$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 clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages - The (write in the name of the grantee) 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 moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

- (4) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

THE OFFEROR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

Signature of the Offeror's Authorized Official _____

Name and Title of the Offeror's Authorized Official _____

Date _____

VENDOR REGISTRATION FORM
(This Form Must Be Received Prior To Proposal Submission)

RFP or IFB Number: RFP 10-04

RFP or IFB Description: Architectural & Engineering Services

Company Name/Vendor: _____

Contact Person: _____

Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Office Number: () _____

Fax Number: () _____

Cell Number: () _____

Email Address: _____

Website: _____

Product/Service: _____

NAICS Codes: _____

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or

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