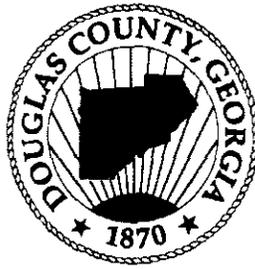


BILL C. PEACOCK  
Director - Purchasing



**DOUGLAS COUNTY BOARD OF COMMISSIONERS**  
**PURCHASING DEPARTMENT**

8700 Hospital Drive • Douglasville, GA 30134  
Telephone (770) 920-7247 • Fax (770) 920-7219

August 24, 2016

Subject: Douglas County Board of Commissioners  
Request for Proposals – Park and Ride Lot Improvements-Douglas County  
Rideshare/Multi-Modal Transportation Services  
Solicitation No. 16-015

Dear Gentlemen/Ladies:

The Douglas County Board of Commissioners is seeking a contractor to repairs/upgrades to two park and ride lots.

Your sealed proposals (one original unbound and four (4) bound copies) in response to this Request are due **no later than 1:00 p.m. ET, Friday, September 16, 2016**. All sealed proposals must be submitted to the Douglas County Purchasing Department, 8700 Hospital Drive, Douglasville, GA 30134. All proposals must be submitted by this date and time and will be publicly opened. You are invited to attend, or submit your proposal prior to the deadline as stated in the attachments.

Thank you in advance for your interest and looking forward to your participation.

Sincerely,

Bill Peacock  
Purchasing Director

Attachments

**DOUGLAS COUNTY GEORGIA BOARD OF COMMISSIONERS**  
**Purchasing Department**  
**September 2016**

**REQUEST FOR PROPOSALS**  
**PARK AND RIDE LOT IMPROVEMENTS**  
**DOUGLAS COUNTY RIDESHARE/MULTI-MODAL TRANSPORTATION SERVICES**  
**Solicitation 16-015**

The Douglas County Board of Commissioners and its Rideshare/Multi-Modal Transportation Services Division is soliciting RFPs from qualified contractor(s) to perform repairs/upgrades to two park and ride lots. The park and ride lots are located at Thornton Road and Interstate 20 (110 parking spaces) and Post Road and Interstate 20 (75 parking spaces).

Douglas County will select the contractor through a competitive proposal process; however, the proposal must be submitted in a sealed envelope. Following the selection of the contractor deemed most qualified, the County and selected contractor will negotiate an agreement for the required services.

Copies of this Request for Proposal may be obtained by contacting the Douglas County Purchasing Department, at 8700 Hospital Drive, Douglasville, GA, (770.920.7247) and is also available on the Purchasing Department website, located at [www.celebratedouglascounty.com](http://www.celebratedouglascounty.com).

Sealed proposals in response to this Request must be sent to:

Mr. Bill Peacock, Purchasing Director  
Douglas County Board of Commissioners  
Purchasing Department  
8700 Hospital Drive  
Douglasville, Georgia 30134

Proposals (one original unbound and four (4) bound copies) may be mailed or hand delivered to the Board of Commissioners, Mr. Bill Peacock, Purchasing Director, **no later than 1:00 p.m. ET, Friday, September 16, 2016** so they may be included in a formal proposal opening at the Douglas County Courthouse. Each response should be marked on the outside of the envelope with: **“Park and Ride Lot Improvements Douglas County Rideshare/Multi-Modal Transportation Services, September 16, 2016”, Solicitation 16-015.**

Douglas County reserves the right to waive any informality, to reject any and all proposals, to evaluate proposals, to accept portions of any proposals which, in its opinion, may be in the best interest of the County. The County reserves the right to add to or delete from the scope of the project when the contractor is selected and during contract negotiation.

No proposal will be received or accepted after the above specified date and time of the proposal opening. Proposals submitted after the designated date and time will be deemed invalid and

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returned unopened to the bidder. No proposal may be withdrawn within sixty (60) days after the proposal opening and all proposals shall remain firm during this period.

Douglas County will offer a **non-mandatory pre-proposal meeting** and site visit of the two park and ride lots to allow potential bidders to gain a thorough understanding of the scope of work to be done. The site visit is scheduled for **Monday, September 12 at 1 p.m.** and will begin at the Douglas County Transportation Center, 8800 Dorris Road, Douglasville, GA.

Protests concerning Douglas County purchasing policies, contract requirements, specifications, bidding procedures, the contract award or any other explanation or clarification must be submitted in writing. Pre-award protests must be received by the Douglas County Purchasing Director no less than ten days before the scheduled proposal opening. Post-award protests must be received no later than five working days after notification of the award bid.

Protests should be sent to:

Mr. Bill Peacock, Purchasing Director  
Douglas County Board of Commissioners  
Purchasing Department  
8700 Hospital Drive  
Douglasville, Georgia 30134  
Fax: 770-920-7219  
E-mail: [dcpurchasing@co.douglas.ga.us](mailto:dcpurchasing@co.douglas.ga.us).

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**THE SCOPE OF WORK WILL INCLUDE:**

- Repairing and resealing all parking areas. Aerial photos of Post Road lot and Thornton Road lot provided.
- Restriping parking spaces within a range of 5 spaces plus or minus the current parking capacity.
- Replacing the existing passenger shelter at Post Road, and installing a new shelter at Thornton Road, with a shelter similar to the one at Post Road in design, capacity and material. Shelters must be ADA-compliant. Photos of existing shelter provided.
- Disposing of the old passenger shelter.
- Replacing the identifying sign at each location with a sign of similar design but upgraded materials. Photos of existing signs provided.
- Installing one wireless emergency call box at each location. A photo of the preferred type of call box is provided.

**SPECIAL INSTRUCTIONS RELATING TO REPAIRING, RESEALING AND RESTRIPING PARKING AREAS:**

- Post Road is approximately 3,525 square feet
- Thornton Road is approximately 5,425 square feet
- Thoroughly clean all asphalt areas before sealing so that they are free of all dirt and debris.
- Repair/patch areas of asphalt with severe “gatoring.”
- Seal all asphalt with two coats of commercial grade coal tar emulsion or equivalent which meets or exceeds all the requirements of Federal Government Specifications RP-355E.
- Repaint all parking spaces, directional markings and stop indicators.
- Contractor to provide alternate pricing for paint and thermoplastic striping and provide manufacturing identification and specifications for both products.
- Proposal submission should include plan and schedule for accomplishing the project.
- All resealing and restriping work must be performed on weekends or after hours when the parking lots are not in use and when the adjacent private business will not be impacted. Work can be coordinated through Rideshare/Multi-Modal staff.
- It is the contractor’s responsibility to block off areas while conducting work to protect pedestrians, property and vehicles.
- Preventive measures need to be taken to ensure there is no damage or overspray to curbing, landscaping or any other property.
- Any vehicles left in the parking lots that interfere with the project will be towed off-site at the County’s expense. Contractor must contact Rideshare/Multi-Modal management and allow four hours for towing company to respond to remove vehicle(s).

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- Any portion of this project that has reached the point where seal coating has covered existing stripes must be completed by 7 a.m. the following Monday. It is incumbent on the contractor to monitor the weather forecasts as well as current weather conditions and take adequate precautions and actions to ensure that the parking lot(s) is fit to use on Monday morning.
- If necessary, contractor may break the project up into 2 or more phases over consecutive weekends to ensure that any work started can be completed before 7 a.m. the following Monday morning.
- The contractor shall ensure that newly applied pavement markings are protected from traffic until paint has cured and that method of protecting will not constitute a hazard to the traveling public. Any damage to any markings as a result of tracking shall be repaired by the contractor at his expense.

**OTHER SPECIAL INSTRUCTIONS:**

This is considered a construction project (excluding design and construction of signs) and is federally funded. As such, the contractor is required to follow certain federal provisions, including Davis-Bacon and Contract Work Hours and Safety Standards Act. Workers must be paid the minimum wage per labor classification according to the Davis-Bacon Wage Determination that will be provided by Douglas County Multi-Modal Transportation Services at pre-bid meeting or at the request of potential bidders. Workers must be paid once a week. Rideshare/Multi-Modal staff will interview workers to make sure they are being paid and treated according to Davis-Bacon provisions. The contractor must submit weekly certified payrolls to Rideshare/Multi-Modal.

This project is being funded by the Federal Transit Administration (FTA) and the Douglas County Board of Commissioners. All applicable FTA and Douglas County regulations and requirements must be followed. A signed copy of applicable FTA clauses must be submitted as part of the proposal package. Clauses are included as part of this RFP.

This project will require a 19 percent Disadvantaged Business Enterprise participation. Qualified DBE firms are encouraged to submit bids as the prime contractor. A list of DBE contractors certified by the State of Georgia is on the Georgia Department of Transportation's website at [www.dot.ga.gov/doingbusiness/DisadvantagedBusinessEnterprise](http://www.dot.ga.gov/doingbusiness/DisadvantagedBusinessEnterprise). Only DBEs certified by the State can count toward Douglas County's goal in its federally-required DBE program. Prime contractors who cannot meet the 19 percent DBE goal must sign a "Good Faith" certification and include documentations of their attempt to locate DBEs to participate in the project.

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**Firms submitting proposals will be required to acknowledge and sign off on certain FTA mandated clauses (see below). Proposals that do not have the proper acknowledgement of FTA clauses will be deemed unresponsive. Bidders should include their signed acknowledgements ( shaded areas) and the complete list of FTA clauses below with their proposal.**

**FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES**

Grantee: Douglas County

Third Party Contractor:

The project/scope of work defined in this contract is being partially funded by the Federal Transit Administration. Thus, the project/scope of work is governed by certain FTA clauses, including but not limited to those in this document.

The prime third party contractor is required to coordinate its work with Douglas County to insure that all federally-mandated design/construction requirements are met. The prime contractor is also charged with the responsibility of subcontractor adherence to all applicable federal clauses and provisions.

Clauses that are applicable to this contract include:

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**1. BUY AMERICA REQUIREMENTS**

**49 U.S.C. 5323(j)**

**49 CFR Part 661**

The contractor agrees to comply with 49 U.S.C. 5323 (j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323 (j) (2) (C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

**Certification requirement for procurement of steel, iron, or manufactured products.**

*Certificate of Compliance with 49 U.S.C. 5323 (j) (1)*

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323 (j) (1) and the applicable regulations in 49 CFR Part 661.

Date: \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323 (j) (1)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323 (j) (1), but it may qualify for an exception pursuant to 49 U.S.C. 5323 (j) (2) (B) or (j) (2) (D) and the regulations in 49 CFR 661.7.

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Date \_\_\_\_\_

Signature **NOT APPLICABLE** \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

**Certification requirement for procurement of buses, other rolling stock and associated equipment.**

*Certificate of Compliance with 49 U.S.C. 5323 (j) (2) (C).*

The bidder or offeror 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.

Date \_\_\_\_\_

Signature **NOT APPLICABLE** \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323 (j) (2) (C)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323 (j) (2) (C), but may qualify for an exception pursuant to 49 U.S.C. 5323 (j) (2) (B) or (j) (2) (D) and the regulations in 49 CFR 661.7.

Date \_\_\_\_\_

Signature **NOT APPLICABLE** \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

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**2. CHARTER BUS REQUIREMENTS**

**49 U.S.C. 5323 (d)**

**49 CFR Part 604**

The contractor agrees to comply with 49 U.S.C. 5323 (d) and 49 CFR Part 604, which provides that recipients and sub recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation

**3. SCHOOL BUS REQUIREMENTS**

**49 U.S.C. 5323 (f)**

**49 CFR Part 605**

Pursuant to 49 U.S.C. 5323 (f) and 49 CFR Part 605, recipients and sub recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and sub recipients may not use federally funded equipment, vehicles, or facilities.

**4. SEISMIC SAFETY REQUIREMENTS**

**42 U.S.C. 7701 et seq.**

**49 CFR Part 41**

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

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**5. ENERGY CONSERVATION REQUIREMENTS**

**42 U.S.C. 6321 et seq.**

**49 CFR Part 18**

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

**6. CLEAN WATER REQUIREMENTS**

**33 U.S.C. 1251**

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et.seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**7. BUS TESTING**

**49 U.S.C. 5323 (c)**

**49 CFR Part 665**

The Contractor [Manufacturer] agrees to comply with 49 U.S.C. A 5323 (c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

(1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.

(2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.

(3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle.

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If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.

(4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

**CERTIFICATION OF COMPLIANCE WITH FTA'S BUS TESTING REQUIREMENTS**

The undersigned [Contractor/Manufacturer] certifies that the vehicle offered in this procurement complies with 49 U.S.C. A 5323 (c) and FTA's implementing regulation at 49 CFR Part 665.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FT A may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

Date: \_\_\_\_\_

Signature: **NOT APPLICABLE** \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**8. PRE-AWARD AND POST DELIVERY AUDITS REQUIREMENTS**

**49 U.S.C. 5323**

**49 CFR Part 663**

(1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror 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 the cost of final assembly.

(2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

(3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

**BUY AMERICA CERTIFICATE OF COMPLIANCE WITH FTA REQUIREMENTS FOR BUSES, OTHER ROLLING STOCK, OR ASSOCIATED EQUIPMENT**

*(To be submitted with a bid or offer exceeding the small purchase threshold for Federal assistance programs, currently set at \$100,000.)*

Certificate of Compliance

The bidder hereby certifies that it will comply with the requirements of 49 US.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 CFR. 661.11:

Date: \_\_\_\_\_

Signature: **NOT APPLICABLE** \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

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Certificate of Non-Compliance

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323 (j) (2) (C) and 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 CFR. 661.7.

Date: \_\_\_\_\_

Signature: **NOT APPLICABLE** \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**9. LOBBYING**

**31 U.S.C. 1352**

**49 CFR Part 19**

**49 CFR Part 20**

**Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]** - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

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

Certification for Contracts, Grants, Loans, and Cooperative Agreements

*(To be submitted with each bid or offer exceeding \$100,000)*

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)]. Note: Language in paragraph (2)

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herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

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

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

[Note: Pursuant to 31 U.S.C. § 1352 (c) (1) (2) (A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801 *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

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**10. ACCESS TO RECORDS AND REPORTS**

**49 U.S.C. 5325**

**18 CFR 18.36 (i)**

**49 CFR 633.17**

The following access to records requirements apply to this Contract:

(1) Douglas County is a local government and is the FTA Recipient or a sub grantee of the FTA Recipient. In accordance with 49 CFR 18.36 (i), the Contractor agrees to provide Douglas County, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations excerpts and transcriptions. Contractor also agrees, pursuant to 49 CFR 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302 (a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

(2) When Douglas County as a FTA Recipient enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302 (a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to Douglas County, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

(3) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(4) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until Douglas County, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39 (i) (11).

(5) FTA does not require the inclusion of these requirements in subcontracts.

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**11. DISADVANTAGED BUSINESS ENTERPRISE**

**49 CFR Part 26**

Douglas County has established a 19 percent DBE participation for its applicable FTA assisted contracts.

It is the policy of the Department of Transportation and Douglas County that Disadvantaged Business Enterprises, as defined in 49 CFR Part 23, and as amended in Section 106 (c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, 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 in 49 CFR Part 23 and Section 106 (c) of the STURAA of 1987, apply to this contract.

The contractor agrees to ensure that DBEs as defined in 49 CFR Part 23 and Section 106 (c) of the STURAA of 1987, have the maximum opportunity to participate in the whole or in part with federal funds under this agreement. In this regard, the contractor shall take all necessary and reasonable steps in accordance with the regulations to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts. The contractor shall not discriminate on the basis of race, color, national origin, religion, sex or physical handicap in the award and performance of subcontracts.

It is further the policy of Douglas County to promote the development and increase the participation of businesses owned and controlled by disadvantaged. DBE involvement in all phases of Douglas County procurement activities is encouraged.

DBE Obligation: The contractor and its subcontractors agree to ensure that disadvantaged businesses have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under the agreement. In that regard, all contractors and subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 as amended, to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts.

Where the contractor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBEs in the work provided, Douglas County may declare the contractor noncompliant and in breach of contract.

The contractor will keep records and documents for a reasonable time following performance of this contract to indicate compliance with the Douglas County DBE program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of Douglas County and will be submitted to Douglas County upon request.

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Douglas County will provide affirmative assistance as may be reasonable and necessary to assist the prime contractor in implementing their programs for DBE participation. The assistance may include the following upon request

- +Identification of qualified DBE
- +Available listing of Minority Assistance Agencies
- +Holding bid conferences to emphasize requirements

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date

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**12. FEDERAL CHANGES**

**49 CFR Part 18**

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement dated October 1, 2015 between Douglas County and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

**13. BONDING REQUIREMENTS**

**Bid Bond Requirements (Construction)**

(a) Bid Security

A Bid Bond must be issued by a fully qualified surety company acceptable to Douglas County listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described there under.

(b) Rights Reserved

In submitting this Bid, it is understood and agreed by bidder that the right is reserved by Douglas County to reject any and all bids, or part of any bid, and it is agreed that the bid may not be withdrawn for a period of 90 days subsequent to the opening of bids, without the written consent of Douglas County.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within 90 days after the bid opening without the written consent of Douglas County, shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of Douglas County's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security there for.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by Douglas County as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense Douglas County for the damages occasioned by default, then the undersigned bidder agrees to indemnify Douglas County and pay over to Douglas County the difference between the bid security and

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Douglas County's total damages, so as to make Douglas County whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive,

**Performance and Payment Bonding Requirements (Construction)**

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

(1) The penal amount of performance bonds shall be 100 percent of the original contract price, unless Douglas County determines that a lesser amount would be adequate for the protection of Douglas County.

(2) Douglas County may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. Douglas County may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

(1) The penal amount of the payment bonds shall equal:

(i) Fifty percent of the contract price if the contract price is not more than \$ 1 million.

(ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(iii) Two and one half million if the contract price is more than \$5 million.

(2) If the original contract price is \$5 million or less, Douglas County may require additional protection as required by subparagraph 1 if the contract price is increased.

**Performance and Payment Bonding Requirements (Non-Construction)**

The Contractor may be required to obtain performance and payment bonds when necessary to protect Douglas County's interest.

(a) The following situations may warrant a performance bond:

(1) Douglas County property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).

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(2) A contractor sells assets to or merges with another concern, and Douglas County, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

(3) Substantial progress payments are made before delivery of end items starts.

(4) Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

(1) The penal amount of performance bonds shall be 100 percent of the original contract price, unless Douglas County determines that a lesser amount would be adequate for the protection of Douglas County.

(2) Douglas County may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. Douglas County may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in Douglas County' interest

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

(1) The penal amount of payment bonds shall equal:

(i) Fifty percent of the contract price if the contract price is not more than \$1 million;

(ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(iii) Two and one half million if the contract price is increased.

**Advance Payment Bonding Requirements**

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. Douglas County shall determine the amount of the advance payment bond necessary to protect Douglas County.

**Patent Infringement Bonding Requirements (Patent Indemnity)**

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not

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furnished and the financial responsibility of the Contractor is unknown or doubtful. Douglas County shall determine the amount of the patent indemnity to protect Douglas County.

**Warranty of the Work and Maintenance Bonds**

(1) The Contractor warrants to Douglas County, the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by Douglas County, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by Douglas County's Project Manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

(2) The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1)-year after Final Payment by Douglas County and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to Douglas County. As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment, furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment "and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

**14. CLEAN AIR**

**42 U.S.C. 7401 et seq**

**40 CFR 15.61**

**49 CFR Part 18**

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C §§ 7401 .et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

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**15. RECYCLED PRODUCTS**

**42 U.S.C. 6962**

**40 CFR Part 247**

**Executive Order 12873**

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C.6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

**16. DAVIS-BACON ACT**

**40 USC § 167; 276a-276a-5 (1998)**

**29 CFR § 5 (1999)**

(1) **Minimum wages** - (i) 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 (l)(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

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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 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.

(ii)(A) 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.

(B) 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.

(C) 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.

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(D) 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.

(iii) 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.

(iv) 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.

(v)(A) 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 there for 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.

(B) 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.

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(C) 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.

(D) 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.

(2) **Withholding** - Douglas County 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, Douglas County 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.

(3) **Payrolls and basic records** - (i) 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) (I) (iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a

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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.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to Douglas County 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 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.

(B) 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 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.

(C) 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.

(D) 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

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title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a) (3) (i) of 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.

(4) **Apprentices and trainees** - (i) 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,

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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.

(ii) 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 who 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 be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) 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.

(5) **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.

(6) **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

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be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **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.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts I, 3, and 5 are herein incorporated by reference in this contract.

(9) **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.

(10) **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

**17. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

**40 U.S.C. §§ 327 -333 (1999)**

**29 CFR § 5 (1999)**

**29 CFR § 1926 (1998)**

(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

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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 there for 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** - Douglas County 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 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 this section.

(Section 102 non-construction contracts should also have the following provision:)

(5) **Payrolls and basic records** - (i) 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

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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.

**Section 107 (OSHA):**

(This section is applicable to construction contracts only)

**Contract Work Hours and Safety Standards Act** - (i) The Contractor agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. section 333, and applicable DOL regulations, "Safety and Health Regulations for Construction" 29 CFR Part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

(ii) **Subcontracts** - The Contractor also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

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**18. COPELAND ANTI-KICKBACK ACT**

**40 U.S.C. § 276c (1999)**

**29 CFR § 3 (1999)**

**29 CFR § 5 (1999)**

3.1 of the Copeland Act makes it clear that the purpose of the Act is to assist in "the enforcement of the minimum wage provisions of the Davis- Bacon Act." In keeping with this intent DOL has included a section on the Copeland Act in the mandatory language of the Davis-Bacon provisions. The language can be found at § 5.5(a) (5) of the Davis-Bacon model clauses and reads as follows:

**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.

**19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS**

**AND RELATED ACTS**

**31 U.S.C. 3801 et seq.**

**49 CFR Part 31**

**18 U.S.C. 1001**

**49 U.S.C. 5307**

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act

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of 1986, as amended, 31 U.S.C. § 3801 et seq and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C § 5307, the Government reserves the right to impose the penalties of 18 U.S.C § 1001 and 49 U.S.C § 5307(n) (1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**21. TERMINATION**

**49 U.S.C. Part 18**

**FTA Circular 4220.1D**

(a) **Termination for Convenience (General Provision)** Douglas County may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Douglas County to be paid the Contractor. If the Contractor has any property in its possession belonging to Douglas County, the Contractor will account for the same, and dispose of it in the manner Douglas County directs.

(b) **Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, Douglas County may

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terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by Douglas County that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, Douglas County, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

(c) **Opportunity to Cure (General Provision)** Douglas County in its sole discretion may, in the case of a termination for breach or default, specify the period of time in which the Contractor may cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to Douglas County's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten days after receipt by Contractor or written notice from Douglas County setting forth the nature of said breach or default, Douglas County shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Douglas County from also pursuing all available remedies against Contractor and its sureties for said breach or default.

(d) **Waiver of Remedies for any Breach** In the event that Douglas County elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Douglas County shall not limit Douglas County's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

(e) **Termination for Convenience (Professional or Transit Service Contracts)** Douglas County, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, Douglas County shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

(f) **Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, Douglas County may terminate this contract for default. Douglas County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in

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accordance with the manner or performance set forth in this contract.

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

(g) **Termination for Default (Transportation Services)** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, Douglas County may terminate this contract for default. Douglas County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

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

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

(h) **Termination for Default (Construction)** If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, Douglas County may terminate this contract for default. Douglas County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, Douglas County may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to Douglas County resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by Douglas County in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if:

(1) the delay in completing the work arises from unforeseeable causes beyond the control and

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without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Douglas County, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

(2) the contractor, within 10 days from the beginning of any delay, notifies Douglas County in writing of the causes of delay. If in the judgment of Douglas County, the delay is excusable, the time for completing the work shall be extended. The judgment of Douglas County shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Douglas County.

(i) **Termination for Convenience or Default (Architect and Engineering)** Douglas County may terminate this contract in whole or in part, for Douglas County's convenience or because of the failure of the Contractor to fulfill the contract obligations. Douglas County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of Douglas County, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, Douglas County may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by Douglas County.

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

(j) **Termination for Convenience or Default (Cost-Type Contracts)** Douglas County may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of Douglas County or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from Douglas County, or

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property supplied to the Contractor by Douglas County. If the termination is for default, Douglas County may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Douglas County and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Douglas County, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, Douglas County determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, Douglas County, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

**22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION  
(NONPROCUREMENT)**

**49 CFR Part 29**

**Executive Order 12549**

- (1) By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.
- (2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into; If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, Douglas County may pursue available remedies, including suspension and/or debarment.
- (3) The prospective lower tier participant shall provide immediate written notice to Douglas County if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact Douglas County for assistance in obtaining a copy of those regulations.

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(5) The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by Douglas County.

(6) The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

(7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non procurement List issued by U.S. General Service Administration.

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

(9) Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, (Recipient) may pursue available remedies including suspension and/or debarment.

**"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"**

(1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 CFR § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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\_\_\_\_\_  
Signature of Contractor's Authorizing Official

\_\_\_\_\_  
Name and Title of Contractor's Authorizing Official

\_\_\_\_\_  
Date

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**23. PRIVACY ACT**

**5 U.S.C. 552**

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

5 U.S.C. § 552a among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

**24. CIVIL RIGHTS REQUIREMENTS**

**29 U.S.C. § 623, 42 U.S.C. § 2000**

**42 U.S.C. § 6102, 42 D.S.C. § 12112**

**42 U.S.C. § 12132, 49 U.S.C. § 5332**

**29 CFR Part 1630, 41 CFR Parts 60 et seq.**

The following requirements apply to this contract:

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) **Equal Employment Opportunity** - The following equal employment opportunity

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requirements apply to the underlying contract:

- (a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, " 41 CFR Parts 60 et.seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  
- (b) **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  
- (c) **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  
- (3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date

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**25. BREACHES AND DISPUTE RESOLUTION**

**49 CFR Part 18**

**FTA Circular 4220.1D**

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

**Performance During Dispute** - Unless otherwise directed by Douglas County, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

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

**Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties.

**26. STATE AND LOCAL LAW DISCLAIMER**

**State and Local Law Disclaimer** - The use of many of the suggested clauses are not governed by Federal law, but are significantly affected by State law. The language of the suggested clauses may need to be modified depending on state law, and that before the suggested clauses are used in the grantees procurement documents, the grantees should consult with their local attorney.

**DOUGLAS COUNTY GEORGIA BOARD OF COMMISSIONERS  
REQUEST FOR PROPOSALS  
PARK AND RIDE LOT IMPROVEMENTS  
DOUGLAS COUNTY RIDESHARE/MULTI-MODAL TRANSPORTATION SERVICES  
Purchasing Department  
Solicitation 16-015**

**27. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS  
FTA Circular 4220.1D**

**Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1D, dated April 15, 1996, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FT A mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Douglas County requests which would cause Douglas County to be in violation of the FTA terms and conditions.

**28. DRUG AND ALCOHOL TESTING**

**49 U.S.C. §5331**

**49 CFR Part 655**

As an FTA recipient, Douglas County is required to have a drug and alcohol testing program for employees in safety-sensitive roles. A company that contracts with Douglas County to perform safety-sensitive operational functions is also required to have a drug and alcohol testing program. The company can either participate in Douglas County's program or establish its own program that complies with 49 CFR Part 655. If the latter is the case, the company must produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Douglas County, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The contractor agrees further to certify annually its compliance with Part 655 before March 1 and to submit the Management Information System (MIS) reports before March 1 to the Douglas County Rideshare Coordinator, 8700 Hospital Drive, Douglasville, GA 30134. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

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**ACKNOWLEDGEMENT**

On behalf of the firm/company listed below, I acknowledge that the project we are submitting a bid for is being funded in part by the Federal Transit Administration, and as such, Douglas County and my firm are required to abide by certain FTA requirements, including the clauses prior to this acknowledgement. By inclusion or reference, the FTA clauses prior to this acknowledgement will be part of any contract between my firm and Douglas County.

Failure to comply with these requirements, or failure to comply with Douglas County's request for documentation relating to these requirements could result in our participation in the project being suspended or terminated, or pay requests being delayed.

I also acknowledge that there may be other FTA requirements not listed above that my firm will have to adhere to. If so, it will be Douglas County's responsibility to communicate these to me in a timely manner.

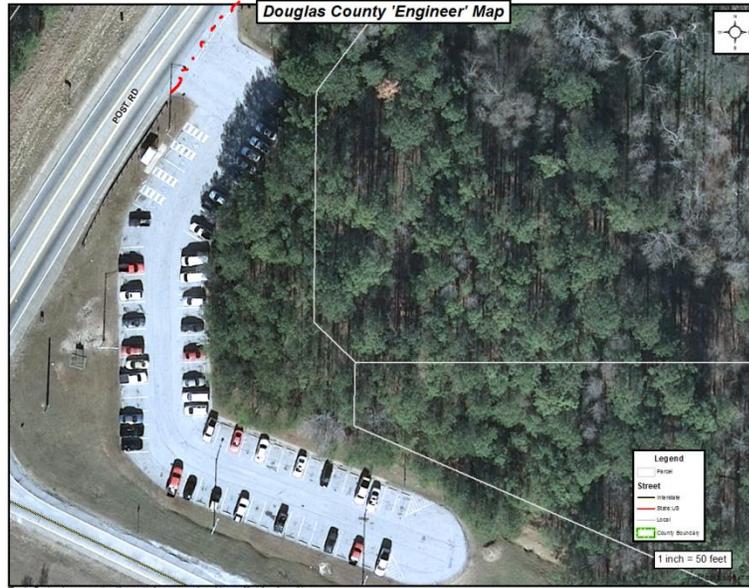
**Firm:**

**Signing on behalf of the firm:**

**Title of Individual Signing:**

**Date:**

**DOUGLAS COUNTY GEORGIA BOARD OF COMMISSIONERS  
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**Post Road and Interstate 20**



**Thornton Road and Interstate 20**

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**END OF REQUEST**

## **GENERAL CONDITIONS**

### **PURPOSE**

1. The purpose and intention of this invitation to bid issued by the Douglas County Purchasing Department is to afford all suppliers an equal opportunity to bid on all operating supplies, services, equipment, maintenance and repairs that are listed in the accompanying documents.

### **SPECIFICATIONS**

2. Whenever standard Douglas County specifications are specified in any invitation to bid, or request for proposal, all bidders must comply with these specifications. Specifications other than standard specifications are to be considered as setting a standard of quality suitable to permit competition and at the same time protect the integrity of the purchasing process. It is the overall intent of the specifications to insure that the minimum needs of the County are met.

Brand or trade names used herein are intended to establish quality standards, and are not intended to limit or eliminate competition.

The County does reserve the right to specify that particular specifications be strictly adhered to, and brand or trade names not be substituted.

### **PURCHASING POLICY**

3. All bidders are hereby put on notice that, in all purchasing and related activities, the Douglas County Purchasing Department shall pursue a policy of securing the greatest possible economy consistent with grades of quality of supplies and services that are adapted to the purpose for which they are required.

### **AWARD OF CONTRACT**

4. The award of all contracts will be made in conformity with the above purchasing policy. Douglas County reserves the right to award items separately, grouped or on an "all or none" basis and to reject any or all bids and waive all informalities.

### **PRICING**

5. All prices should be quoted in the unit of measure as required and shall be firm until bid is awarded unless otherwise specified.

### **CANCELLATION OF CONTRACT**

6. In any of the following cases the Purchasing Department has the right to cancel any contract entered into under these Purchasing Rules and Regulations;

- a. Breach of Contract;
- b. In the event the contractor fails to furnish a satisfactory performance bond within the time specified, when such bond is required;
- c. Failure of the contractor to make delivery within the time specified in the contract;
- d. In the event any commodity of equipment is rejected for failure to meet specifications, non-conformity with sample or the items are not in good condition when delivered;
- e. Wherever the contractor is guilty of misrepresentation; i.e., misbranding of food or drugs;
- f. Wherever the contract was obtained by fraud, collusion, conspiracy or other unlawful means, or the contract conflicts with any statutory and constitutional provision of the State of Georgia or the United States; or
- g. Wherever Douglas County deems that a cancellation is in the best interest of the County provided that the Vendor be notified of such cancellation prior to production and/or shipment.

### **PERFORMANCE BONDS**

7. Douglas County reserves the right to require a performance bond on all awards over \$1,000.00.

### **NON PERFORMANCE**

8. In the event contractor fails to perform in accordance with the specifications, the contractor will be deemed to be in default. The Purchasing authority shall notify the contractor verbally and in writing of incidence of nonperformance. If the contractor fails to perform in accordance with the contract specifications, within five (5) days after notice, as provided herein, the Purchasing Manager shall take appropriate action including but not limited to contract cancellation, collection proceedings, suspension or disbarment.

### **SUBSTITUTIONS**

9. If bidding other than specified in the bid proposal, state brand, model number and submit illustrations and descriptive literature with bid in order that quality, suitability, and compliance with the specifications may be determined. Failure to do so may cause your bid to be disqualified.

### **DISCOUNTS**

10. Discounts will be considered when making an award.

### **QUANTITIES**

11. Douglas County reserves the right to increase or decrease the quantity as necessary at the same prices and terms stated in sellers bid proposal.

**DELIVERY**

12. All deliveries shall be F.O.B. Douglas County, Georgia. If the vendor fails to make delivery within a satisfactory time, Douglas County reserves the right to cancel the item and to purchase elsewhere charging the re-procurement costs, i.e., increase in price, cost of handling (if any), to the original vendor making the unsatisfactory, late or non-delivery cause for cancellation.

**PAYMENT**

13. Payments will not be made in advance. Payments will be made after satisfactory delivery and acceptance by Douglas County for goods and/or services based on the actual quantities installed and unit prices submitted on the Bid Form. This supersedes any Payment/Unit Price included in the bid documents and specifications.

**BID RESPONSE**

14. Bids should be submitted on the forms provided for this purpose and should be filled out with ink or typewritten and signed in ink. Do not erase, correct or white over any prices or figures necessary for the completion of this bid proposal. If any corrections are necessary, each one should be initialed. Failure to comply with these requirements may cause your bid to be disqualified.

**CONTRACTUAL SERVICES**

15. At the option of Douglas County and acceptance by the contractor this contract may be extended for two (2) additional twelve (12) month periods not to exceed 36 months at the same terms and prices.

**INSURANCE**

16. For general contracting exposure.

**A) INSURANCE REQUIREMENTS**

Contractor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with performance of the Work hereunder by the Contractor, his agents, representatives, employees, or subcontractors.

### MINIMUM LIMITS OF INSURANCE

Contractor shall maintain limits no less than:

1. The Contractor and Subcontractors shall secure and maintain during the life of this contract Worker's Compensation Insurance for all of their employees employed at the site of any Douglas County project, at statutory limits. The Employer's Liability shall have limits not less than \$500,000.
2. Comprehensive General Liability Insurance – shall be in limits no less than \$1,000,000 combined single limit per occurrence for aggregate or property damage. Property damage insurance shall be in broad form including complete operations.
3. Automobile liability coverage for owned, non-owned and hired. Such insurance shall be in limits no less than \$1,000,000 combined single limit per occurrence.
4. Professional liability shall be in limits no less than \$2,000,000 each claim made, and annual aggregate of \$3,000,000

#### **B) OTHER INSURANCE PROVISIONS**

##### 1. General Liability, and Automobile Liability insurance

- A. The Owner and its officers, officials, employees and volunteers are to be covered as additional insured's with regards to any liability arising out of activities performed by or on behalf of the Contractor.
- B. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Owner and its officers, officials employees or volunteers.
- C. The Contractor is responsible for insuring its own property and equipment.

2. Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against Douglas County and its officers, officials, employees and volunteers for losses arising from the work performed by the Contractor for the Owner.

3. All Coverages: Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after ninety (90) days' prior written notice by certified mail, return receipt requested, has been given to the Owner, Douglas County, Georgia, in care of the Douglas County Purchasing Department.

#### **C) ACCEPTABILITY.**

Insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or otherwise acceptable to the Owner.

**D) VERIFICATION OF COVERAGE.**

Contractor shall furnish Douglas County with certificates of insurance and with original endorsements effecting coverage required by this clause. These certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the Owner before any work commences. Douglas County further reserves the right to require complete, certified copies of all required insurance policies at any time.

**E) SUBCONTRACTORS**

Contractor shall include all subcontractors as insured under its insurance or shall ensure that subcontractors have met the insurance requirements of this agreement. Douglas County may request evidence of subcontractor's insurance at any time.

**LOCAL PREFERENCE**

17. Douglas County Board of Commissioners has approved the utilization of a local county preference to the Douglas County Code of Ordinance. The local preference may be used and allows for a local firm to be awarded the bid when not the lowest bidder, if the lowest bid is within 3% of the local company's bid amount, except for construction services, and road project expected to exceed \$20,000, which will be subject to Georgia State law. If all bidders are local firms, this section does not apply.

**INDEMNIFICATION AND GENERAL CONSTRUCTION TERMS**

18. The contractor hereby agrees to protect, defend, indemnify and hold the county and its merit and contract employees, agents and officers free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interests, court costs, legal fees and all other expenses incurred by the county arising in favor of any party.

Contractor agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand or suit at the sole expense of the contractor. Contractor also agrees to bear all other costs and expenses related, thereto, even if the claim or claims alleged are groundless, false or fraudulent. This provision is not intended to create any cause of action in favor of any third party against contractor or the county or to enlarge in any way the contractor's liability but is intended solely to provide indemnification of the county from liability for property damage, property loss, personal injury, bodily injury or death to the contractors, the contractor's employees or any third persons or property arising from the contractor's performance hereunder.

The contractor agrees to keep informed and comply with all Federal, State, and local laws, policies, regulations, ordinances and codes, but not limited to, the contractor's duty to provide a safe work environment and road conditions for the contractor's employees, subcontractors, county employees and third parties. This provision confers all safety responsibility, to include but not limited to, knowledge of the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD), Standard Highway Signs (SHS), Utility Accommodation Policy and Standards Manual, safety management, human resource management, and traffic management as it relates to all methods and forms of employee hiring and retention, safety signage, fall prevention, warning devices, safety barricades, safety fencing, work zone flaggers, scaffolding, motorist and pedestrian road and sidewalk detour direction and all other regulated safety requirements for the duration of The Work as is necessary to provide for the health and safety of the Contractor's employees, subcontractors, county employees, pedestrians, motorists and all third parties. Where and when applicable, warning devices shall be placed prior to the commencement of any road improvement work on any roads and shall remain in place until the conclusion of all Work.

#### **GEORGIA SECURITY AND IMMIGRATION ACT OF 2006**

19. As of July 1, 2007, all contracts with Douglas County must have a certification from the Contractor that they comply with the Georgia Security and Immigration Act of 2006. This requires all those individuals, firms, contractors, consultants, etc., contracting with the County to execute the Contractor Affidavit and Agreement. If subcontractors are engaged, they are required to execute the Subcontractor Affidavit. These affidavits are available to download from the Douglas County Purchasing Department website, located at [www.celebratedouglascounty.com](http://www.celebratedouglascounty.com), or may be attached for your convenience in compliance with this requirement.

#### **DISPUTE RESOLUTION**

20. The jurisdiction and venue of any dispute arising out of this agreement shall lie with in the Superior Court of Douglas County, Georgia, and the governing law shall be the law of the state of Georgia.