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# REQUEST FOR PROPOSALS

## PERIMETER SECURITY FENCE & GATE

**RFP 19-20-002**

January 15, 2020



# REQUEST FOR PROPOSALS

Issue Date: January 15, 2020

Title: Perimeter Security Fence & Gate

Bid Number: RFP RFP 19-20-002

Issuing and Using Agency: Luzerne County Transportation Authority  
Attn: Lou Uritz  
Procurement Manager  
315 Northampton Street  
Kingston, PA. 18704

Proposals for Furnishing the Product/Services Described Herein Will Be Received Until: 12:00 PM March 4, 2020.

All Inquiries for Information Should Be Directed To: LCTA, address listed above at Phone: (570) 288-9356

IF PROPOSALS ARE MAILED, SEND DIRECTLY TO: LCTA PROCUREMENT DEPARTMENT, 315 Northampton St, Kingston, PA. 18704. IF PROPOSALS ARE HAND DELIVERED OR SENT BY COURIER, DELIVER TO: LCTA, Procurement Manager, 315 Northampton St, Kingston, PA. 18704. The RFP number, date and time of proposal submission deadline, as reflected above, must clearly appear on the face of the returned proposal package.

In Compliance With This Request for Proposals And To All Conditions Imposed Therein and Hereby Incorporated By Reference, The Undersigned Offers And Agrees To Furnish The Goods/Services Described Herein In Accordance With The Attached Signed Proposal Or As Mutually Agreed Upon By Subsequent Negotiation.

Name and Address of Firm:

\_\_\_\_\_

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

\_\_\_\_\_

By: \_\_\_\_\_

*(Signature in Ink)*

\_\_\_\_\_ Zip Code: \_\_\_\_\_

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

*(Please Print)*

Telephone: ( ) \_\_\_\_\_

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

Fax Number: ( ) \_\_\_\_\_

FEI/FIN Number: \_\_\_\_\_

DUNS# \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**There will be no pre-proposal conference, but all potential proposers should contact LCTA's Project Mgr. Vince Coviello (570-288-9356 x223, email: [vcoviello@lctabus.com](mailto:vcoviello@lctabus.com)) to schedule a site visit.**

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**ATTACHMENT K** - DBE Unavailable Certification

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**ATTACHMENT N** – Proposal Pricing Form

## DEFINITION OF WORDS AND TERMS

Words and terms shall be given their ordinary and usual meanings. Where used in the Contract documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

Acceptance or Accepted: Written documentation of LCTA's determination that the Contractor's Work has been completed in accordance with the Contract.

Addendum/Addenda: Written additions, deletions, clarification, interpretations, modifications or corrections to the solicitation documents issued by LCTA during the Solicitation period and prior to contract award.

Administrative Change: Documentation provided by LCTA to Contractor, which reflects internal LCTA procedures not affecting the Contract terms or Scope of Work.

Best and Final Offer: Best and Final Offer shall consist of the Proposer's revised proposal, the supplemental information, and the Proposer's Best and Final Offer. In the event of any conflict or inconsistency in the items submitted by the Proposer, the items submitted last will govern.

Bidder/Proposer or Offeror: Individual, association, partnership, firm, company, corporation or a combination thereof, including joint ventures, submitting a bid/proposal to perform the Work.

Buyer: Individual designated by LCTA to conduct the Contract solicitation process, draft and negotiate contracts, resolves contractual issues and supports the Project Manager during Contract performance.

Change Documentation: A written document agreed upon by Project Managers, which if it creates a material change to the Contract term or Scope of Work shall be executed as a Contract Amendment.

Change Order: Written order issued by LCTA, with or without notice to sureties, making changes in the Work within the scope of this Contract.

Contract Amendment: A written change to the Contract modifying, deleting or adding to the terms or scope of work, signed by both parties, with or without notice to the sureties.

Contract or Contract Documents: The writings and drawings embodying the legally binding obligations between LCTA and the Contractor for completion of the Work.

Procurement Administrator: The individual designated by LCTA to administer the Contract and be the Contractor's primary point of contact. The Procurement Administrator will approve orders, receipts, and invoices and document the Contractor's performance, but has no contracting authority.

Contract Period: The period of time during which the Contractor shall perform the Services or Work under the Contract.

Contract Price: Amount payable to the Contractor under the terms and conditions of the Contract for the satisfactory performance of the Services or Work under the Contract.

Contractor: The individual, association, partnership, firm, company, corporation, or combination thereof, including joint ventures, contracting with LCTA for the performance of Services or Work under the Contract.

Cost Analysis: The review, evaluation and verification of cost data and the evaluation of the specific elements of costs and profit. Cost analysis is the application of judgment utilizing criteria to project from the data to the estimated costs in order to form an opinion on the degree to which proposed costs represent what the Contract should cost, assuming reasonable economy and efficiency.

Day: Calendar Day.

Documentation: Technical publications relating to the use of the Work to be provided by Contractor under this Contract, such as reference, user, installation, systems administration and technical guides, delivered by the Contractor to LCTA.

DOT: Department of Transportation.

Final Acceptance: The point when LCTA acknowledges that the Contractor has performed the entire Work in accordance with the Contract.

FTA: Federal Transit Administration.

LCTA: Luzerne County Transportation Authority.

PennDOT: Pennsylvania Department of Transportation

Person: Includes individuals, associations, firms, companies, corporations, partnerships, and joint ventures.

Price Analysis: The process of examining and evaluating a price without evaluating its separate cost elements and proposed profit.

Project Manager: The individual designated by LCTA to manage the project on a daily basis and who may represent LCTA for Contract Administration.

Provide: Furnish without additional charge.

Reference Documents: Reports, specifications, and/or drawings that is available to Bidders or proposers for information and reference in preparing bids but not as part of this Contract.

RFP or Solicitation: Request for proposals; also known as the solicitation document.

Scope of Work or Statement of Work (SOW): A section of the Request for Proposals consisting of written descriptions of Services to be performed, or the goods to be provided, or the technical requirements to be fulfilled under this Contract.

Services: The furnishing of labor, time or effort by a Contractor, but not involving the delivery of any specific manufactured goods.



Shall or Will: Whenever used to stipulate anything, Shall or Will means mandatory by either the Contractor or LCTA, as applicable, and means that the Contractor or LCTA, as applicable, has thereby entered into a covenant with the other party to do or perform the same.

Specifications or Technical Specifications: A Section of the Request for Proposals consisting of written descriptions of Services to be performed, or the goods to be provided, or the technical requirements to be fulfilled under this Contract.

Subcontractor: The individual, association, partnership, firm, company, corporation, or joint venture entering into an agreement with the Contractor to perform any portion of the Work covered by this Contract.

Submittals: Information that is submitted to the Procurement Administrator in accordance with the Scope of Work/Specifications.

DBE: Disadvantage Business Enterprise.

Work: Everything to be provided and done for the fulfillment of the Contract and shall include all goods and services specified under this Contract, including Contract Amendments and settlements.

## SECTION 1 - INSTRUCTIONS TO PROPOSERS

### 1-1 Introduction

The Luzerne County Transportation Authority (“LCTA” or “the Authority”) is the primary public transportation provider for Luzerne County PA. The LCTA is a municipal authority within the State of Pennsylvania. Currently, LCTA provides a network of 25 bus routes and 40 transit buses that travel throughout Luzerne and portions of Lackawanna Counties – a service area that provides transportation for nearly 1.2 million passengers annually.

In addition to traditional fixed-route service, LCTA provides ADA paratransit service (Shared Ride). In the provision of these services, LCTA employs an active fleet of approximately 50 ADA compliant wheelchair lift vans.

### 1-2 Purpose

The purpose of this Request for Proposals (RFP) is to secure a qualified contractor to install a perimeter security fence and gates at the 12+ acre site for the new LCTA garage & administration complex in Wilkes Barre, PA.

### 1-3 Proposal Submission

The proposer will submit one (1) original proposal with originals of all the required certifications and affidavits along with three(3) hard copies of the proposal, required certificates and affidavits. Oversize pages used for drawings or similar purposes are allowed. Each proposal, complete with affidavits and certifications, will be bound together with the required RFP Cover Page (page 1) and Vendor Checklist (Attachment A) on top. The package containing the proposal must be clearly marked with the words "Proposal for Security Fence RFP 19-20-002" and the time and date proposals are due. The Authority will not accept responsibility for late proposals that may be improperly routed in the mail or otherwise delivered after the prescribed date and time.

The Authority shall not be responsible for unintentional premature opening of a proposal that has not been properly addressed and identified per the instructions included with this RFP. All proposals are due NO LATER THAN 12:00 PM EST, March 4, 2020.

A Pre-Proposal Meeting is not scheduled, but it is advisable interested bidders contact the LCTA Project Mgr. and make arrangements to visit the construction site for a complete understanding of the project. (See section **1-8 Pre-Proposal Conference**)

### 1-4 Proposal Format and Required Content

Proposals shall be prepared in a clear, concise, and economical manner. Proposals should be bound simply, sections shall be tabbed to coincide with the sections of the RFP, and pages should be numbered in each section.

There is no page limitation or minimum document size, but any information the Proposer submits is expected to be concise and relevant to the RFP. Illustrations may be included

in the proposal. Proposals that do not adhere to the required format, are difficult to read or are deemed illegible by the Authority and may be rejected.

Proposals shall adhere to the following format and contain the following items in the order outlined below:

A. Cover Letter, providing the following information:

1. Identification of the proposer(s), including name, address and telephone number of the appropriate contact person at each company/firm.
2. Proposed working relationship among proposing companies/firms, i.e. prime-subcontractors, if applicable.
3. Signature of a person authorized to bind the proposing firm/company to the terms of the proposal.

B. RFP Cover Page and Attachments (Attachments A-N)

C. Notice of Exception(s) (if applicable)

D. Qualifications and Capabilities of the Company

1. Name(s) and title(s) of all key personnel proposed for the duration of the contract. In the event that oral presentations are conducted, the designated key personnel will be required to attend along with other representatives of the Proposer.
2. Provide a brief profile of the Proposer, including its principal line of business, year founded, form of organization and a general description of the Proposer's financial condition. Identify any conditions (bankruptcy, pending merger, pending litigation, planned office closures) that may impede the Proposer's ability to complete the project.
3. Identify all qualifications and organizational capabilities that will establish the proposer as a satisfactory provider of the required product or service by reason of its strength and stability.
4. Identify any and all subcontractors. For each subcontractor, provide the name the company, address, contact person, telephone number and project function(s).

E. Related Experiences and References

1. This section of the Proposal should establish the ability of the Proposer to provide the required product or service by demonstrating competence in the performance of services to be provided. Proposers should identify or provide any record(s) of satisfactory performance on similar contracts and supportive client references. Provide examples of similar contracts that the Proposer has undertaken (indicating current status of the contract) within the last two years. For each reference cited as related experience, furnish the name, title, address, and telephone number of the person(s) at the purchaser's

organization who is the most knowledgeable about the work performed.

F. Technical Proposal (to include)

1. Proposers must demonstrate their understanding of the project, describe their project approach and explain how they will meet LCTA's goals and objectives.
2. A response to each line item in Section 2, the Scope of Work. The proposer will identify the response to each line item in the order the line item appears in the Scope of Work. Identify how the line item requirements will be met and describe in detail the item being presented. This response will incorporate all addenda to the RFP. Each response should be clearly defined and shall include, but not be limited to, a detailed statement of how the Proposer intends to achieve full compliance, or an explanation of why full compliance cannot be attained.
3. Provide, in narrative form, a plan of how your organization, would approach this project if awarded the contract. This should include, but not be limited to, complete compliance with the Scope of Work, identification of potential shortfalls in your understanding of the requirements, and your ideas that would improve the likelihood of success for both parties.
4. Where the Scope of Work permits alternative means, methods, and/or materials to be employed, the proposal shall indicate the choice of the Proposer.
5. A comprehensive list of any disclaimers or caveats pertaining to the provision of service and start-up of services as described in LCTA's Scope of Work/Specifications. Except as clearly stated in this section, it shall be assumed that LCTA's Scope of Work shall supersede any and all such specifications that may be described and/or included in the proposal.

G. Cost/Price Proposal

The Cost/Price Proposal should identify and respond to each item in the Scope of Work. A summary of the cost/price proposal for each item in the proposal is required, showing fees for the basic work program. The cost for the entire proposal is also required. The Proposer/Bidder must demonstrate its financial capability, including financial resources to sustain operations between the time expenses are incurred and the time payment is made.

**1-5 Proposal Signatures**

Each proposal shall include the RFP Cover Page signed by a person authorized to bind the proposing firm to the terms of the Contract. Proposals signed by an agent are to be accompanied by evidence of that person's authority.

**1-6 Inquiries**

The proposer is required to show on all correspondence with the LCTA the following: "Proposal for Security Fence RFP 19-20-002". Any communication with LCTA should be

written and directed to: Lou Uritz, Procurement Director, LCTA, 315 Northampton St, Kingston, PA. 18704. Written communication may also be forwarded by email to [luritz@lctabus.com](mailto:luritz@lctabus.com) or if necessary, via facsimile to (570)288-7327. Correspondence will not be accepted by any other means or by any other LCTA staff member.

## 1-7 Procurement Schedule

The projected schedule for this procurement is:

Request for Proposals available:	January 15, 2020
Pre-proposal conference (see section 1-8 below)	See Section 1-8
Deadline for questions, clarifications and requests for approved equals:	February 7, 2020
Deadline for <u>responses</u> to questions, clarifications and requests for approved equals:	February 14, 2020
Proposals due by 12:00 pm:	March 4, 2020
Evaluation of proposals & possible interviews:	March 9-13, 2020
Recommend Contract Award at LCTA Board Meeting:	March 24, 2020
Anticipated start-up date:	NLT 30 days

## 1-8 Pre-Proposal Conference

There will be no pre-proposal conference, but all potential proposers should contact LCTA's Project Mgr. Vince Coviello (570-288-9356 x223, email: [vcoviello@lctabus.com](mailto:vcoviello@lctabus.com)) to schedule a site visit. At this meeting proposers will be given the opportunity to ask questions and familiarize themselves with all the conditions that may affect the time or cost of performance. The site visit is recommended for all proposers so it will not be necessary later on for proposers to make a subsequent claim or request a contract modification because of facts not known when the proposal was submitted.

## 1-9 Disadvantaged Business Enterprise (DBE) Participation

The LCTA has not established a DBE contract goal on this project. However, a proposer should make a good faith effort to include DBE participation, if possible. The Proposer can document adequate good faith efforts by showing that it took reasonable steps to achieve DBE participation, which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

For proposers to receive credit for the use of a DBE, the proposed DBE must be certified by a state Unified Certification Program prior to submission of the proposal. It is the policy of LCTA that Disadvantaged Business Enterprises (DBE's) as defined in 49 CFR Part 26 shall have a level playing field to compete fairly for DOT-assisted contracts. Contractor is encouraged to take all necessary and reasonable steps to ensure that DBE's have a level playing field to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the contractor

intends to subcontract a portion of the services on the project, contractor is encouraged to contact DBE's to solicit their interest, capabilities and qualifications.

It is the policy of LCTA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. Therefore, LCTA encourages prime contractors to use DBE financial institutions whenever possible.

49 CFR Part 26 requires LCTA to collect certain data about firms attempting to participate in FTA contracts. This data must be provided on the enclosed Firm Data Sheet (Attachment I).

- A. Certification – To be certified as a DBE, a firm must meet all certification eligibility standards. Firms that qualify as a DBE must: 1) be a small business as defined by the Small Business Administration; 2) be at least 51% owned by minorities, women and/or socially and economically disadvantaged adults, and 3) have its day-to-day operations controlled by women or minorities. The state Unified Certification Program will make its certification decisions based on the facts as a whole. DBE certification entitles contractors to participate in LCTA's DBE program; however this certification does not guarantee that the contractor will obtain work with LCTA.
- B. Process – A firm must apply for certification through the state UCP. Certification guidelines; applications for the PA UCP are available online as PDF's at the following links:

<https://www.dotsbe.pa.gov/PAUCPWeb/paucp/viewHome.do>

- C. DBE Program – For information about LCTA's DBE Program, firms may contact:

Frank Knorek, DBE Liaison Officer & Compliance Analyst  
Luzerne County Transportation Authority  
315 Northampton Street  
Kingston, Pennsylvania 18704  
(570)288-9356 x204 or email: [fknorek@lctabus.com](mailto:fknorek@lctabus.com)

## 1-10 Examination of RFP and Contract Documents

Proposers are expected to examine the Scope of Work, scope of services required, specifications, schedules, compliance requirements and all instructions. Failure to do so will be at the Proposer's risk. It is the intent of these specifications to provide product(s)/service(s) of first quality, and the workmanship must be the best obtainable in the various trades. The product(s)/service(s) proposed must be high quality in all respects. No advantage will be taken by the Proposer in the omission of any part or

detail, which goes to make the product/service(s) complete. All manner of workmanship and material used in the production of the services and not herein contained or specified shall be of the industry standard and shall conform to the best practices known in the industry.

Contractor will assume responsibility for all equipment used in the proposal item, whether the same is manufactured by the Contractor or purchased ready made from a source outside the Contractor's company. It is the sole responsibility of the Contractor to read the Scope of Work/Specifications and understand them.

The submission of a proposal shall constitute an acknowledgment upon which LCTA may rely on that the Proposer has thoroughly examined and is familiar with the solicitation, instructions and Scope of Work, including any work site identified in the RFP, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions addressing or relating to the goods and services to be provided hereunder. The failure or neglect of a Proposer to receive or examine such documents, work sites, statutes, regulations, ordinances, or resolutions shall in no way relieve the Proposer from any obligations with respect to its Proposal or to any Contract awarded pursuant to this RFP. No claim for additional compensation will be allowed which is based on lack of knowledge or misunderstanding of this RFP, work sites, statutes, regulations, ordinances, or resolutions.

#### **1-11 Interpretation of RFP and Contract Documents**

No oral interpretations as to the meaning of the RFP will be made to any Proposer. Any explanation desired by a Proposer regarding the meaning or interpretation of the RFP, Scope of Work, Specifications, etc., must be requested in writing and with sufficient time allowed (a minimum of fifteen (15) calendar days before the proposal due date) for a reply to reach all Proposers before the submission of their proposals. Any interpretation or change made will be in the form of an addendum to the RFP, specifications, etc., as appropriate. All addendums will be furnished as promptly as is practicable to all contractors who have registered to submit a proposal on this RFP and to whom the RFP has been issued to at least seven (7) calendar days prior to the proposal due date. **All addenda will become part of the RFP and any subsequently awarded Contract.** Oral explanations, statements, or instructions given by the Authority before the award of the Contract will not be binding upon the LCTA.

#### **1-12 Samples**

Samples of items, when called for, must be furnished free of charge. Samples must be labeled with the Proposer's name, manufacturer's brand name and number, proposal number, and item reference. Request for return of samples shall be accompanied by instructions, which include shipping authorization and name of carrier, and must be received within ninety (90) days after proposal opening date. If instructions are not received within this time, the commodities shall be disposed of by LCTA.

#### **1-13 Cost of Proposals**

LCTA is not liable for any costs incurred by Proposers in the preparation, presentation, testing, or negotiation of Proposals submitted in response to this solicitation.

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## SECTION 2 – SCOPE OF WORK

### 2.1 Introduction

The LCTA is seeking a qualified contractor (Proposer) to provide the installation of security fencing and gates surrounding the entire perimeter of the Authority's newly acquired 12+ acre property in Wilkes Barre, PA. Proposer will also be responsible for the clearing and grading of a 25 foot wide (approx.) area along the property fence line including removal of any existing fencing, clearing of large rocks, concrete slabs and clearing & grubbing of all vegetation (i.e., trees, bushes...etc.). This project is being undertaken to facilitate LCTA's goal of improving our security posture and to safe guard property and LCTA equipment.

**Site Prep and Land Clearing** Please Note: In addition to the installation of fencing, the work consists of the clearing, grubbing, and disposal of trees, snags, logs, brush, stumps, shrubs, large rocks, concrete slabs, and rubbish from the designated areas (all stumps, roots and root clusters shall be grubbed). This specification also includes the removal, salvage, and/or disposal of old fencing. Any materials or construction details contained within the design package supersede those of this construction specification; contractor is responsible for the cost of all necessary equipment.

### 2.2 Background

The Luzerne County Transportation Authority has purchased 12+ acres in downtown Wilkes-Barre, PA. The authority plans to consolidate all of its operations at this site along Pennsylvania Boulevard, which will include a garage, maintenance and storage facilities and administrative offices. It also plans to construct a fueling station for buses that run on compressed natural gas (CNG).

### 2.3 Scope of Work

LCTA is looking to install a fence that is six (8) feet high with three (3) strands of barbed wire along three sides of the property and a fence (6) feet high with barbed wire along one side (Pennsylvania Blvd.). The base fence line is approximately 3,900 feet. This would be a new installation. The LCTA has had a land/boundary survey completed and will provide upon request. Survey & maps can also be found on LCTA's website: <https://www.lctabus.com/business-center/#scrollpoint-rfp-ifb> (RFP 19-20-002)

Contractor is responsible for site cleanup including demolition and waste disposal including, but not limited to, removal of existing fencing, after the installation of the new perimeter security fence and gates.

### 2.4 Gate Specifications

Install a minimum of two (2) twenty five foot approx. double swing front entry gates. All gates must be able to be secured. (Note: these gates will eventually be replaced with fully automatic security gates)

## 2.5 Compliance

Contractor assumes responsibility for any and all permits and having underground public utilities located and marked.

## 2.6 Project Timeline

The initial period of the contract will be three (3) months; to be completed before July 31, 2020.

### General Specifications:

LCTA will be open to different style and design ideas that would be more efficient, durable, secure, and safer with the following minimum specifications:

1. Furnish and Install 1647 LF of 6'+1 Galv CLF. Specs: 2"x9ga galv. kt mesh, 1 5/8" top rail, 7ga bottom tension wire, 12.5 ga 3-strand barbed wire. All line posts and terminal posts will be post pounded.
2. Furnish and Install (1) 6'+1 Galv 25' DG. Specs: 1 7/8" galv gate frame, 4" galv gate posts, box hinges, 12.5 ga 3-strand barbed wire, 4' concrete foundation found depth with a diameter of 1.5'.
3. Furnish and Install 2381 LF of 8'+1 Galv CLF. Specs: 2"x9ga galv. kt mesh, 1 5/8" top rail, 7ga bottom tension wire, 12.5 ga 3-strand barbed wire. All line posts and terminal posts will be post pounded.
4. Furnish and Install (1) 8'+1 Galv 25' DG. Specs: 1 7/8" galv gate frame, 4" galv gate posts, box hinges, 12.5 ga 3-strand barbed wire, 4' concrete foundation found depth with a diameter of 1.5'.

Please note all LF dimensions are approximate. There will be no pre-proposal conference, but all potential proposers should contact LCTA's Project Mgr. Vince Coviello (570-288-9356 x223, email: [vcoviello@lctabus.com](mailto:vcoviello@lctabus.com)) to schedule a site visit. At this meeting proposers will be given the opportunity to ask questions and familiarize themselves with all the conditions that may affect the time or cost of performance. The LCTA has had a land/boundary survey completed and will provide a boundary survey upon request.

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## **SECTION 3 – SPECIAL PROVISIONS**

### **3-1 Postponement, Amendment and/or Cancellation of Request for Proposals**

The LCTA reserves the right to revise or amend any portion of this RFP prior to the date and time for the proposal delivery. Such revisions and amendments, if any, shall be issued through addenda to this RFP. Copies of such addenda and/or amendments shall be placed on the LCTA website and will be furnished to the Proposer's email address submitted on the Contractors Registration Form. If the revisions or addenda require changes in requested information or the format for proposal submission, the established date for submission of proposals contained in this RFP may be postponed by such number of days as, in the LCTA's opinion, shall enable Proposers adequate time to revise their proposals.

LCTA reserves the right to cancel this RFP at any time or change the date and time for submitting proposals by announcing same prior to the date and time established for proposal submittal.

### **3-2 Rejection of Proposals**

LCTA reserves the right to reject any or all proposals and waive any minor informalities or irregularities.

### **3-3 Clarification of Proposals**

The Authority reserves the right to obtain clarification of any point in a proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a Proposer to respond to such a request for additional information or clarification may result in the proposals' rejection.

### **3-4 Approved Equals**

In all cases, services and materials must be furnished as specified. Where brand names or specific items are used in the specifications, consider the term "or approved equal" to follow.

Any unapproved deviations, exceptions, substitutions, alternates or conditional qualifications contained in a proposal may be cause for its rejection.

If potential proposers believe that their product is equal to the product specified, they must submit a written request to LCTA on the provided form (Attachment D) and this request will be approved or rejected by LCTA at least seven (7) calendar days prior to the due date of proposals. Requests for approved equals and clarification of specifications must be received by LCTA in writing a minimum of eighteen (18) days before the proposal opening to allow analysis of the request.

Any request for an approved equal must be fully supported with catalog information, specifications and illustrations, or other pertinent information, as evidence that the substitute offered is equal to or better than the specification. Where an approved equal is requested, the Proposer must demonstrate the equality of this product to LCTA to

determine whether the Proposer's product is or is not equal to that specified.

### **3-5 Modification or Withdrawal of Proposals and Late Proposals**

At any time before the time and date set for submittal of proposals, a Proposer may request to withdraw or modify its Proposal. Such a request must be made in writing by a person with authority as identified on the RFP Cover Page, provided their identity is made known and a receipt is signed for the proposal. All proposal modifications shall be made in writing executed and submitted in the same form and manner as the original proposal. Any proposal or modification of proposal received at LCTA's office designated in the solicitation after the exact time specified for proposal receipt will not be considered.

### **3-6 Errors and Administrative Corrections**

LCTA will not be responsible for any errors in proposals. Proposers will only be allowed to alter proposals after the submittal deadline in response to requests for clarifications or Best and Final Offers by LCTA. LCTA reserves the right to request an extension of the proposal period from a Proposer or Proposers.

LCTA reserves the right to allow corrections or amendments to be made that are due to minor administrative errors or irregularities, such as errors in typing, transposition or similar administrative errors. Erasures or other changes or entries made by the proposer must be initialed by the person signing the proposal.

### **3-7 Compliance with RFP Terms and Attachments**

LCTA intends to award a Contract based on the terms, conditions, and attachments contained in this RFP. Proposers are strongly advised to not take any exceptions. Proposers shall submit proposals that respond to the requirements of the RFP. An exception is not a response to a RFP requirement. If an exception is taken, a "Notice of Exception" must be submitted with the proposal. The "Notice of Exception" must identify the specific point or points of exception and provide an alternative.

Proposers are cautioned that exceptions to the terms, conditions, and attachments may result in rejection of the proposal.

LCTA may, at its sole discretion, determine that a proposal with a Notice of Exception merits evaluation. A proposal with a Notice of Exception not immediately rejected, may be evaluated, but its competitive scoring will be reduced to reflect the importance of the exception. Evaluation and negotiation will only continue with the Proposer if LCTA determines that a Contract in the best interest of LCTA may be achieved. The Notice of Exception will be used as part of LCTA's evaluation of the proposal, and, therefore, must be made known during the course of the proposing process. Comments and exceptions substantially altering the form agreement will not be considered after conclusion of the bid process and the award of a contract. Failure to submit a marked-up copy of the form agreement with a bid proposal will be interpreted by LCTA as the proposer's acceptance of the form agreement provided herein.

### **3-8 Collusion**

The proposer guarantees that the proposal submitted is not a product of collusion with any other proposer, and no effort has been made to fix the proposal price of any proposer or to fix any overhead, profit, or cost element of any proposal price (Attachment G – Affidavit of Non-Collusion). Failure to submit the signed affidavit at the time of bid opening shall be grounds for disqualification of the proposer's offer.

If LCTA determines that collusion has occurred among Proposers, none of the proposals from the participants in such collusion shall be considered. LCTA's determination shall be final.

### **3-9 Pricing, Taxes and Effective Date**

The price to be quoted in any proposal will include all items of labor, materials, tools, equipment, delivery and other costs necessary to fully meet the requirements of LCTA. Any items omitted, which are clearly necessary for the completion of this project, will be considered a portion of such specifications, although not directly specified.

Price proposals shall include all freight charges, FOB to the designated delivery points.

LCTA is exempt from payment of Federal, Excise and Transportation Tax, and the Pennsylvania Sales, Excise and Use Tax. Proposers will not include these taxes in their proposed price(s). All other government taxes, duties, fees, licenses, permits, royalties, assessments, and charges shall be included in the proposed price.

In the event of a discrepancy between the unit price and the extended amount for a required item, the unit price will govern.

The price quoted by the proposing companies/firms will not change for a period of ninety (90) days, beginning from the date the proposal is opened.

### **3-10 Proposal Alternatives**

Proposals shall address all requirements identified in this solicitation. In addition, LCTA may consider proposal alternatives submitted by Proposers that provide enhancements beyond the RFP requirements. Proposal alternatives may be considered if deemed to be in LCTA's best interests. Proposal alternatives must be clearly identified.

### **3-11 Exclusionary or Discriminatory Specifications**

LCTA agrees that it will comply with the requirements of 49 U.S.C. Section 5323(h) (2) by refraining from using any Federal assistance awarded by the FTA to support procurements using exclusionary or discriminatory specifications. LCTA further agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by Federal Statute.

### **3-12 Protest Procedures**

#### Pre-Proposal Protests

All protests concerning solicitation specifications, criteria and/or procedures shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the LCTA Board Chairman & Executive Director as specified below not later than ten (10) business days prior to the deadline for submission of bids/proposals.

The Board Chairman/Executive Director may, within his or her discretion, postpone the deadline for submission of bids/proposals, but in any case, shall provide a written response to all protests not later than five (5) business days prior to the deadline for submission of bids/proposals. If the deadline for submission of bids/proposals is postponed by the Board Chairman/Executive Director as the result of a protest, the postponement will be announced through an addendum to the solicitation.

The decision by the Board Chairman/Executive Director shall be the final agency decision on the matter but shall be subject to judicial review as set forth by FTA below.

#### Pre-Award Protests

With respect to protests made after the deadline for submission of bids/proposals but before contract award by LCTA, protests shall be limited to those protests alleging a violation of Federal or State law, a challenge to the bids/proposals evaluation and award process.

LCTA's failure to have or follow its protest procedures or its failure to review a complaint or protest. Such protests shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Board Chairman and Executive Director as specified below not later than five (5) business days after the Recommendation for Contract Award announcement by LCTA.

The Board Chairman/Executive Director, within his or her discretion, postpone the award of the contract, but in any case, shall provide a written response to all protests not later than three (3) business days prior to the date that LCTA shall announce the contract award.

The decision by the Board Chairman shall be the final agency decision on the matter but shall be subject to judicial review as set forth or review by FTA as specified below.

#### Requirements for Protests

All protests must be submitted to LCTA in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail), with sufficient documentation, evidence and legal authority to demonstrate that the Protestor is entitled to the relief requested. The protest must be certified as being true and correct to the best knowledge and information of the Protestor, and be signed by the Protestor. The protest must also include a mailing address to which a response should be sent.

Protests received after the deadlines for receipt of protests specified above are subject to denial without any requirement for review or action by LCTA.

All protests must be directed in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the Board Chairman & Executive Director at the address shown in the solicitation documents.

### Protest Response

The Board Chairman/Executive Director shall issue written responses to all protests received by the required protest response dates. All protest responses shall be transmitted by first-class U.S. Postal Service to the address indicated in the protest letter.

For convenience, LCTA will also send a copy of the response to a protest to the Protester by facsimile and/or electronic mail if a facsimile number and/or electronic mail address are indicated in the protest letter. The protest response transmitted by U.S. Postal Service shall be the official LCTA response to the protest and LCTA will not be responsible for the failure of the Protester to receive the protest response by either facsimile or electronic mail.

### **3-13 Single Proposal Response**

If only one Proposal is received in response to the RFP, a sample of two (2) Proposals, if available, awarded to the Proposer within the past two (2) years may be requested of the single Proposer. A cost/price analysis and/or audit may be performed of the cost proposal in order to determine if the price is fair and reasonable.

### **3-14 Insurance Requirements**

Contractor shall not commence work until all insurance required under this section has been obtained and the proper insurance verification has been provided to LCTA.

#### **3-14.1 General Requirements**

All insurance policies shall be written with a company or companies licensed to conduct business within the Commonwealth of Pennsylvania and holding a current Best's Key Rating of A- VII or better. Contractor agrees to name LCTA as additional insureds on General, Business Automobile and Excess or Umbrella liability policies **by endorsement to the policies**. Insurance policies shall be endorsed to give LCTA 30 day's written notice (10 days in case of Workers Compensation) of cancellation for any reason, non-renewal or material change in coverage or limits. In case of non-payment of premium by Contractor, LCTA retains the rights but is not obligated to pay any premiums and deduct such amounts from any payments due to the Contractor.

There shall be no exclusions for punitive damages in the General or Business Automobile policies.



Complete, certified copies of all insurance policies applicable to this agreement will be sent to LCTA within 60 days of each inception or anniversary date, so that these insurance policies may be reviewed by LCTA. Until copies of policies are received, Evidence of Coverage in the form of an original Certificate of Insurance shall be submitted to LCTA. The Contractor also agrees to have deficiencies in the insurance policies amended as per the directions of LCTA or its representative.

### 3.14.2 Required Coverages

The Contractor agrees to provide the following coverages:

- A. **Commercial General Liability** (Occurrence Form), either singly or in combination with Excess or Umbrella Liability Insurance policy **covering all operations** with the following limits:

Each Occurrence (Bodily Injury, Property Damage)	\$1,000,000
Personal and Advertising Injury Limit	\$1,000,000
General Aggregate Limit	\$1,000,000
Products and Completed Operations Aggregate Limit	\$1,000,000
Fire Damage Limit	\$50,000
Medical Payments – Any One Person	\$5,000

- B. **Business Automobile Policy** either singly or in combination with Excess or Umbrella Liability Insurance policy **covering all operations** with the following limits:

Owned, Hired or Non Owned (Per Accident)	\$1,000,000
Medical Payments (Each Person)	\$5,000
Comprehensive (\$5,000 Deductible – Maximum)	Actual Cash Value
Collision (\$5,000 Deductible – Maximum)	Actual Cash Value

In the case of policies that list specific vehicles or specific drivers, proof of coverage is required to be provided to LCTA for each vehicle or driver before it can be used in service. The Contractor will be fully responsible for all physical damage deductibles to LCTA owned vehicles. In addition, Contractor will be fully responsible for all rental costs and other costs associated with any vehicles that replace any vehicle that sustains any type of physical damage.

- C. **Workers Compensation**

Part A	Statutory
Part B – Employers Liability	
Bodily Injury by Accident	\$500,000
Bodily Injury by Disease (Policy Limit)	\$500,000
Bodily Injury by Disease (Each Employee)	\$500,000

All States and Voluntary Compensation endorsements shall be included in the Workers Compensation policy. Workers Compensation shall be provided to all employees of the Contractor.

## SECTION 4 – PROPOSAL EVALUATION & CONTRACT AWARD

### 4-1 General

LCTA shall employ the qualification-based selection in a negotiated purchase method in making the award for this procurement. Technical information and price information will be evaluated.

Offerors will be required to submit supporting documentation on the technical aspects and cost. The Evaluation Committee may elect to interview proposers in order to clarify their proposals and/or for the Proposers to make oral presentations. If interviews, presentations, or negotiations are held, the evaluation team may reevaluate the proposals of those firms interviewed. LCTA expects all offerors to fully cooperate with its evaluation process.

### 4-2 Eligibility for Award

In order to be eligible for award, proposers must be responsive and responsible.

- A. Responsive proposals are those complying in all material aspects of the solicitation, both as to the method and timeliness of submission and as to the substance of the resulting Contract. Proposals that do not comply with all the terms and conditions of the solicitation may be rejected as non-responsive.
- B. Responsible proposers are those prospective Contractors who, at a minimum, must satisfy the following criteria described herein. In addition to being otherwise qualified and eligible to receive the contract award under applicable laws and regulations, a responsible contractor:
  - (a) Integrity and Ethics – Has a satisfactory record of integrity and business ethics, in compliance with 49 U.S.C. Section 5325(j)(2)(A).
  - (b) Debarment and Suspension – Is neither debarred nor suspended from Federal programs under DOT regulations, “Non-procurement Suspension and Debarment,” 2 CFR Parts 180 and 1200, or under the FAR at 48 CFR Chapter 1, Part 9.4.
  - (c) Affirmative Action and DBE – Is in compliance with the Common Grant Rules’ affirmative action and FTA’s Disadvantaged Business Enterprise requirements.
  - (d) Public Policy – Is in compliance with the public policies of the Federal Government, as required by 49 U.S.C. § Section 5325(j)(2)(B).
  - (e) Administrative and Technical Capacity – Has the necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them, in compliance with 49 U.S.C. Section 5325(j)(2)(D).
  - (f) Licensing and Taxes – Is in compliance with applicable licensing and tax

laws and regulations.

- (g) Financial Resources – Has, or can obtain, sufficient financial resources to perform the contract, as required by 49 U.S.C. Section 5325(j)(2)(D).
- (h) Production Capability – Has, or can obtain, the necessary production, construction, and technical equipment and facilities.
- (i) Timeliness – Is able to comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.
- (j) Performance Record – Is able to provide a:
  - (1) Current Performance – Satisfactory current performance record; and/or
  - (2) Past Performance – Satisfactory past performance record in view of its records of long-time performance or performance with a predecessor entity, including: sufficient resources, adequate past experience and any past deficiencies not the fault of the Proposer.

#### **4-3 Evaluation of Proposals**

The Evaluation Committee will evaluate the proposals in accordance with the criteria set forth below. The total evaluation points, as separately determined by each evaluation committee member, will be added and each proposer will be ranked in numerical sequence, from the highest to the lowest score. LCTA may then select the proposal that is considered to be the most advantageous to LCTA.

#### **4-4 Scoring and Evaluation Criteria**

Each criterion has been assigned a weighting factor that reflects the relative significance or priority each criterion has in determining the costs and quality associated with this service. Conversely, the proposal receiving the highest total score shall be deemed the proposal in the opinion of LCTA, best meets the established criteria listed herein. Proposals will be rated on a scale from one (lowest rating) to ten (highest rating) with regard to each evaluation criterion. As such, the proposal that is evaluated by an evaluation team member as the best with regard to a particular criterion will receive the maximum number of points for that criterion. The evaluation criteria are listed as follows:

- Quality of the Items Proposed
- Project Approach
- Qualifications & Capabilities of the Company/Staff Proposed
- References
- Overall Price

The Scope of Work, as amended through the request for approved equals or exception process, and any addenda thereto, will set forth the minimum requirements of the components, warranty, service, support, and other deliverables LCTA requires through this procurement.

The award of this contract shall be made to the proposer whose proposal, in the opinion

of LCTA, best meets the established criteria listed herein.

#### **4-5 Competitive Range**

The competitive range is determined through a preliminary evaluation of proposals, which applies the evaluation criteria as set forth above. The groups remaining in the competitive range may be invited to participate in additional evaluations, testing, Best and Final Offer, or negotiations.

#### **4-6 Negotiations**

LCTA may undertake concurrent negotiations with proposers determined to be within a competitive range. LCTA does, however, reserve the right to award a contract based on the original proposal without any negotiations. The decision to award without negotiation may be made by LCTA if, in the sole opinion of LCTA, preliminary evaluation of the proposals received indicates that the best achievable and technically acceptable proposal has been received.

Concurrent negotiations with all proposers whose proposals are within the competitive range may be conducted by LCTA. Negotiations may be entered into with one or more Proposers to finalize contract terms and conditions. In the event negotiations are not successful, LCTA may initiate negotiations with the next ranking proposer or reject proposals.

Negotiation of a Contract will be in conformance with all applicable federal, state, and local laws, regulations, rules, and procedures. The objective of the negotiations will be to reach agreement on all provisions of the proposed Contract. The LCTA may elect to submit a revised cost as part of the negotiation process based on current market values.

Upon completion of negotiations, the proposal that best meets the requirements of the RFP and ranks the highest evaluation score earned by its proposal based on the evaluation criteria shall be recommended to LCTA's Board of Directors as the successful proposer for award.

#### **4-7 Contract Award**

Contract award, if any, will be made by LCTA to the responsible Proposer whose proposal best meets the requirements of the RFP, and will be the most advantageous to LCTA with respect to operational plan, quality, and other factors as evaluated by LCTA. LCTA shall have no obligations until a Contract is signed between the Proposer and LCTA.

Contract award will occur when LCTA signs the Contract or issues a purchase order. No other act of LCTA shall constitute Contract award. The Contract will establish the Contract value and incorporate the terms of this document, but will not be the authorization for Contractor to proceed.

#### **4-8 Execution of Contract and Notice to Proceed**

The Proposer to whom LCTA intends to award the Contract shall sign the Contract and return it to LCTA. Upon authorization by LCTA's Board of Directors, or designee, the

Contract will be countersigned. Upon receipt by LCTA of any required documentation and submittals by the Proposer, a Notice to Proceed may be issued, if appropriate.

#### **4-9 Public Disclosure of Proposals**

LCTA is subject to the Pennsylvania Freedom of Information Act. Therefore, the contents of this RFP and the Contractor's proposal submitted in response to this RFP shall be considered public documents and are subject to the Pennsylvania FOIA statutes. As such, all proposals submitted to LCTA will be available for inspection and copying by the public after the selection process has been concluded. There are, however, various items that may be exempt under public disclosure laws. If any proprietary, privileged, or confidential information or data is included in the Contractor's proposal, each page that contains this information or data should be marked as such (e.g., "Proprietary," "Confidential," "Business Secret," or "Competition Sensitive") in order to indicate your claims to an exemption provided in the Pennsylvania FOIA. It is LCTA's sole right and responsibility, however, to make the determination whether these items are exempt or not exempt under the Pennsylvania FOIA statutes.

All data, documentation and innovations developed as a result of these contractual services shall become the property of LCTA.

## **SECTION 5 – STANDARD CONTRACTUAL TERMS & CONDITIONS**

### **5-1 Administration**

This Contract is between LCTA and the Contractor who will be responsible for providing the goods and/or performing the services described herein. LCTA is not party to defining the division of work between the Contractor and its Subcontractors, if any, and the Specifications and/or Scope of Services has not been written with this intent.

Contractor represents that it has or will obtain all duly licensed and qualified personnel and equipment required to perform hereunder. Contractor's performance under this Contract may be monitored and reviewed by a Project Manager appointed by LCTA. Reports and data required to be provided by Contractor shall be delivered to the Project Manager. Questions by Contractor regarding interpretation of the terms, provisions, and requirements of this Contract shall be addressed to the Procurement Administrator and Project Manager for response.

### **5-2 Notification of Delay**

Contractor will notify LCTA's Procurement Administrator/Project Manager as soon as Contractor has, or should have, knowledge that an event has occurred which will delay delivery or start-up of services. Within five days, Contractor will confirm such notice in writing furnishing as many details as is available.

### **5-3 Request for Extension**

Contractor agrees to supply, as soon as such data are available, any reasonable proofs that are required by LCTA's Procurement Administrator/Project Mgr. to make a decision of any request for extension. LCTA's Procurement Administrator/Project Mgr. will examine the request and any documents supplied by Contractor and will determine if Contractor is entitled to an extension and the duration of such extension. LCTA's Procurement Administrator/Project Mgr. will notify Contractor of the decision in writing. It is expressly understood and agreed that Contractor will not be entitled to damages or compensation, and will not be reimbursed for losses on account of delays resulting from any cause under this provision.

### **5-4 Contract Changes**

Any proposed change in the contract will be submitted to LCTA for its prior written approval and LCTA will make the change by a Change Order. LCTA may, at any time by written order, and without notice to the sureties, make changes within the general scope of this contract. No oral order or conduct by LCTA will constitute a Change Order unless confirmed in writing by LCTA.

If any such change causes an increase or decrease in the cost or the time required for the performance of any part of the work under this Contract, an equitable adjustment will be made, at the sole discretion of LCTA, in the Contract price, or delivery schedule, or both, and the Contract will be modified in writing accordingly. Every Change Order may require a cost/price analysis to determine the reasonableness of the proposed change.

Any claim by Contractor for adjustment under this clause must be asserted within fourteen (14) calendar days from the date of receipt by Contractor of the notification of change. The request for equitable adjustment must be in writing and state the general nature and monetary extent of the claim. LCTA may require additional supporting documents and cost or price analysis to determine the validity of the claim.

No claim by Contractor for an equitable adjustment hereunder will be allowed if asserted after final payment under this Contract. No claim will be allowed for any costs incurred more than twenty (20) calendar days before Contractor gives written notice, as required in this section.

## **5-5 Change Order Procedure**

- A. Contractor Changes: Any proposed change in this Contract shall be submitted to LCTA's Procurement Administrator/Project Mgr. for approval.
- B. Written Change Orders: Oral change orders are not permitted. No change in this Contract shall be made unless LCTA's Project Manager or Procurement Administrator gives prior written approval therefore. Contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting any specification change not properly ordered by written modification to the Contract and signed by LCTA's Project Manager.
- C. Change Order Procedure: Within 15 days after receipt of the written request to modify the Contract, the Contractor shall submit to LCTA's Procurement Administrator & Project Mgr. a detailed price and schedule Bid for the work to be performed. This Bid shall be accepted or modified by negotiations between the Contractor and LCTA's Procurement Administrator/Project Mgr. At that time, both parties shall execute a detailed modification in writing. Disagreements that cannot be resolved within negotiations shall be resolved in accordance with subsection 5-21, Disputes, Claims and Appeals. Regardless of any disputes, the Contractor shall proceed with the work ordered.
- D. Price Adjustment for Regulatory Changes: If price adjustment is indicated, either upward or downward, it shall be negotiated between LCTA and Contractor for changes that are mandatory because of legislation or regulations that are promulgated and become effective between the date of Bid opening and the date of contract performance. Such price adjustment may be modified where required.

## **5-6 Instructions by Unauthorized Third Persons**

In accordance with subsection 5-4, Contract Changes, of the solicitation, LCTA's Project Mgr. or his authorized representative are the only persons authorized to make changes within the general scope of the Contract.

Any instructions, written or oral, given to Contractor by someone other than LCTA's PM or his authorized representative, which are considered to be a change in the Contract, will not be considered as an authorized Contract change. Any action on the part of

Contractor taken in compliance with such instructions will not be grounds for subsequent payment or other consideration in compliance with the unauthorized change.

#### **5-7 Cost or Price Analysis**

LCTA reserves the right to conduct a cost or price analysis for any purchase. LCTA may be required to perform a cost analysis when competition is lacking for any purchase. Sole source procurements which result in a single Bid being received will be subject to a cost analysis which will include the appropriate verification of cost data, the evaluation of specific elements of costs and the projection of data to determine the effect on Bid prices. LCTA may require a Pre-Award Audit and potential Contractors shall be prepared to submit data relevant to the proposed work which will allow LCTA to sufficiently determine that the proposed price is fair, reasonable, and in accordance with Federal, State and local regulations. Procurements resulting in a single Bid will be treated as a negotiated procurement and LCTA reserves the right to negotiate with the single Proposer to achieve a fair and reasonable price. If a negotiated price cannot be agreed upon by both parties, LCTA reserves the right to reject the single Bid. Contract change orders or modifications will be subject to a cost analysis.

#### **5-8 Lack of Funds**

If expected or actual funding is withdrawn, reduced, or limited in any way prior to the expiration date set forth in this Contract or in any amendment hereto, LCTA may, upon written notice to Contractor, terminate this Contract in whole or in part. Such termination shall be in accordance with LCTA's rights to terminate for convenience or default.

#### **5-9 Force Majeure**

The timely receipt of LCTA's requirements is essential. If the requirements are not received on time in accordance with the delivery schedule, LCTA may cancel the unfilled portion of the contract for cause, purchase substitute requirements elsewhere, and recover from Contractor any increased costs, thereby incurred together with all resulting incidental and consequential damages. LCTA may also terminate for cause, purchase substitute requirements elsewhere and recover costs and damages for breach of Contractor obligations.

The Contractor shall be entitled to a reasonable extension of time from LCTA for the delays caused by damage to Contractor's and/or LCTA's property caused by fire, lightning, earthquakes, tornadoes, and other extreme weather conditions or acts of nature, power failures, riots, acts of civil or military authorities of competent jurisdiction, strikes, lockouts, and any other industrial, civil or public disturbances beyond the control of the Contractor and its subcontractors causing the inability to perform the requirements of this Contract. Any delay other than one mentioned above shall constitute a breach of Contractor's contractual obligations.

#### **5-10 Taxes, Licenses, Laws, and Certificate Requirements**

Contractor shall maintain and be liable for all taxes, fees, licenses, and costs as may be required by federal, state, and local laws, rules, and regulations for the conduct of business by Contractor and any subcontractors and shall secure and at all times maintain any and all such valid licenses and permits as may be required to provide the services or



supplies under this Contract. If for any reason, Contractor's required licenses or certificates are terminated, suspended, revoked, lapsed, or in any manner modified from their status at the time this Contract becomes effective, Contractor shall immediately notify LCTA in writing of such condition.

Contractor will give all notices and comply with all federal, state, local and LCTA laws, ordinances, rules, regulations, standards, and orders of any public authority bearing on the performance of the Contract, including, but not limited to, the laws referred to in these General Provisions of the Contract and the other Contract Documents. If the Contract Documents are at variance therewith in any respect, any necessary changes shall be adjusted by appropriate modification. Omission of any applicable laws, ordinances, rules, regulations, standards or orders by LCTA in the Contract Documents shall be construed as an oversight and shall not relieve the Contractor from his obligations to meet such fully and completely. Upon request, Contractor shall furnish to LCTA certificates of compliance with all such laws, orders and regulations. Contractor shall be responsible for obtaining all necessary permits and licenses required for performance under the Contract.

Applicable provisions of all federal, state, and local laws, and of all ordinances, rules, and regulations shall govern any and all claims and disputes which may arise between person(s) submitting a Bid response hereto and LCTA, by and through its officers, employees and authorized representatives, or any other persons, natural and otherwise, and lack of knowledge by any Contractor shall not constitute a cognizable defense against the legal effect thereof.

#### **5-11 Defective Work, Materials or Services**

When and as often as LCTA determines that the work, materials, or services furnished under the Contract are not fully and completely in accordance with any requirement of the Contract, it may give notice and description of such non-compliance to Contractor. Within seven (7) calendar days of receiving such written notification, Contractor must supply LCTA with a written detailed plan, which indicates the time and methods needed to bring the work, materials, or services within acceptable limits of the Contract. LCTA may reject or accept this plan at its discretion. In the event this plan is rejected, the work, materials, or services will be deemed not accepted and returned to Contractor at Contractor's expense. This procedure to remedy defects is not intended to limit or preclude any other remedies available to LCTA by law, including those available under the Uniform Commercial Code.

#### **5-12 No Waiver of Warranties or Contractual Rights**

Conducting of tests and inspections, review of specifications or plans, payment for a product or service, or acceptance of a product or service by LCTA shall not constitute a waiver, modification, or exclusion of any express or implied warranty or any right under this Contract or in law.

#### **5-13 Assignment**

Contractor shall not assign any interest, obligation, or benefit under or in this Contract or transfer any interest in the same, whether by assignment or notation, without the prior written consent of LCTA. If an assignment is approved, this Contract shall be binding

upon and inure to the benefit of the successors of Contractor. This provision shall not prevent Contractor from pledging any proceeds from this Contract as security to a lender. An assignment may be conditioned upon the posting of bonds, securities and the like by the assignee and the assignee must assume the written Contract and be responsible for the obligations and liabilities of Contractor, known and unknown, under this Contract and applicable law.

LCTA may assign its rights and obligations under the Contract to any successor to the rights and functions of LCTA or to any governmental agency to the extent required by applicable laws or governmental regulations, or to the extent LCTA deems necessary or advisable under the circumstances.

#### **5-14 Indemnification and Hold Harmless**

To the maximum extent permitted by law and except to the extent caused by the sole negligence of LCTA and/or the extent caused by decisions, omissions or actions made in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner which is believed to be in the best interests of LCTA, Contractor shall indemnify, defend and hold harmless LCTA's, Board Members officers, officials, agents, and employees, from and against any and all claims, suits, actions, losses, costs, penalties, and damages of any kind or nature whatsoever arising out of, in connection with, or incident to the goods and/or services provided by or on behalf of Contractor. In addition, Contractor shall, at LCTA's option, assume the defense of LCTA and its officers and employees in all legal or claim proceedings arising out of, in connection with, or incident to such goods and/or services, and shall pay all defense expenses, including reasonable attorney's fees, expert fees, and costs incurred by LCTA on account of such litigation or claims. This indemnification obligation shall include, but is not limited to, all claims against LCTA by an employee or former employee of Contractor or its subcontractors, and Contractor, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects LCTA only, under any industrial insurance act, other Worker's compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. This indemnification obligation shall also obligate Contractor to protect, indemnify, defend, and save harmless LCTA's Board Members, officers, officials, agents, and employees from any and all claims or lawsuits alleging a violation of a third party's copyright or patent rights arising out of or in connection with Contractor's provision of goods and/or services under this Contract. Notwithstanding anything provided in this section, LCTA retains the right to provide its own defense against any suits, claims, or actions, and to assess any costs of such defense to Contractor, including attorney's fees, expert witness fees, and court costs.

#### **5-15 Applicable Law and Forum**

All work done pursuant to any contract resulting from this RFP will be governed by and construed according to the laws of the Federal Transit Administration, PA Department of Transportation and the laws of the State of Pennsylvania. Further, the successful Proposer shall abide by all federal, state, and local laws, codes, and ordinances governing any areas(s) in which a service is rendered and shall have all required permits, licenses, agreements, tariffs, bonding, and insurance required by same. No claims for additional payment shall be approved for changes required to comply with any such requirements. Any actions arising here from shall be filed in the State of Pennsylvania,

County of Luzerne and the Federal Transit Administration if applicable.

#### **5-16 Attorney Fees**

In the event either party shall engage the services of an attorney or other professional due to the default of the other party, the defaulting (non-prevailing) party shall pay all legal costs and fees, including attorney's fees, incurred by the non-defaulting (prevailing) party in enforcing its rights.

#### **5-17 LCTA Code of Ethics Policy (Note: Complete LCTA Code of Ethics Policy available upon request)**

Luzerne County Transportation Authority has adopted a Code of Ethics for all LCTA employees. These policies shall apply to LCTA employees involved in procurement. It is a breach of ethical standards for any LCTA employee to participate directly or indirectly in a procurement when the employee knows:

- The employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement;
- A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
- Any other person, business or organization with whom the employee or any member of employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement. In addition, any persons acting as members of an evaluation committee for any procurement shall, for the purposes of the procurement, be bound by conditions of this Section. Throughout the bid/proposal evaluation process and subsequent contract negotiations, offerors shall not discuss or seek specific information about this procurement, including but not limited to, the contents of submissions, the evaluation process or the contract negotiations, with members of any evaluation committee, the Board of Directors, or other Luzerne County Transportation Authority employees other than the designated procurement officer.

#### **5-18 Conflicts of Interest and Non-Competitive Practices**

- A. Conflict of Interest – Contractor by entering into this Contract with LCTA to perform or provide work, services, or materials, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services, or materials required to be performed and/or provided under this Contract and that it shall not employ any person or agent having any such interest. In the event that Contractor or its agents, employees or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to LCTA and take action immediately to eliminate the conflict or to withdraw from this Contract, as LCTA may require.
- B. Contingent Fees and Gratuities – Contractor, by entering into this Contract with LCTA to perform or provide work, services, or materials, has thereby covenanted:
1. No person or selling agency except bona fide employees or designated

agents or representatives of Contractor has been or will be employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and

2. No gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by Contractor or any of its agents, employees, or representatives, to any official, member or employee of LCTA or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract.

#### **5-19 Conflicts of Interest – Current and Former Employees**

LCTA seeks to eliminate and avoid actual or perceived conflicts of interest and unethical conduct by current and former LCTA employees in transactions with LCTA. Consistent with this policy, no current or former LCTA employee may contract with, influence, advocate, advise, or consult with a third party about a LCTA transaction, or assist with the preparation of Bids submitted to LCTA while employed by LCTA or within one (1) year after leaving LCTA's employment, if he/she participated in determining the work to be done or process to be followed while a LCTA employee.

All Proposers, Proposers, vendors, or contractors who anticipate contracting with LCTA must identify at the time of offer, such current or former LCTA employees involved in preparation of Bids/Bids or the anticipated performance of the work or services if awarded the Contract. Failure to identify former LCTA employees involved in this transaction may result in LCTA's denying or terminating this Contract. In addition, after award, Contractor is responsible for notifying LCTA's Procurement Administrator of current or former LCTA employees who may become involved in the Contract any time during the term of the Contract.

Furthermore, no member, officer, or employee of LCTA during their tenure or for two (2) years thereafter will have any financial interests, direct or indirect, in this Contract or the proceeds thereof.

#### **5-20 Disputes, Claims and Appeals**

Contractor shall address questions or claims regarding meaning and intent of the Contract or arising from this Contract in writing to the Procurement Administrator within ten (10) calendar days of the date in which Contractor knows or should know of the question or claim. The Procurement Administrator will ordinarily respond to Contractor in writing with a decision, but absent such written response, the question or claim shall be deemed denied upon the tenth day following receipt by the Procurement Administrator.

In the event Contractor disagrees with any determination or decision of the Procurement Administrator, Contractor may, within five (5) calendar days of the date of such determination or decision, appeal the determination or decision in writing to the Proj. Mgr. Such written notice of appeal shall include all documents and other information necessary to substantiate the appeal. The PM will review the appeal and transmit a decision or determination in writing. The decision will be considered final. Appeal to the PM shall be a condition precedent to litigation hereunder.

All claims, counterclaims, disputes and other matters in question between LCTA and Contractor that are not resolved between the Procurement Administrator and/or PM and Contractor or through alternative dispute resolution will be decided pursuant to Paragraph 3-12 above.

Pending final decision of a dispute hereunder, Contractor shall proceed diligently with the performance of the Contract and in accordance with the direction of the Procurement Administrator and/or PM. Failure to comply precisely with the time deadlines under this Subsection as to any claim shall operate as a waiver and release of that claim and an acknowledgment of prejudice to LCTA.

## **5-21 Mediation and Arbitration**

If a dispute arises out of or relates to this Contract, or the breach thereof, and if said dispute cannot be settled through direct discussions, the Parties agree to first endeavor to settle the dispute in an amicable manner by mediation. Thereafter, any unresolved controversy or claim arising out of or relating to this Contract, or breach thereof, may be settled by arbitration, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The Parties to this Contract may seek to resolve disputes pursuant to arbitration, but are not required to do so. Nothing in this paragraph precludes any Party from seeking further relief once the required alternative dispute resolution efforts have failed.

## **5-22 Reports, Record Retention, Audit Access and Proof of Compliance**

- A. Reports: The Contractor agrees to provide to the Federal Transit Administration and PennDOT those reports required by U.S. DOT's grant management rules and any other reports the Federal & State Government may require.
- B. Record Retention: The Contractor agrees that, during the course of the Project and for three (3) years thereafter, it will maintain intact and readily accessible all data, documents, reports, records, contracts, and supporting materials relating to the Project as the Federal Government may require for the project.
- C. Audit Access:
  - 1. Federal, state, local, or LCTA auditors shall have access to Contractor's and its subcontractors' records for the purpose of inspection, cost or price analysis, audit, or other reasonable purposes related to this Contract. Federal, state, local, or LCTA auditors shall have access to records and be able to copy such records during Contractor's normal business hours. Contractor shall provide proper facilities for such access, inspection, and copying.
  - 2. Audits may be conducted during or after the Contract period for purposes of evaluating claims by or payments to Contractor and for any other reason deemed appropriate and necessary by LCTA. Audits shall be conducted in accordance with generally accepted auditing principles

and/or federal, state, local, or LCTA audit procedures, laws, or regulations. Contractor shall fully cooperate with the auditor(s).

3. If an audit is commenced more than sixty (60) days after the date of final payment for contract work, LCTA shall give reasonable notice to Contractor of the date on which the audit shall begin.

- D. Proof of Compliance with Contract: Contractor shall, upon request, provide LCTA with satisfactory documentation of Contractor's compliance with the Contract. In addition, Contractor shall permit LCTA, and if federally funded the FTA and the Comptroller General of the United States, or a duly authorized representative, to inspect all work, materials, payrolls, and other data and records involving the Contract.

### **5-23 Other Public Agency Orders**

Other federal, state, county, and local entities may utilize the terms and conditions established by this Contract. LCTA does not accept any responsibility or involvement in the purchase orders or contracts issued by other agencies.

### **5-24 Severability**

Whenever possible, each provision of this Contract shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal, or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid, and enforceable and have the intent and economic effect as close as possible to the invalid, illegal, and unenforceable provision.

### **5-25 Non-waiver of Breach**

No action or failure to act by LCTA shall constitute a waiver of any right or duty afforded to LCTA under the Contract; nor shall any such action or failure to act by LCTA constitute an approval of, or acquiescence in, any breach hereunder, except as may be specifically stated by LCTA in writing.

### **5-26 Use of LCTA's Name in Contractor Advertising or Public Relations**

LCTA reserves the right to review and approve all LCTA-related copy prior to publication. Contractor will not allow LCTA-related copy to be published in Contractor's advertisements or public relations programs until submitting LCTA-related copy and receiving prior written approval from LCTA's Project Manager. Contractor will agree that published information on LCTA or its program will be factual, and in no way imply that LCTA endorses Contractor's firm, service, or product.

### **5-27 Contract Work Hours and Safety Standards Act**

**The Contract Work Hours and Safety Standards Act (CWHSSA)** is a United States federal law that covers hours and safety standards in construction contracts. This Act also prohibits unsanitary, hazardous, or dangerous working conditions on federal and federally financed and assisted construction projects.

The records to be maintained under this clause shall be made available by the Contractor or Sub-contractor for inspection, copying, or transcription by authorized representatives of the FTA, US Department of Transportation, or the Department of Labor, and the Contractor or Sub-contractor will permit such representatives to interview employees during working hours on the job.

**5-28 Americans With Disability Act (ADA)**

The Authority and Contractor shall comply with all applicable state and federal requirements under the ADA.

**5-29 Nondiscrimination on the Basis of Disability**

Contractor agrees to comply with the applicable laws and regulations, discussed below, for nondiscrimination on the basis of disability.

- (a) Section 504 of the Rehabilitation Act of 1973, as amended (Section 504) – 29 U.S.C. § 794, prohibits discrimination on the basis of disability by recipients of Federal financial assistance.
- (b) The Americans with Disabilities Act of 1990, as amended (ADA) – 42 U.S.C. § 12101 *et seq.*, prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, as well as imposes specific requirements on public and private providers of transportation.

**5-30 Davis Bacon & Copeland Anti-Kickback Acts (see section 8-11)**

## **SECTION 6 – SPECIFIC CONTRACTUAL TERMS & CONDITIONS**

### **6-1 Type of Contract**

Any contract resulting from this solicitation will be structured as a firm, fixed-price contract.

### **6-2 Contract Documents and Precedence**

The documents constituting the Contract between LCTA and Contractor are intended to be complementary so that what is required by any one of them shall be as binding as if called for by all of them. In the event of any conflicting provisions or requirements within the several parts of the Contract Documents, the following order of precedence shall be applied:

- 1) Any required federal, state or local regulations that may not be altered by LCTA;
- 2) Contract;
- 3) Contract amendments;
- 4) Results of negotiations;
- 5) Solicitation and all issued addenda and approved equals;
- 6) Any optional federal regulations elected by LCTA as expressly set forth herein;
- 7) Clarifications of and amendments to Contractor's proposal as accepted by LCTA; and
- 8) Contractor's proposal and Attachments, and all clarifications and amendments issued prior to contract award.

### **6-3 Contract Term**

The term of the Contract shall be for three (3) months beginning on the date the contract is signed and ending three (3) months later. Contract award should occur no later than March 24, 2020.

### **6-4 Contract**

A Contract shall be issued referencing this solicitation. The Contract shall define and authorize the work by Contractor based on the prices agreed to by LCTA. The Contract(s) issued by LCTA may reflect agreed to modification of Contract terms, funding, or other matters subject to subsection 5-4, Contract Changes.



## **6-5 Payment Procedures**

Payments for services rendered and expenses incurred shall be made after presentation of Contractor's invoices upon delivery of goods ordered by LCTA. Such invoices shall be computed in accordance with the fee schedule agreed to by LCTA and Contractor, and incorporated into the final contract, and are due and payable within thirty (30) days of receipt of a correct invoice as agreed upon by LCTA. Each invoice shall contain Contractor's list of items delivered. Contractor also agrees to supply, with each invoice, additional information as may be requested by LCTA.

Invoices should clearly identify the LCTA purchase order number and any prompt payment discount offered to LCTA for paying within ten (10) days of receipt. LCTA may, at any time, conduct an audit of any and/or all records kept by the Contractor for this project. Any overpayment uncovered in such an audit may be charged against the Contractor's future invoices. LCTA may withhold payment for services it believes were improper, failed to meet with project specifications, or are otherwise questionable. Invoices should be submitted to:

Luzerne County Transportation Authority  
Accounts Payable  
315 Northampton Street  
Kingston, PA. 18704

## **6-6 Advance Payment Prohibited**

No advance payment shall be made for the work furnished by Contractor pursuant to this Contract.

## **6-7 Price Adjustments**

Price adjustments either upward or downward may be negotiated only at the time of renewal unless LCTA requests a contract modification.

## **6-8 Shipping Charges**

All prices shall include freight FOB to the designated delivery point. LCTA shall reject requests for additional compensation for freight charges.

## **6-9 Delivery Points**

This Contract requires all goods and/or services and supervision necessary to furnish the goods and services as set forth herein to be made to any authorized LCTA-related facility, and will be determined at the time of order at the sole discretion of LCTA.

## **6-10 Summary Report**

Contractor shall, if requested, submit to LCTA a quarterly report of services provided to LCTA under this Contract. The report, in a format acceptable to LCTA, shall identify by item the amount of work completed, the status of the project in relation to the schedule, and any other information that may be relevant to project oversight.

## 6-11 Warranty Provisions

- A. No Waiver of Warranties and Contract Rights: Conducting of tests and inspections, review of Scope of Work or plans, payment for a work, or acceptance or final acceptance of the work by LCTA shall not constitute a waiver of any rights under this Contract or in law. The termination of this Contract shall in no way relieve Contractor from its warranty/guarantee responsibility.
- B. Warranty: Contractor warrants that the work performed under this Contract shall be free from defects in material and workmanship, and shall conform to all requirements of this Contract. Any work corrected shall be subject to this subsection to the same extent as the work initially provided.
- C. Warranty Applicable to Third Party Suppliers, Vendors, Distributors, and Subcontractors: Contractor shall ensure that the warranty requirements of this Contract are enforceable through and against Contractor's suppliers, vendors, distributors, and subcontractors. Contractor is responsible for liability and expense caused by any inconsistencies or differences between the warranties extended to LCTA by Contractor and those extended to Contractor by its suppliers, vendors, distributors, and subcontractors. Such inconsistency or difference shall not excuse Contractor's full compliance with its obligations under this Contract. Contractor shall cooperate with LCTA in facilitating warranty related work by such suppliers, vendors, distributors, and subcontractors.

## 6-12 Express Warranties for Services

Contractor warrants that the services shall in all material respects conform to the requirements of this Contract. Contractor warrants that qualified professional personnel with in-depth knowledge shall perform the services in a timely and professional manner; and that the services shall conform to the standards generally observed in the industry for similar services. Contractor warrants that the services shall be in compliance with all applicable laws, rules, and regulations.

## 6-13 Warranty Remedies

If at any time before Final Acceptance of any work covered by this Contract, Contractor or LCTA discovers one or more material defects or errors in the work of any other aspect in which the work materially fails to meet the provisions of the warranty requirements herein, Contractor shall, at its own expense and within thirty (30) days of notification of the defect by LCTA, correct the defect, error, or nonconformity.

Notice Required – LCTA shall give written notice of any defect to Contractor. If Contractor has not corrected the defect within thirty (30) days after receiving the written notice, LCTA, in its sole discretion, may correct the defect itself. In the case of an emergency where LCTA believes delay could cause serious injury, loss, or damage, LCTA may waive the written notice and correct the defect. In either case, LCTA shall charge-back the cost for such warranty repair to Contractor.

Contractor is responsible for all costs of repair or replacement in order to restore the

work to the applicable Contract requirements or scope of work, including shipping charges, for work found defective before Final Acceptance, regardless of who actually corrects the defect.

#### **6-14 Independent Status of Contractor**

In the performance of this Contract, the parties shall be acting in their individual, corporate, or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent contractor relationship shall be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim or right, privilege or benefit, which would accrue to an employee.

#### **6-15 Notices**

Any notice which is required to be given hereunder shall be deemed sufficiently given or rendered if such notice is in writing and is delivered personally or sent by certified mail, postage prepaid, return receipt requested, or by a national overnight courier service to the following addresses:

Luzerne County Transportation Authority  
Lou Uritz, Procurement Director  
315 Northampton Street  
Kingston, PA 18704

Any notice given hereunder by personal delivery or express mail shall be deemed delivered when received. Any properly addressed notice given herein by certified mail shall be deemed delivered when the return receipt therefore is signed, or refusal to accept the mailing by the addressee is noted thereon by the postal authorities. Either party may, at any time, change its address for the above purposes by sending a notice to the other party stating the change and setting forth the new address.

#### **6-16 Non-Disclosure of Data**

Data provided by LCTA either before or after Contract award shall only be used for its intended purpose. Proposers, vendors, Contractors, and subcontractors shall not utilize or distribute the LCTA data in any form without the prior express written approval of LCTA.

#### **6-17 Non-Disclosure Obligation**

While providing the work required under this Contract, Contractor might encounter licensed technology, software, documentation, drawings, schematics, manuals, data, or other materials marked "Confidential," "Proprietary," or "Business Secret." Contractor shall, with regard to such information and material received or used in performance of this Contract, employ practices no less than those used for the protection of Contractor's own confidential information.

The Contract imposes no obligation upon Contractor with respect to confidential

information which Contractor can establish that: a) was in the possession of, or was rightfully known by Contractor without an obligation to maintain its confidentiality prior to receipt from LCTA or a third party; b) is or becomes generally known to the public without violation of this Contract; c) is obtained by Contractor in good faith from a third party having the right to disclose it without an obligation of confidentiality; or, d) is independently developed by Contractor without the participation of individuals who have had access to LCTA's or the third party's confidential information. Contractor may disclose confidential information if so required by law, provided that Contractor notifies LCTA that the third party of such requirement prior to disclosure.

#### **6-18 Public Disclosure Requests**

Contracts shall be considered public documents and, with exceptions provided under public disclosure laws, will be available for inspection and copying by the public.

If a Contractor considers any portion of any documents which may be delivered to LCTA pursuant to this Contract to be protected under the law, Contractor shall clearly identify each such item with words such as "Confidential," "Proprietary," or "Business Secret." If a request is made for disclosure of any such document, LCTA will determine whether the document should be made available under the law. If the document or parts thereof are determined by LCTA to be exempt from public disclosure, LCTA will not release the exempted document. If the document is not exempt from public disclosure law, LCTA will notify Contractor of the request and allow Contractor five (5) days to take whatever action it deems necessary to protect its interests. If Contractor fails or neglects to take such action within said period, LCTA will release the document deemed subject to disclosure. By signing a Contract, Contractor assents to the procedure outlined in this paragraph and shall have no claim against LCTA on account of actions taken under such procedure.

#### **6-19 Ownership of Data**

Subject to the rights granted Contractor pursuant to this Agreement, all right, title and interest in and to the data collected and developed during the performance of this contract shall at all times remain the sole and exclusive property of LCTA. Contractor shall surrender all such data to LCTA prior to submitting an invoice for final payment.

#### **6-20 Patents and Royalties**

Contractor is responsible for paying all license fees, royalties, or the costs of defending claims for the infringement of any intellectual property that may be used in performing this Contract. Before final payment is made on this Contract, Contractor shall, if requested by LCTA, furnish acceptable proof of a proper release from all such fees or claims.

#### **6-21 Changed Requirements**

New federal, state, and local laws, regulations, ordinances, rules, policies, and administrative practices may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing requirements, Contractor agrees to accept all changed requirements that apply to this Contract and require subcontractors to comply with revised requirements as well. Changed requirements will be implemented through subsection 5-5, Change Order Procedure.

## **6-22 Counterparts**

This Contract may be signed in two (2) counterparts, each of which shall be deemed an original and which shall together constitute one (1) Contract.

## **6-23 Contractual Relationships**

No contractual relationship will be recognized under the Contract other than the contractual relationship between LCTA and the Prime Contractor.

## **6-24 Bid Bond Requirements**

### **a. Bid Security**

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

### **b. Rights Reserved**

In submitting this Bid, it is understood and agreed by bidder/proposer that the right is reserved by the LCTA 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 ninety (90) days subsequent to the opening of bids, without the written consent of the LCTA.

It is also understood and agreed that if the undersigned bidder/proposer should withdraw any part or all of his bid within ninety (90) days after the bid opening without the written consent of the LCTA, will 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 the LCTA's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

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 the LCTA as provided [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense the LCTA for the damages occasioned by default, then the undersigned bidder agrees to indemnify the LCTA and pay over to the LCTA the difference between the bid security and LCTA's total damages, so as to make the LCTA 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.

- c. LCTA shall specify bonds in compliance with (1) FTA requirements for construction or facility improvement contracts in FTA 4220.1F, Chapter IV, 2. h., and (2) the Pa. Procurement Code at 62 Pa. C. S. §902 and §903.

Bonding for Construction Activities Exceeding \$100,000	5% bid guarantee bond. 100% performance bond. Payment bond equal to: – 50% for contracts < \$1M. – 40% for contracts >\$1M – < \$5M. – \$2.5M for contracts > \$5M.
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## SECTION 7 - STATE OF PENNSYLVANIA CONTRACT REQUIREMENTS

### 7-1 Interest of Members of in Congress

No member of or delegate to the Pennsylvania General Assembly shall be admitted to any share or part of this contract or to any benefit arising therefrom.

### 7-2 Prohibited Interests

No member, or officer, or employee of the LCTA or a local public body with financial interest or control in this contract during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

### 7-3 Contract Changes

Any proposed change in this contract shall be submitted to the LCTA for its prior approval.

### 7-4 Escalation

The Department does not allow escalation clauses as part of specifications or contract.

### 7-5 Equal Employment Opportunity

The Contractor will be required to comply with all applicable Equal Employment Opportunity laws and regulations.

### 7-6 Financial Assistance

This contract is subject to financial assistance contracts between the LCTA and the United States & Pennsylvania Departments of Transportation.

**7-7 Subcontracts**

The contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Project Manager & Procurement Administrator, which consent may be withheld at the sole and absolute discretion of the contracting officers.

**7-8 Audit and Inspection of Records**

The contractor shall permit the authorized representatives to the LCTA and the State of Pennsylvania to inspect and audit all data and records of the contractor relating to his performance under the contract.

**7-9 Assignment**

Assignment of any portion of the work by Subcontract must be approved in advance by the LCTA.

**7-10 Retention of Records**

The contractor shall maintain records to show actual time devoted and cost incurred for a minimum of three (3) years after the completion of the contract.

**7-11 Ownership of Records**

The LCTA shall retain ownership of all plans, specifications, and related documents

**7-12 Government Inspection**

Representatives of the State of Pennsylvania shall have access to the site of construction and shall have the right to inspect all project works.

**7-13 Insurance**

The contractor and his subcontractors shall maintain Workmen's Compensation, Public Liability Property Damage, and Vehicle Liability Insurance in amounts and on terms satisfactory to the Department and the grantee. The contractor shall carry Builders' Risk Insurance, including fire and extended coverage, on 100 percent of the completed value of the insurable portion of construction. Such insurance coverage is required to remain in effect until the construction has been accepted by the LCTA.

**7-14 Prime Contractor Participation**

The prime contractor shall perform on the site, with his own staff, work equivalent to at least 10 percent of the total amount of construction work at the site. Only pay items of the construction contract will be used in computing the total amount of construction at the work site.

#### **7-15 Warrantee of Construction**

For a period of (to be determined) from the date of completion, as evidenced by the date of final acceptance of the work, the Contractor warrants that work performed under this contract conforms to the contract requirements and is free of any defect of equipment, material or workmanship performed by the Contractor or any of his subcontractors or suppliers.

Under this warranty, the Contractor shall remedy at his own expense any such failure to conform or any such defect. Nothing in the above intends or implies that this warranty shall apply to work that has been abused or neglected by the LCTA.

#### **7-16 Certified Payrolls**

The Contractor must maintain and upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with the Enhanced Minimum Wage Provisions.

#### **7-17 Project Compliance**

The work performed by the successful Proposer in response to this RFP shall be in compliance with all applicable federal, state, and local laws and their respective rules and regulations. The successful Proposer shall ensure that all applicable federal & state requirements shall flow down to any subrecipients or subcontractors. This compliance shall be at the successful Proposer's expense. Venue for any legal action arising out of the resulting contract and between the parties hereto shall be exclusively in Luzerne County, Pennsylvania.



## **SECTION 8 - FEDERAL TRANSIT ADMINISTRATION (FTA) REQUIREMENTS**

### **8-1 No Obligation by the Federal Government**

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.

### **8-2 Program Fraud and False or Fraudulent Statements or Related Acts**

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

### **8-3 Access to Records and Reports**

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
7. FTA does not require the inclusion of these requirements in subcontracts.

#### **8-4 Changes to Federal Requirements**

Federal Changes - 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](#) between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### **8-5 Termination**

##### **a. Termination for Convenience**

The LCTA 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 LCTA to be paid the Contractor. If the Contractor has any property in its possession belonging to the LCTA, the Contractor will account for the same, and dispose of it in the manner the LCTA directs.

##### **b. Termination for Default**

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

If it is later determined by the LCTA 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, the LCTA, 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**

The LCTA in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 30 business days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to LCTA's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from LCTA setting forth the nature of said breach or default, LCTA 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 LCTA 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 LCTA elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by LCTA shall not limit LCTA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

**e. 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, the LCTA may terminate this contract for default. The LCTA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient 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 the Recipient 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 the Recipient 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 without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, 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 the LCTA in writing of the causes of delay. If in the judgment of the LCTA, the delay is excusable, the time for completing the work shall be extended. The judgment of the LCTA 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 the Recipient.

**8-6 Civil Rights Requirements**

The following requirements apply to the underlying contract:

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

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

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

## **8-7 Disadvantaged Business Enterprise (DBE) Participation**

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is .74%. No DBE participation goal has been established for this procurement.
- b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the LCTA deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the LCTA. In addition, the contractor may not hold retainage from its subcontractors.
- d. The contractor must promptly notify the LCTA, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the LCTA.

## **8-8 Incorporation of FTA Terms**

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 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

## **8-9 Suspension and Debarment**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

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

#### **8-10 Energy Conservation**

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

#### **8-11 Davis Bacon & Copeland Anti-Kickback Acts**

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

(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.

(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 therefor 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.

(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** - The LCTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the LCTA 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)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

(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. (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
2. (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. (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 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, 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 longer 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 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 1, 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.

#### **8-12 Recycled Products**

Recovered Materials - 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.

**ATTACHMENT A**  
**VENDOR CHECKLIST**

(Verification that all necessary documents are included)

This form must be completed and returned with the technical proposal. Failure to return this form may be cause for considering your proposal non-responsive.

	<u>Vendor Check-Off</u>	<u>LCTA Check-Off</u>
Cover Letter	_____	_____
RFP Cover Page	_____	_____
Attachment A: Vendor Checklist	_____	_____
Attachment B: Proposal Affidavit	_____	_____
Attachment C: Addendum Page	_____	_____
Attachment D: Request for Clarification	_____	_____
Attachment E: Ineligible Proposer Certification	_____	_____
Attachment F: Non-Collusion Affidavit	_____	_____
Attachment G: Firm Data Sheet	_____	_____
Attachment H: DBE Good Faith Effort	_____	_____
Attachment I: DBE Letter of Intent	_____	_____
Attachment J: DBE Affidavit	_____	_____
Attachment K: DBE Unavailable Certification	_____	_____
Attachment L: Prevailing Wage Compliance	_____	_____
Attachment M: Luzerne County Prevailing Wages	_____	_____
Attachment N: Proposal Pricing	_____	_____

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**ATTACHMENT B**  
**PROPOSAL AFFIDAVIT**

The undersigned hereby declares that he/she has carefully read and examined the Advertisement, the Scope and Terms, the Specifications, Warranty, and Quality Assurance Requirements, with all supporting certificates and affidavits, for the provision of services specified at the prices stated in the fee proposal.

Signed: \_\_\_\_\_

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

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

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



**ATTACHMENT C**  
**ADDENDUM CHECKLIST**

The undersigned acknowledges receipt of the following addenda to this RFP. (Include the number and date for each entry.)

Addendum Number _____	Dated _____
Addendum Number _____	Dated _____
Addendum Number _____	Dated _____
Addendum Number _____	Dated _____
Addendum Number _____	Dated _____
Addendum Number _____	Dated _____
Addendum Number _____	Dated _____

Failure to acknowledge the receipt of all addenda may cause the proposal to be considered non-responsive to this Request for Proposal, which will require rejection of the proposal.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**ATTACHMENT D**

**REQUEST FOR CLARIFICATION / APPROVED EQUALS**

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

Proposing Company: \_\_\_\_\_

Section of the RFP: \_\_\_\_\_ Page Number: \_\_\_\_\_

Proposer's Request: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LCTA Response: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Approved \_\_\_\_\_

Denied \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_

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

**ATTACHMENT E**

**CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

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

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

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

Authorized Official: \_\_\_\_\_

Signature: \_\_\_\_\_

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

---

Where the Contractor is unable to certify to any of the statements in this certification, such Contractor shall attach an explanation to this proposal.

The Contractor, \_\_\_\_\_ certifies or affirms the truthfulness and accuracy of the contents of the statement submitted on or with this certification and understands that the provisions of 31 U.S.C. Sections 3801 ET Seq. are applicable thereto.

Authorized Official: \_\_\_\_\_

Signature: \_\_\_\_\_

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

---

**ATTACHMENT F**

**AFFIDAVIT OF NON-COLLUSION**

I hereby swear (or affirm) under the penalty for perjury:

1. That I am the proposer (if the proposer is an individual), a partner in the proposal (if the proposer is a partnership), or an officer or employee of the proposing corporation having authority to sign on its behalf (if the proposer is a corporation);
2. That the attached proposal has been arrived at by the proposer independently and have been submitted without collusion and without any agreement, understanding, or planned common course of action with any other vendor or materials, supplies, equipment, or service described in the Request for Proposals, designed to limit independent proposals or competition;
3. That the contents of this bid proposal has not been communicated by the proposer or its employees or agents to any person not an employee or agent of the proposer or its surety on any bond furnished with the proposal, and will not be communicated to any such person prior to the official opening of the proposal; and
4. That I have fully informed myself regarding the accuracy of the statements made in the affidavit.

Signed: \_\_\_\_\_

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Notary Public: \_\_\_\_\_

My Commission expires \_\_\_\_\_, 20\_\_\_\_\_

Proposer's Federal Employer Identification Number: \_\_\_\_\_  
(Number used on Employer's Quarterly Federal Tax Return)

## ATTACHMENT G

### FIRM DATA SHEET

The prime consultant is responsible for submitting the information requested below **for all firms on the project team, both prime and subcontractors**. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit complete data will result in the Expression of Interest not being considered.

Firm's Name and Address	Firm's DBE Status*	Firm's Age	Firm's Annual Gross Receipts

\* Y = DBE-Certified by IDOT  
N = Not DBE-Certified by IDOT

NA = Firm Not Claiming DBE Status  
IP = DBE-Certification In-Process

## ATTACHMENT H

### GOOD FAITH-EFFORT

*(For information only – not to be returned)*

1. The LCTA has not established a goal for Disadvantaged Business Enterprise (DBE) participation for this contract. However, a proposer should make a good faith effort to include DBE participation, if possible. The Proposer can document adequate good faith efforts by showing that it took reasonable steps to achieve DBE participation, which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
2. The LCTA will use the good-faith efforts mechanism as required by 49 CRF part 26. It is up to the LCTA to make a fair and reasonable judgment whether a proposer made adequate good-faith efforts. The LCTA will consider the quality, quantity, and intensity of the different kinds of efforts that the proposer made. The efforts employed by the proposer should be those that one could reasonably expect a proposer to take, if the proposer were actively and aggressively trying to obtain DBE participation. Mere pro forma efforts are not good-faith efforts to meet the DBE contract requirements. As emphasized by the Department of Transportation, LCTA's determination concerning the sufficiency of the firm's good-faith efforts is a judgment call; meeting quantitative formulas is not required.
3. The LCTA will not require that a proposer meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the proposer shows that an adequate good-faith was made. The rule specifically prohibits the LCTA from ignoring bona fide good-faith efforts.
4. The following is a list of types of actions that the LCTA will consider as part of the proposer's good-faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
  - a. Soliciting through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising, and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The proposer must determine with certainty whether or not a DBE is certified.
  - b. The DBEs are interested by taking appropriate steps to follow up initial solicitations.
  - c. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
  - d. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

## ATTACHMENT H (CONTINUED)

### GOOD-FAITH EFFORT

- e. Negotiating in good-faith with interested DBEs. It is the proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

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

- f. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's standing within its industry, membership in specific groups, organizations, or associations, and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of proposals from DBEs in the Contractor's efforts to meet the project goal.
- g. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance, as required by the recipient or contractor.
- h. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- i. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; Federal, State, and Local minority/women business assistance offices; and other organizations, as allowed on a case-by-case basis, to provide assistance in the recruitment and placement of DBEs.

**ATTACHMENT I**  
**DBE LETTER OF INTENT**

To: \_\_\_\_\_  
(Name of Proposer)

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

Individual \_\_\_\_\_ Corporation \_\_\_\_\_  
Partnership \_\_\_\_\_ Joint Venture \_\_\_\_\_.

The Disadvantaged Business Enterprise status of the undersigned is confirmed:

1. On the reference list of Disadvantaged Business Enterprises dated \_\_\_\_\_; or
2. On the attached Disadvantaged Business Enterprise Identification Statement.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The DBE contractor will perform this work at the following price:

\_\_\_\_\_

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

Items	Projected Commencement Date	Projected Completion Date
_____	_____	_____
_____	_____	_____



**ATTACHMENT I (CONTINUED)**

**DBE LETTER OF INTENT**

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

Name of Disadvantaged Business Enterprise: \_\_\_\_\_

By: \_\_\_\_\_

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

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

**ATTACHMENT J**  
**DBE AFFIDAVIT**

State of \_\_\_\_\_

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

County: \_\_\_\_\_

The undersigned, being duly sworn, deposes and says that he/she is the (sole owner, partner, president, treasurer, or other duly authorized official of a corporation) of

\_\_\_\_\_  
(Name of Official)

\_\_\_\_\_  
(Name of DBE)

and certifies that since the date of its certification through the IL UCP, the certification has not been revoked nor has it expired nor has there been any change in the minority status of

\_\_\_\_\_  
(Name of DBE)

\_\_\_\_\_  
(Signature and Title of Person Making Affidavit)

Sworn to before me this \_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(Notary Public)

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

**ATTACHMENT K**

**DBE UNAVAILABLE CERTIFICATION**

I, \_\_\_\_\_, the \_\_\_\_\_  
(Name) (Title)

of \_\_\_\_\_ certify that on \_\_\_\_\_  
(Proposer/Prime Contractor) (Date)

I contacted the following Disadvantaged Business Enterprise to obtain a proposal to perform the following work item(s):

<b>DBE Organization</b>	<b>Work Items Sought</b>	<b>Form of Proposal Sought (i.e., materials, materials &amp; labor, labor only, etc.)</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_

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

\_\_\_\_\_ was offered an opportunity on \_\_\_\_\_  
(Name of Disadvantaged Business Enterprise) (Date)

by \_\_\_\_\_ to submit a proposal to perform the above identified work.  
(Proposer)

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

Signed: \_\_\_\_\_  
(Disadvantaged Business Enterprise Official)

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

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

**ATTACHMENT L**

**CERTIFICATE OF COMPLIANCE – PREVAILING WAGES**

The Vendor shall agree to comply with the Pennsylvania Prevailing Wage Act by signing and dating the following:

**PENNSYLVANIA PREVAILING WAGE ACT**  
**Act of Aug. 15, 1961, P.L. 987, No. 442** **C1. 43**  
AN ACT

**§ 9.101. Purpose and scope.**

(a) Every contract to which the Commonwealth, its political subdivisions, an authority created by the General Assembly of the Commonwealth including authorities created under the Municipality Authorities Act of 1945 (53 P. S. §§ 301 - 401) and instrumentalities or agencies of the Commonwealth is a party, for construction, reconstruction, demolition, alteration or repair work other than maintenance work where the estimated cost of the total project is in excess of \$25,000, which requires or involves the employment by a contractor or subcontractor of laborers, mechanics, skilled and semi-skilled laborers and apprentices in the performance of services directly upon the public work project shall include in its specifications a provision stating the general prevailing minimum wage rates as determined by the Secretary which shall be paid for each craft or classification of workmen needed to perform the contract during the anticipated term thereof in the locality in which the public work is performed.

(b) Every person paid by a contractor or a subcontractor in any manner for his labor in the construction, reconstruction, demolition, alteration or repair work other than maintenance work done under contract and paid for in whole or in part out of the funds of a public body except work performed under a rehabilitation program or manpower training programs is "employed" and "receiving wages."

(c) These regulations do not apply to a public works contracts subject to the Walsh-Healey Act (41 U.S.C.A. §§ 35 - 45) or section 1 of the Davis-Bacon Act (40 U.S.C.A. § 276(a)).

(d) Work performed under a rehabilitation program arranged by and at a State institution primarily for teaching and up-grading the skills and employment opportunities of the inmates of the institution is not to be considered public work performed by a public body as defined in the act and this Subchapter.

By signature below, the Bidder/Proposer, \_\_\_\_\_, agrees to comply with this Prevailing Wage Ordinance.

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

\_\_\_\_\_  
Print - Name and Title of Bidder's Authorized Official

\_\_\_\_\_  
Date

## ATTACHMENT M

### LUZERNE COUNTY PREVAILING WAGES

# Prevailing Wage Act

The Bureau of Labor Law Compliance updated its Pennsylvania Building Journey person Laborer Notes to clarify existing tasks performed throughout the Commonwealth. The "Building Laborer Notes" link on the Bureau's website provides a list of those tasks that should be read in conformity with custom and usage of the construction industry in the geographic region in which they are utilized.

#### [Current Labor and Industry Debarment List](#)

The Department of Labor and Industry, through the **Bureau of Labor Law Compliance**, determines prevailing wage rates for the construction industry and enforces the rates and classifications under heavy, highway and building construction projects of \$25,000 or more when public funds are involved. The Department also determines the prevailing minimum wage rates and employee benefits for specific localities and classifications. The Prevailing Wage Regulations allow the Secretary of Labor and Industry to consider collective bargaining agreements and other types of data for purposes of determining the wage rates.



Department of Labor & Industry: <https://www.dli.pa.gov/>

**Please see the following Department of Labor & Industry links for information related to the Pennsylvania Prevailing Wage Act:**

<https://www.dli.pa.gov/Individuals/Labor-Management-Relations/llc/prevailing-wage/Pages/default.aspx>

<https://www.dli.pa.gov/Individuals/Labor-Management-Relations/llc/prevailing-wage/Pages/Quick-Links.aspx>

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**ATTACHMENT N**  
**PROPOSAL PRICING FORM**

The undersigned hereby declares that he/she has carefully read and examined the Public Notice, the Request for Proposal, terms, and requirements, with all supporting certificates and affidavits, for the goods and services noted herein, and that he/she will enter into contract negotiations for said provision of goods and services, as specified, using the costs identified herein, as the basis for those contract negotiations. **Detailed cost information shall be attached and meet the requirements as described in the Proposal.**

PROJECT DETAILS	PROJECT COST
Materials	\$
Installation	\$
<b>TOTAL PROJECT COST</b>	<b>\$</b>

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Official's Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone Number



**Top Rail**  
Top Rail adds additional strength and provides the look of permanent fencing without the high price of similar security options.

**Tension Wire**  
Tension Wire strengthens the fence and prevents it from being damaged from illegal entry if accessed from above, or if installed below, secures the base of the fence.

**Barbed Wire**  
3-Strand Barbed Wire is a superior security deterrent, sending the message that you are serious and you might want to attempt to gain illegal access to your job site.

Imagery ©2019 Google, Imagery ©2019 Maxar Technologies, PA Department of Conservation and Natural Resources-PAMAP/USGS, Map data ©2019 50 ft

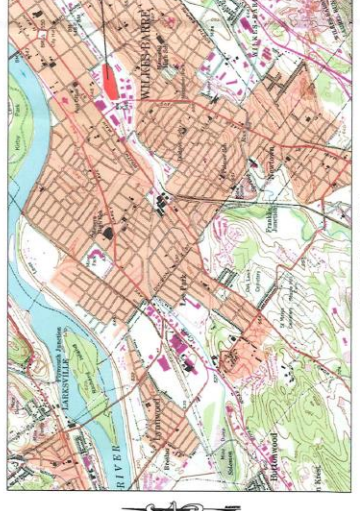
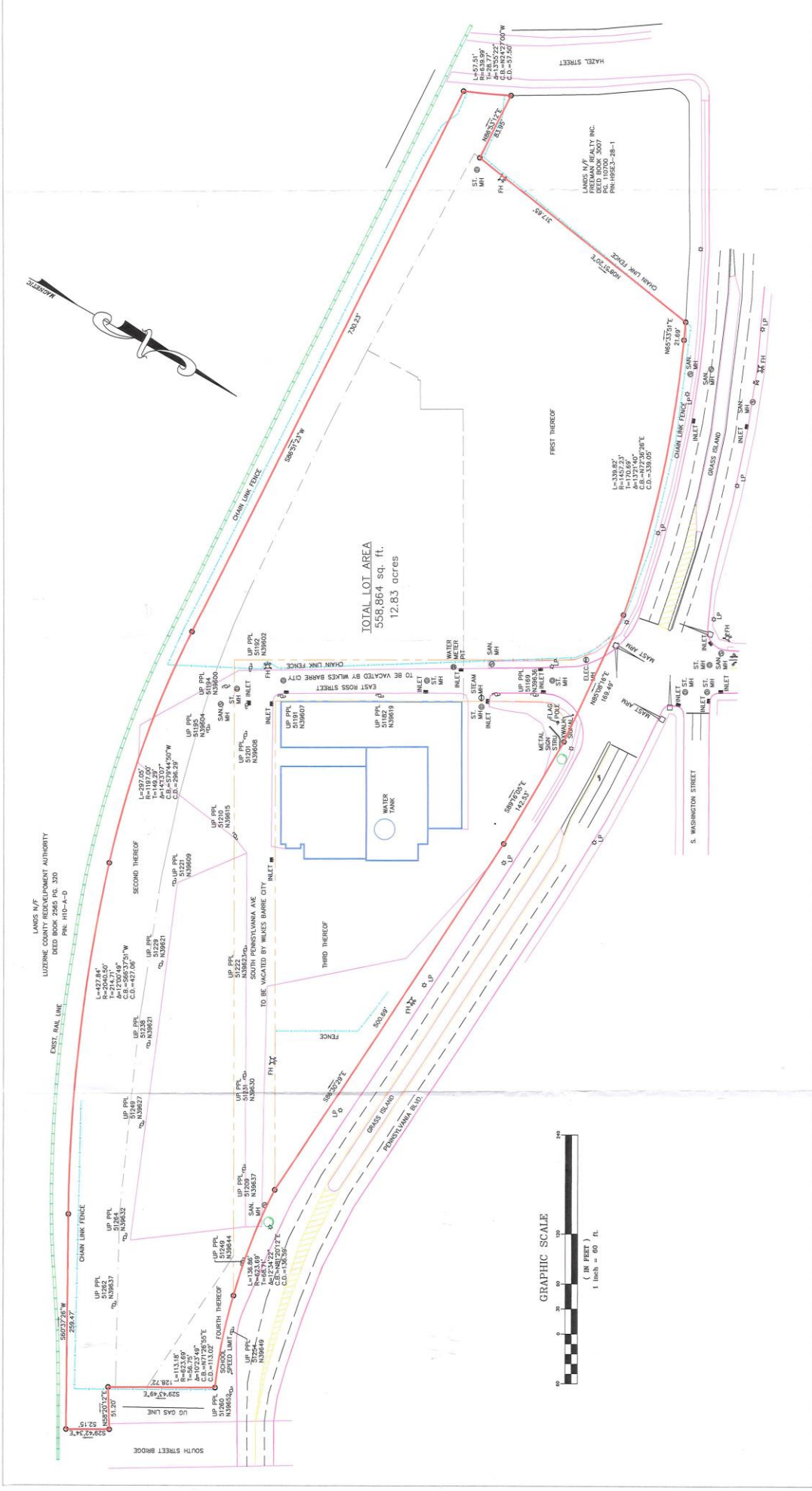
**one swing gate**

**Chain link fencing 3 sides  
8' tall with  
3-Strand Barbed Wire**

**NOTES: 3 sided fencing will be a permanent installation... the front side maybe replaced when the facility is finished. There most likely will be a total of 3 gates (auto open/close) when the facility is completed.**

Measure distance  
Total area: 584,398.48 ft<sup>2</sup> (54,292.40 m<sup>2</sup>)  
Total distance: 3,978.07 ft (1.21 km)

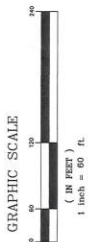




- ### LEGEND
- PROPERTY LINE
  - EDGE OF PAVE
  - UTILITY POLE
  - SANITARY MANHOLE
  - FIRE HYDRANT
  - STORM MANHOLE
  - LIGHT POLE
  - PAID TRAFFIC CONTROL MAST ARM

**CALL BEFORE YOU DIG!**  
 BEFORE YOU DIG ANYWHERE IN PENNSYLVANIA  
 CALL 1-800-442-1776  
 PA ACT 287 OF 1974 REQUIRES THREE  
 WORKING DAYS NOTICE TO UTILITIES  
 BEFORE YOU EXCAVATE, DRILL, OR BLAST  
 PENNSYLVANIA ONE CALL SYSTEM INC.

-AMERICANS WITH DISABILITIES ACT OF 1990  
 ADA  
 THIS PERMIT OR PLAN HAS NOT BEEN REVIEWED TO DETERMINE  
 ITS COMPLIANCE WITH TITLE III OF THE AMERICANS WITH DISABILITIES  
 ACT OF 1990 (ADA) WHICH PROHIBITS DISCRIMINATION ON THE BASIS  
 OF HANDICAP IN PUBLIC ACCOMMODATIONS AND COMMERCIAL  
 FACILITIES



**CERTIFICATION**  
 The signed states this  
 plan was prepared using  
 current surveying methods  
 and maps of record and from  
 sound surveying measurement  
 and professional knowledge and  
 experience to the best of my  
 true and correct belief.

REVISION DATE:		DRAWN BY: 2		DATE: 10/22/2019			
REVISION:		CHECKED BY: 001		SHEET: 1 OF 1			
MAP OF SURVEY OF LANDS OF LUZERNE COUNTY TRANSPORTATION AUTHORITY WILKES-BARRE CITY, LUZERNE COUNTY, PA. JOB NO.: B & D TECHNOLOGY, L.L.C. 230 HARRIS HILL ROAD SHAVERTOWN, PA. 18708 PHONE: 570-287-0392 email: solleb60@aol.com						REFERENCES: DATE OF SURVEY: OCTOBER 2019 DEED BOOK 2565 PG. 11104	
NOTES: BUYER'S NOTE: NO INVESTIGATION OF RECORD, ENCUMBRANCES, EASEMENTS OR OTHER INTERESTS HAS BEEN MADE BY THIS OFFICE. BUYER'S NOTE: THIS IS AN "AS SHOWN" SURVEY AND DOES NOT GUARANTEE THE ACCURACY OF ANY OF THE DIMENSIONS OR BEARINGS. THE BUYER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ANY OF THE DIMENSIONS OR BEARINGS. THE BUYER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ANY OF THE DIMENSIONS OR BEARINGS. THE BUYER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ANY OF THE DIMENSIONS OR BEARINGS. THE BUYER SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ANY OF THE DIMENSIONS OR BEARINGS.							