



**ALAMEDA-CONTRA COSTA TRANSIT DISTRICT
BUS RAPID TRANSIT(BRT) VIDEO PRESENTATION
REQUEST FOR QUOTES (RFQ) NO. 2020-10437
DUE 22 MAY 2020**

1. **Background Information.** The Alameda-Contra Costa Transit District ('AC Transit' or the 'District') is the third largest public bus system in California, covering a 364-square mile service area. The District operates 156 bus lines with an average annual ridership of 51,760,000 million trips. Bus Rapid Transit (BRT) is a new and innovative service that is a sub-brand of AC Transit and will be launching in the East Bay in late 2019. This type of service is often called "light rail on wheels" because it brings the frequency, safety and reliability of light rail to the bus rider without having to lay down the infrastructure required for rail transit. AC Transit's BRT service will run the 9.5-mile corridor from Downtown Oakland to San Leandro BART, connecting people and places more efficiently. This video will be for a federally funded project. Adherence to the clauses on the attached ([Exhibit A-Federal Clauses](#)) is required. These terms will be incorporated into the resulting contract.
2. **Timeline/Budget.** The District has two (2) timelines associated with this project, bulleted below. The District has a condensed timeline for the first presentation and will require the bidder to acknowledge, in advance, its ability to meet the expedited timeline within the proposed budget:
 - This first timeline will require all revisions and edits for the first round of review to be submitted within two weeks of the initial video/photo field shoot. The final presentation for this first timeline will need to be completed by June 12, 2020. The District would like to capitalize on the reduced traffic along International Blvd. during this time in order to capture as much media without extensive traffic control or background disruptions.
 - The second timeline will be for an event tentatively scheduled for August 2020. This second timeline will require all revisions and edits to be submitted within two (2) weeks of the initial video/photo field shoot.
 - In the interest of maintaining competitiveness, the District would like to maintain a budget within the range of \$15K-\$23K for this project, depending on the District's final determined specifications.
3. **Editing.** The District expects multiple rounds of revision for these videos. The lump sum quote should include all pre-production and post-production costs including but not limited to those identified here: equipment (including still/video/drone cameras), crew, graphic production, and music for public use (preferably royalty free), photo and video editing, location travel and meal costs. The chosen vendor shall be highly skilled in non-linear editing. Tight deadlines and the production of multiple rough cuts are expected. Please include lump sum quotes with pricing specific to an unlimited amount of revisions.
4. **Video Format:** High Definition image and video format.
5. **Total length:** Enough footage based on the list below to synthesize into a videos with potential runtimes of 20 minutes.
6. **Permitting/Access:** The District will work in partnership with the Alameda County Sheriff's Department, the construction contractor and the vendor to coordinate site access, control traffic and to ensure a safe photo shoot. The District's Project Manager and representatives will be available for this project. The District will provide access to each station. Any drone footage will need to adhere to the City of Oakland's Unmanned Aerial Vehicles policy, found here: https://cao-94612.s3.amazonaws.com/documents/Proposed-Use-Policy_UAV120318.pdf. The District will coordinate
7. **Use:** Generally speaking, the District will use the video and photos to showcase the progress and dynamics of the new Bus Rapid Transit (BRT) in Oakland. More information and samples can be found here <https://brt.actransit.org/>. The District will own all content produced from this project.
8. **Experience:** The District is looking for a contractor that has drone, digital video, and still photography experience. The Contractor should be adept at nonlinear editing, which includes color correction, voice over capabilities, in-house graphic development, and music library (preferably royalty free). Please include recent digital samples of both photo and video projects that showcase compelling visuals, creative decision making, effects, choice and placement of music, sound bites, and custom graphics. All submissions must be created and attributed directly to your company. The District will be contacting references to verify listed requirements. Please submit three (3) references (name, title, company, email and phone) that can attest to the quality and competency of your work for a similar project, completed within the past three (3) years. The District will be awarding this solicitation to the vendor best demonstrating a clear understanding of the quality components listed below, verified by the ownership of the submitted material and the submitted references' testimony.
9. **Quality:** The chosen vendor will showcase their ability to produce a video with the following professional attributes in the samples submitted to the District as part of this solicitation.
 - **Audio and Visual Quality:** Clear use of an external microphones, reduction in ambient noise, and consistent audio pitch levels.

- Camera Angles and lighting: Display the use of diverse camera shots, framing, lighting and clear use of linear patterns. The chosen vendor should be able to showcase their use of zooming and panning effectively, implement focusing techniques and the absence of unsteady camera focus.
 - Editing Techniques: Professional use of graphics, text and voice-over edits. Showcase nuances of proper sequencing of shots, without audio pops, jump cuts, or disordered transitions.
 - Record, edit and mix audio tracks from multiple interviewees
 - Familiarity with lighting design and manipulation. Ability to use and manipulate natural light in conjunction with artificial lights
 - Professional Graphics: Display nonstandard graphics (not stock images), high resolution and appropriately placement in the video.
 - Expert experience levels with Adobe Premiere, Adobe Photoshop, Adobe After Effects, Adobe Illustrator and Adobe Photoshop
 - Must have experience working on content that appeals to broad and diverse audiences.
 - Ability to manage complexities, meet deadlines, and work well under pressure.
 - Ability to troubleshoot technical challenges and problem solve.
 - Must be able to adhere to strict deadlines. The ability to take direction well and collaborate with a team.
 - Experience in coordinating workflow and managing time.
10. **Quotes/Submissions:** Quotes are to be submitted along with references by **May 22, 2020 by 5pm PST**. Quotes are to be submitted as one lump sum. Contractors can submit a more detailed quote based on the items below, editing timeline and any other components (travel, rentals, taxes, fees, etc.) for incremental progress payments however these costs cannot be variable and must total an all inclusive lump sum quote for the entire project.
11. **Specifications:** Below is a comprehensive list of the videos and stills that the District would like to showcase in this presentation. Some, if not all of these items (A through C) will be synthesized into one presentation: VIDEO:
- A. Standing on a platform (pick one - such as Fruitvale station) and show BRT bus approaching platform, docking, deploying bridge plates and departing.
 - B. From vantage point of a rider, take video walking from the nearest corner onto the platform (both 1 curbside and 1 median), looking at handrail art, looking at wayfinding sign, pausing at the Ticket Vending Machines (notionally buying a ticket), pausing at the Clipper card reader (notionally tapping card), look up at VMS, look at message board, look at enhanced windscreen art, look toward bench (perhaps sit) and then board bus when it arrives.
 - C. Drone flyover of corridor from a low enough elevation to clearly capture the major visible infrastructure improvements which include:
 - New curb ramps
 - New signals, signal cabinets, and service meters
 - New streetlights
 - New curb-to-curb paving, striping, marking and signage
 - New BRT stations
 - New medians
 - New hardscape features
 - New landscape features
 - 2 new fully landscaped, off street parking lots
 - New bypass @ 10th Ave Derby AKA “Fruitvale Bypass”
 - Northern layover
 - San Leandro transit center
 - D. View through from windshield of BRT bus driving the length of corridor in the dedicated bus lane to clearly capture the major visible infrastructure improvements which include:
 - New curb ramps
 - New signals, signal cabinets, and service meters
 - New streetlights
 - New curb-to-curb paving, striping, marking and signage
 - New BRT stations
 - New medians
 - New hardscape features
 - New landscape features
 - 2 new fully landscaped, off street parking lots
 - New bypass @ 10th Ave Derby AKA “Fruitvale Bypass”



- Northern layover
- San Leandro transit center

STILL:

- A. Full on shot of each platform looking from the sidewalk at each side of median platform (North Bound and South Bound direction) and for curbside platforms taken looking from across the street or standing in middle of street. The picture should capture the platform from end to end, all platform amenities, all canopy equipment, all enhanced art features.
 - B. Full view shots of Fruitvale bypass, Fruitvale parking lot, Elmhurst parking lot, northern layover and San Leandro transit center.
 - C. Display of BRT command and control room and all BRT workstations located in the District's Operation Control Center.
12. **Questions.** Questions, clarifications or requests for approved equals are due by *19 May 2020 by 4pm*. Responses to those questions will be posted by *20 May 2020*. Quotes, references and samples for this project are due by **22 May 2020 by 5pm PST**.
 13. **Award.** The basis for award for this *Request for Quotes* will be the lowest responsive quote commiserates to the defined skills and quality outlined above. All responsive quotes shall be from a vendor with verifiable experience with non-linear editing, ability to meet tight deadlines, and a music library (preferably royalty free) through the submitted references. All post-production shall be performed in-house by the vendor (subcontracting will not be considered).



EXHIBIT A
FEDERAL CLAUSES

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions of this Contract include, in part, certain Standard Terms and Conditions required by the US Department of Transportation (DOT), whether or not expressly set forth in the RFQ (2018-1435). All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, revised 2012 and any future revisions, 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 contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any District requests which would cause the District to be in violation of the FTA terms and conditions.

1. **NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES.** The District and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying resulting contract, absent the express written consent by the Federal Government, the Federal Government is not a party to any contract and shall not be subject to any obligations or liabilities to the District, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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 subconsultant who will be subject to its provisions.

2. **FALSE STATEMENTS OR CLAIMS CIVIL AND CRIMINAL FRAUD.** 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. D.O.T. 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 or 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.

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 the 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. § 5323(l)* on the Contractor, to the extent the Federal Government deems appropriate.

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

3. **ACCESS TO THIRD PARTY CONTRACT RECORDS.** Contractor shall provide all authorized representatives of the District, the FTA Administrator, the State Auditor and the Comptroller General of the United States access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, copies, examinations, excerpts and transcriptions. Contractor also agrees to maintain, and require its subcontractors of all tiers, 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 the same until the District, 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. The Contractor agrees to permit the FTA and its contractors to access the sites of performance under this contract as reasonably may be required.

4. **CHANGES TO FEDERAL REQUIREMENTS.** Contractor shall, at all times, comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (*Form FTA MA (24) dated October 1, 2017*) between the District 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.

5. **CIVIL RIGHTS REQUIREMENTS.**

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.

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. D.O.L.) 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.

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.

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.

6. TERMINATION / RESOLUTION OF DISPUTES.

Termination for Convenience (General Provision). The District may terminate the contract, in whole or in part, at any time by written notice to the Contractor when it is in the District's best interest. The Contractor may be entitled to costs associated with the work performed, 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 the District to be paid the Contractor. If the Contractor has any property in its possession belonging to the District, the Contractor will account for the same, and dispose of it in the manner the District directs.

Termination for Default (General Provision). If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if 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 District may terminate the contract for default. Termination shall be affected by serving a notice of termination to 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 District 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 District, 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.

Opportunity to Cure (General Provision). The District in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 45 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 the District's satisfaction the breach or default of any of the terms, covenants, or conditions of the contract within 45 days after receipt by Contractor of written notice from the District setting forth the nature of said breach or default, the District 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 the District from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach. In the event that the District elects to waive its remedies for any breach by Contractor of any covenant, term or condition of the contract, such waiver by the District shall not limit the District's remedies for any succeeding breach of that or of any other term, covenant, or condition of contract.

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

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



Alternative Dispute Resolution/Mandatory Arbitration. In the event that any controversy, claim or dispute between the District and the Contractor arising out of or related to this contract, or the breach hereof, that has not been resolved by informal discussions and negotiations, either party may, by written notice to the other, invoke the formal dispute resolution procedures set forth herein. The written notice invoking these procedures shall set forth in reasonable detail the nature, background and circumstances of the controversy claim or dispute. During the thirty (30) days following said written notice, the parties shall meet, confer and negotiate in good faith to resolve the dispute. Either party may, during said thirty (30) day period, request the utilization of the services of a professional mediator, and the other party or parties to this dispute shall cooperate with such request and share the reasonable costs of such mediator.

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

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

7. **DISADVANTAGED BUSINESS ENTERPRISE (DBE).** The 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*. There is no DBE or SBE goal for this contract opportunity.

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 District deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see *49 CFR 26.13(b)*).

Contractors are required to document sufficient DBE participation to meet this goal or, alternatively, document adequate good faith efforts to do so, as provided for in *49 CFR 26.53*. Award of this contract is conditioned on submission of the following [concurrent with and accompanying an initial proposal, and prior to award]:

The names and addresses of DBE firms that will participate in this contract;

- a. A description of the work each DBE will perform;
- b. The dollar amount of the participation of each DBE firm participating;
- c. Written documentation of the Contractor's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
- d. Written confirmation from the DBE that it is participating in the contract as provided in the prime Contractor's commitment; and
- e. If the contract goal is not met, evidence of good faith efforts to do so.

Contractors must present the information required above as a matter of responsiveness [with initial proposals, prior to contract award] (see *49 CFR 26.53(3)*).

The Contractor is required to pay its subcontractors performing work related to the contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from the District. In addition, the Contractor may not hold retainage from its subcontractors.

The Contractor must promptly notify the District, whenever a DBE subcontractor performing work related to the 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 District.

8. **SUSPENSION AND DEBARMENT**

This contract is a covered transaction for purposes of *2 CFR 180*. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at *2 CFR 180.995*, or affiliates, as defined at *2 CFR 180.905*, are excluded or disqualified as defined at *2 CFR 180.940 and 180.935*.

The Contractor is required to comply with *2 CFR 180, Subpart C* and must include the requirement to comply with *2 CFR 180, Subpart C* in any lower tier covered transaction it enters into.

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

The certification in this clause is a material representation of fact relied upon by the District. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the District, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees



to comply with the requirements of 2 *CFR 180, Subpart C* while this offer is valid and throughout the period of the contract. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

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

- A. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the *Privacy Act of 1974, 5 U.S.C. §552a*. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- B. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

10. **RECYCLED PRODUCTS.** 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*. The Contractor agrees to comply with the U.S. Environmental Protection Agency (US EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," *40 CFR part 247*.

11. **DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS.** For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

12. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT NOT INVOLVING CONSTRUCTION.** The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts A-41 Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.

The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

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

The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

13. **ANTI-LOBBYING REQUIREMENTS & CERTIFICATION.**

Contractors who apply for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the District.

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

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.



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

The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

13. **ENERGY CONSERVATION REQUIREMENTS.** 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 of 1975.

14. **AMERICANS WITH DISABILITIES ACT (ADA).** The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this contract.

15. **DAVIS-BACON ACT REQUIREMENTS (NEW).**

Minimum Wages

- A. All laborers and mechanics employed or working upon the site of any qualifying construction work under the Contract (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.
- B. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section I (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 Subsection (A)(4) 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 such work is performed. The wage determination and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- C. 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.
- D. 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.
- E. 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:

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

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



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

The wage rate (including fringe benefits where appropriate) determined pursuant to Subsections (A)(4)(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.

- 17. PROMPT PAYMENT OF SUBCONTRACTORS.** In accordance with the California revised statutes, section 34-221(g), the agency's solicitation and/or contract documents, Contractor is required to promptly pay any subcontractors, sub-consultants, or suppliers approved by the District for work that has been satisfactorily performed no later than seven (7) days from the date of the Contractor's receipt of each progress payment from the District. No contract terms and conditions between the Contractor and its subcontractors, sub-Contractors, or suppliers may alter the rights of any subcontractor, sub-consultant, or supplier to receive prompt and timely payment as provided herein. Any reduction of retention by the District to the Contractor shall result in a corresponding reduction to subcontractors, sub-consultants, or suppliers who have performed satisfactory work.

The prompt payment provisions of *49 CFR Part 26* also require the Contractor to ensure the prompt and full payment of retainage monies to subcontractors or sub-consultants at such time as the work of the subcontractor or sub-consultant is complete and the District has accepted the work and paid the Contractor for the work performed and accepted. Retention shall be paid no later than thirty (30) days after such payment is issued by the District. Any diversion by the Contractor of payments received for work performed on the contract, or failure to reasonably account for the application or use of such payments, constitutes grounds for a declaration of breach of the contract with the Contractor.

If the Contractor fails to make payments in accordance with these provisions, the District may take any one or more of the following actions, and the Contractor agrees that the District may take such actions: (a) hold the Contractor in default under this contract; and/or (b) withhold future payments, including retention, until proper payment has been made to subcontractors, sub-Contractors, or suppliers in accordance with these provisions.

Within sixty (60) days of satisfactory completion of all work required of the subcontractor, sub-consultant, or supplier, the Contractor shall release any retained payments withheld to the subcontractor. The Offeror shall complete and sign a Prompt Payment Act Affidavit related to invoices submitted for services performed under this contract.

18. PATENT RIGHTS

- a. General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the District and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.
- b. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the District and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
- c. The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.