



#

## REQUEST FOR PROPOSAL

CITY OF COMMERCE – TRANSPORTATION DEPARTMENT

### FOR BUS STOP SIGNAGE PRODUCTION

Purchasing Division, Care of City Clerk's Office  
City of Commerce  
2535 Commerce Way  
Commerce, CA 90040

[Purchasing@ci.commerce.ca.us](mailto:Purchasing@ci.commerce.ca.us)

**RFP CLOSING DATE: AUGUST 14, 2017**  
**RFP CLOSING TIME: 5:00 PM PACIFIC DAYLIGHT TIME**  
**LAST DAY TO SUBMIT QUESTIONS TO PURCHASING: AUGUST 7, 2017**

SUBMITTED BY:

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

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Contact: \_\_\_\_\_

An electronic copy of this RFP and attachments, if any, is available from the City's website: <http://www.ci.commerce.ca.us>. Proposer must submit one (1) original, one (1) CD disc or USB drive and one (1) hard copy of the completed proposal documents. Electronic or emailed RFP submissions shall be rejected.

**REQUEST FOR PROPOSALS (RFP)  
BUS STOP SIGNAGE PRODUCTION  
FOR CITY OF COMMERCE - TRANSPORTATION DEPARTMENT**

**TABLE OF CONTENTS**

GENERAL INFORMATION	1
MODULAR BUS STOP SIGN SPECIFICATIONS	1
OPTIONAL IN GROUND INSTALLATION METHOD	2
PRODUCT LIFE	3
OPTIONAL SIGNAGE AND CHANNEL INSTALLATION	3
PROPOSER'S RESPONSE	4
EVALUATION CRITERIA SCHEDULE	4
EXCEPTIONS TO REQUIREMENTS/SPECIFICATIONS FORM	5
REFERENCES FORM	6
REQUIRED FEDERAL CERTIFICATIONS	7
A. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION	7
B. DEBARMENT AND SUSPENSION CERTIFICATION	8
C. BUY AMERICA CERTIFICATE	9
D. FEDERAL LOBBYING CERTIFICATE REQUIREMENTS	16
1. CERTIFICATION OF COMPLIANCE WITH FEDERAL LOBBYING REQUIREMENTS (49 CFR PART 20)	16
2. DISCLOSURE OF LOBBYING ACTIVITIES INSTRUCTIONS FOR COMPLETION OF SF-LLL	17
3. DISCLOSURE OF LOBBYING ACTIVITIES FORM	18
SAMPLE CONTRACT AGREEMENT	20
EXHIBIT A – STATEMENT OF WORK	
EXHIBIT B – SCHEDULE AND TIMELINE	
EXHIBIT C – INSURANCE REQUIREMENTS	

## GENERAL INFORMATION

The City of Commerce Transportation Department (CTD) is seeking to contract the services of a qualified firm for the production of up to 200 bus stop signs. Proposers have an additional option to submit a proposal for bus stop sign installation services as described below. Proposers should use the attached pricing form to provide the requested information. Proposals will be scored based on price per sign and production quality based on the proposed materials and expected product life.

## MODULAR BUS STOP SIGN SPECIFICATIONS

City of Commerce Transportation is seeking a modular bus stop that has been designed specifically for bus stop use and incorporates the following specialist features: Strong, lightweight construction for improved safety and easy handling, special recessed channels for fitting quick release tamper proof fixings, ability to be installed in a variety of configurations including over existing square sign posts. Durable exterior quality finishes, including architectural grade anodising and polyester powder coating in a wide range of colours.

The post also has provision for the installation of electrical and telecommunications cables for lighting and real-time information display systems.

The bus stop pole must be designed to have interchangeable:

- Bus stop flag with / without solar canopy
- RTP1 display with / without solar canopy

**Specialist Purpose Designed Modular Bus Stop System Material specifications:** Extruded aluminium alloy to 6063 -T6

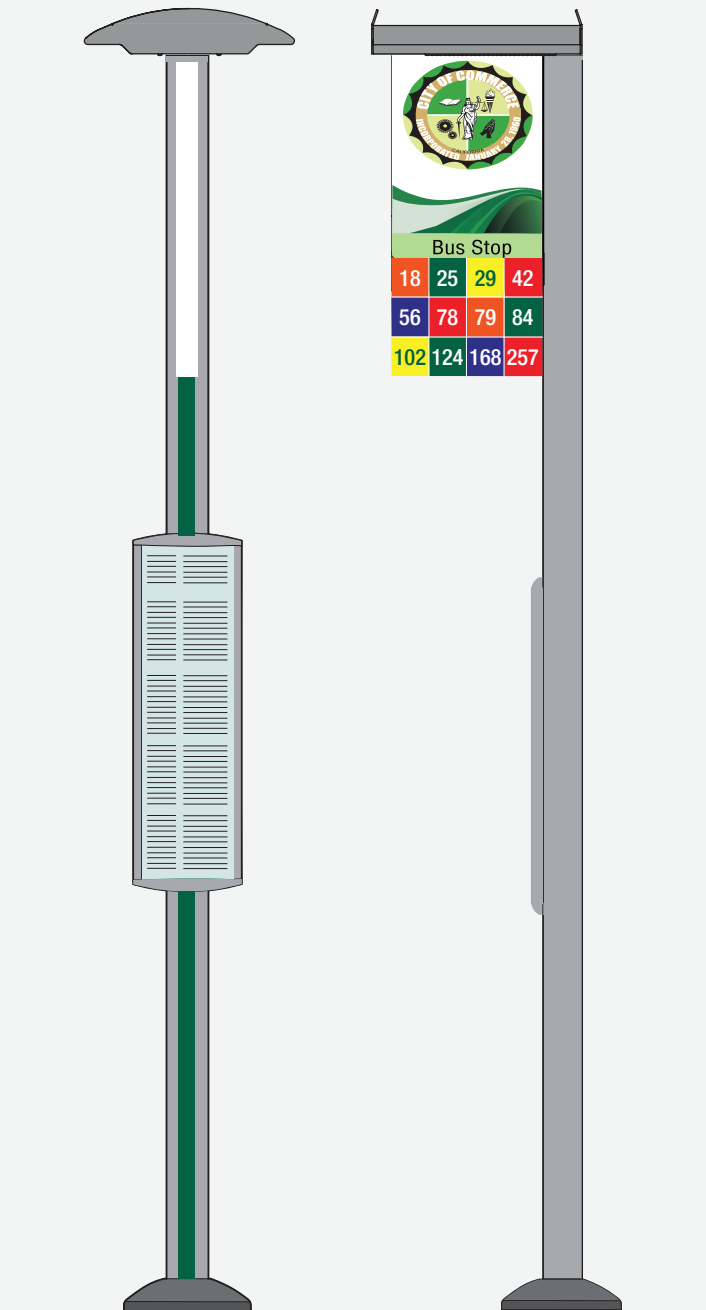
**Finish:** Architectural Anodised

### Details:

- Post to be 3740mm long (500mm to be below ground) 3250mm long to be above ground;
- Post to be a minimum of 4mm wall thickness and compliant with all relevant structural loadings for snow, wind and personnel loading;
- Post to be minimum of triangular/trilobal shape with curved sides at an overall size of minimum 130mm diameter across all 3 points;
- Post to have integral channels for telecommunications and power cables;
- Post to have integral central front channel for the rapid fitting of bus stop flags and timetable cases without the need to drill into the post;
- Post to have integral rear channel for the discreet fitting of DOT roadway signs and locking devices without having to drill into the post; and
- To have invisible hardware throughout on the post.



RENDERING OF MODULAR BUS STOP SIGN



## **OPTIONAL IN GROUND INSTALLATION METHOD:**

Post can be supplied with a special underground socket to facilitate installation and removal. The socket to have CNC machined nylon guides top and bottom to enable a secure and robust fixing of the post into the foundation socket and to prevent electrolytic corrosion between post and foundation.

- The post must be able to (physically and in terms of strength and structural loading be able to receive and accommodate RTI display signs & solar power canopies; and
- The ability to easily fit post caps to the top of bus stop poles is required to enable stops to be identified in specific areas - Special fabricated post marker final, polyester powder coated with applied graphics.

The post is to have a purpose made, extruded aluminium alloy infill strip that fits along the full length of the bus stop post – 2350mm long, which is CNC machined and polyester powder coated in color of the agency's choice. This infill strip is to be of a high tolerance to click / mate into the bus stop post in a secure way without the need for additional fixings.

The bus stop is to be supplied with a special injection moulded dark grey bumper foot detail with associated discreet locking device. This bumper foot is to be located at ground level and will act as a visual and physical barrier to protect other objects such as strollers or wheelchairs from injury.

The Bus Stop Flag is to be of a curved 3D design of dual skin, with laser cut 'keyhole slots', manufactured from 304 grade 1.2mm stainless steel and polyester power coated white. The flags must be able to receive purpose made injection moulded route graphic tiles.

The Timetable shall be manufactured in 304 grade stainless steel, fully welded construction, and is able to incorporate single, double and triple configurations, with a polycarbonate front panel fitted with exclusive secure locking system with full polyester powder coating finish.

Extruded aluminium alloy Timetable display case must be:

- All edges and corners to be welded
- The timetable case must be drilled or constructed to allow excess water to escape from the case
- Stainless steel fixings must be used to prevent corrosion
- Timetable Cases must NOT be fitted with self-tapping screws
- A pressure board must be fitted in the timetable case to hold the timetable as well as making timetables changes easy and quick to complete
- Timetables cases must be located on a special connector spine, and are of an enclosed construction and provide ultra-robust, neat and tidy solution. The enclosed design must provide no gaps or crevices where litter or bombs could be hidden.
- Quick release fastenings to the pole must be provided for quick assembly and maintenance

## **PRODUCT LIFE**

Please indicate the product life of the proposed sign in terms of colour fading and deterioration. Please describe any features of the proposed sign that would extend the useful life of the sign. If these features would be optional additional features to the base price quoted, please indicate the added cost per sign.

## **OPTIONAL SIGNAGE AND CHANNEL INSTALLATION**

Proposers have the option to submit a proposal for bus stop signage installation services. To respond, proposers should submit pricing for the following installation scenarios which may be located at sites throughout the City of Commerce.

Signage and channel installation and replacement scenarios:

1. Removing existing bus stop sign, while leaving the breakaway in place, and installing new sign on the existing channel.
2. Installing new breakaway and channel in concrete/asphalt and installing new sign on channel.
3. Installing new breakaway and channel in grass/dirt/gravel and installing new sign on new channel.
4. Installing new sign on an existing channel.
5. Installing a new sign on a utility pole.
6. Installing new sign on a pedestrian light pole or other metal pole using brackets.
7. Replacing damage upper channel on existing breakaway and installing new bus stop sign.
8. Replacing damage breakaway in grass/dirt/gravel, reinstalling existing upper channel and reinstalling bus stop sign.
9. Replacing damage breakaway in concrete/asphalt, reinstalling existing upper channel and reinstalling bus stop sign.
10. Removing existing bus stop sign only from current channel or utility pole.
11. Removing existing bus stop sign and accompanying breakaway channel from grass/dirt/gravel.
12. Removing existing bus stop sign, breakaway, and channel from concrete/asphalt and patching concrete as necessary to ensure an even surface in place of the breakaway.

Contractor shall comply with all federal (FCC), state and local laws, codes, regulations and ordinances applicable to the Work and the contract. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for contract termination.

## PROPOSER'S RESPONSE

### INSTRUCTIONS

- A. Documents pertinent to this RFP and all papers bound with or attached to this RFP and as described in the Table of Contents are necessary parts of the RFP and must not be detached or altered. Proposers must submit one (1) original, one CD disc or USB drive and two (2) hard copies of their Proposals in accordance with these instructions, and use the format and forms provided.
- B. All proposals shall be typed and single-spaced, with font size no smaller than No. 11 font size, on 8.5" x 11" paper. Proposal pages shall be numbered consecutively and **shall not exceed one hundred fifty (150) pages**. RFP responses should be prepared simply and economically, providing a straightforward, concise description of Proposer's qualifications to satisfy the requirements in the Request For Proposal. Special bindings, colored displays, exhibits, promotional, and similar materials are not required, emphasis should be on completeness and clarity of content.
- C. The title page, contents page, tabs (with no information written on them) and any supplemental attachments **required by the CTD** will not be numbered or counted against the maximum number of pages.
- D. **Each Proposer may submit more than one response.** If more than one response is submitted, each response must be complete unto itself, sealed in a separate envelope, and marked as "Primary Response", or "Alternate Response #1, #2, #3, etc" on the envelope and on the cover of each copy.
- E. The proposal shall be valid for ninety (90) days from the solicitation closing date.
- F. To be considered responsive, all responses shall be answered thoroughly and complete. All questions shall be answered unless marked as "Optional".

### EVALUATION CRITERIA SCHEDULE

The CTD will select the most qualified and responsible bidder based on a point system. The following factors will be considered and assigned points up to the maximum amount indicated. The maximum score that any one proposal shall receive is 100.

#### Ability of Bidder (35 Points)

The CTD will assess the overall qualifications by considering: The respondent can demonstrate its responsiveness to the request for proposals.

#### Experience (35 Points)

The CTD will assess the past experience of the organization in general by considering: The respondent can demonstrate it has the experience to initiate and complete the project by showing examples of similar projects it has successfully completed during the past five years.

#### Cost Proposal (30 Points)

## EXCEPTIONS TO REQUIREMENTS / SPECIFICATIONS

**RFP TITLE: Bus Stop Sign Production**

Please list all deviations from Specifications contained herein and state in the space provided below. Please note item number and description for which you are listing the deviations. Unless an exception is noted below, the CTD shall assume that all minimum requirements have been met or exceeded.

<b><u>ITEM NO.</u></b>	<b><u>DESCRIPTION</u></b>
------------------------	---------------------------

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.**PROPOSER'S NAME:**

**FAILURE TO SUBMIT THIS FORM MAY BE CAUSE FOR PROPOSAL REJECTION**



## REFERENCES

### RFP TITLE: Bus Stop Sign Production

1. Agency/Company \_\_\_\_\_  
Address \_\_\_\_\_  
Phone/Fax: \_\_\_\_\_  
Contact Person \_\_\_\_\_
  
2. Agency/Company \_\_\_\_\_  
Address \_\_\_\_\_  
Phone/Fax: \_\_\_\_\_  
Contact Person \_\_\_\_\_
  
3. Agency/Company \_\_\_\_\_  
Address \_\_\_\_\_  
Phone/Fax: \_\_\_\_\_  
Contact Person \_\_\_\_\_
  
4. Agency/Company \_\_\_\_\_  
Address \_\_\_\_\_  
Phone/Fax: \_\_\_\_\_  
Contact Person \_\_\_\_\_

The references listed above will be current contacts responsible for purchasing or the end user of the work proposed.

**PROPOSER'S NAME:** \_\_\_\_\_

**FAILURE TO SUBMIT THIS FORM MAY BE CAUSE FOR PROPOSAL REJECTION**

## REQUIRED FEDERAL CERTIFICATIONS

### A. CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

(a) The offeror certifies that:

- (1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory:

- (1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
- (2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above

Bidder/Proposer: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

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

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

[Provide full name of person in the offeror's organization responsible for determining the prices offered in this bid];

(ii) As an authorized agent, does certify that the principals named in subdivision

(b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

## **B. DEBARMENT AND SUSPENSION CERTIFICATION**

This contract constitutes a covered transaction for the purposes of the federal Debarment and Suspension provisions (see 2 C.F.R. Part 180). As such, the contractor is required to verify that none of the contractor, its principals, as defined at 2 C.F.R. 180.995, or affiliates, as defined at 2 C.F.R. 180-905, are excluded or disqualified, as defined Part 180.

The bidder certifies by submission of this Bid, that neither it nor its “principals” nor affiliates, as defined in the Code of Federal Regulations (2 C.F.R. Part 180), is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the contract that may be entered into as a result of this bid by any federal department or agency.

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

The bidder agrees to comply with the requirements of 2 C.F.R. Part 180 and 2 C.F.R. Part 1200 while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Bidder/Proposer: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

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

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

### **C. BUY AMERICA CERTIFICATE**

#### **BUY AMERICA CERTIFICATE FOR COMPLIANCE WITH TITLE 49 USC § 5323(J)(1)** (For Procurement of Steel, Iron, or Manufactured Products)

The Bidder/Proposer hereby certifies that it will comply with the requirements of Title 49 USC § 5323(j)(1) and the applicable regulations in 49 CFR Part 661.

Executed on this \_\_\_\_\_ day, of \_\_\_\_\_, 20\_\_\_\_, by:

Bidder/Proposer: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

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

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

#### **BUY AMERICA CERTIFICATE FOR NON-COMPLIANCE WITH TITLE 49 USC § 5323(J)(1)**

The Bidder/Proposer hereby certifies that it cannot comply with the requirements of Title 49 USC § 5323(j)(1), but it may qualify for an exception pursuant to Title 49 USC § 5323(j)(2)(B) or (j)(2)(D) and the regulations in 49 CFR 661.7.

Executed on this \_\_\_\_\_ day, of \_\_\_\_\_, 20\_\_\_\_, by:

Bidder/Proposer: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

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

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

## D. FEDERAL LOBBYING CERTIFICATE REQUIREMENTS

(a) Definitions, as used in this clause:

**Agency** as defined in Title 5 USC § 552(f), includes federal executive departments and agencies as well as independent regulatory commissions and government corporations, as defined in Title 31 USC § 9101(1).

**City** means the City of Commerce, Los Angeles County, California.

**Covered Federal action** means any of the following federal actions:

1. The awarding of any federal contract;
2. The making of any federal grant;
3. The making of any federal loan;
4. The entering into of any cooperative agreement, and
5. The extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

Covered federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

**Indian tribe** and **tribal organization** have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act Title 25 USC § 450(b). Alaskan Natives are included under the definitions of Indian tribes in that Act.

**Influencing or attempting to influence** means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any covered federal action.

**Local government** means a unit of government in a state and, if chartered, established, or otherwise recognized by a state for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

**Officer or employee of an agency** includes the following individuals who are employed by an agency:

1. An individual who is appointed to a position in the government under Title 5, USC, including a position under a temporary appointment;
2. A member of the uniformed services as defined in Title 37 USC § 101(3);
3. A special government employee as defined in, Title 18 USC § 202; and,
4. An individual who is a member of a federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5 USC Appendix 2.

**Person** means an individual, corporation, company, association, authority, firm, partnership, society, state, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other federal law.

**Reasonable compensation** means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the federal government.

**Reasonable payment** means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

**Recipient** includes all contractors and subcontractors at any tier in connection with a federal contract. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other federal law.

**Regularly employed** means, with respect to an officer or employee of a person requesting or receiving a federal contract, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 days.

**State** means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a state, and a multi-state, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

- (1) Title 31 USC § 1352 provides in part that no appropriated funds may be expended by the recipient of a federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) The prohibition does not apply as follows:

(i) Agency and legislative liaison by Own Employees.

(A) The prohibition on the use of appropriated funds, in paragraph (b) (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a federal contract if the payment is for agency and legislative liaison activities not directly related to a covered federal action.

(B) For purposes of paragraph (b) (2) (i) (A) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.

(C) For purposes of paragraph (b) (2) (i) (A) of this section, the following agency and legislative liaison activities are allowable at anytime only where they are not related to a specific solicitation for any covered federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the persons products or services, conditions or terms of sale, and service capabilities, and

(2) Technical discussions and other activities regarding the application or adaptation of the persons products or services for an agency's use.

(D) For purposes of paragraph (b) (2) (i) (A) of this section, the following agency and legislative liaison activities are allowable only when they are prior to formal solicitation of any covered federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to official submission, and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(E) Only those activities expressly authorized by paragraph (b) (2) (i) of this section are allowable under paragraph (b) (2) (i).

(ii) Professional and technical services by Own Employees.

- (A) The prohibition on the use of appropriated funds, in paragraph (b) (1) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a federal contract or an extension, continuation, renewal, amendment, or modification of a federal contract if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal or application for that federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that federal contract.
- (B) For purposes of paragraph (b) (2) (ii) (A) of this section professional and technical services shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her clients proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered federal action.
- (C) Requirements imposed by or pursuant to law as a condition for receiving a covered federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (D) Only those services expressly authorized by paragraph (b) (2) (ii) of this section are allowable under paragraph (b) (2) (ii).

(iii) Reporting for Own Employees.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.



(iv) Professional and technical services by Other than Own Employees.

- (A) The prohibition on the use of appropriated funds, in paragraph (b) (1) of this section, does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that federal contract or for meeting requirements imposed by or pursuant to law as a condition for receiving that federal contract.
- (B) For purposes of paragraph (b) (2) (iv) (A) of this section professional and technical services shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered federal action.
- (C) Requirements imposed by or pursuant to law as a condition for receiving a covered federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (D) Persons other than officers or employees of a person requesting or receiving a covered federal action include consultants and trade associations.
- (E) Only those services expressly authorized by paragraph (b) (2) (iv) of this section are allowable under paragraph (b) (2) (iv).

(c) Disclosure.

- (1) Each person who requests or receives from City a contract with federal assistance shall file with City a certification, set forth in Bid/Submittal Form entitled FEDERAL LOBBYING CERTIFICATION, that the person has not made, and will not make, any payment prohibited by paragraph (b) of this clause.
- (2) Each person who requests or receives from City a contract with federal assistance shall file with City a disclosure form, Standard Form-LLL, Disclosure of Lobbying Activities, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered federal action), which would be prohibited under paragraph (b) of this clause if paid for with appropriated funds.
- (3) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraph (c) (2) of this section. An event that materially affects the accuracy of the information reported includes:
  - (i) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action; or
  - (ii) A change in the person(s) or individual(s) influencing or attempting to influence a covered federal action; or,
  - (iii) A change in the officer(s), employee(s), or member(s) contacted to influence or attempt to influence a covered federal action.
- (4) Any person who requests or receives from a person referred to in paragraph (c) (1) of this section a subcontract with a contract value exceeding \$100,000 at any tier under a contract with federal assistance shall file a certification, and a disclosure form, if required, to the next tier above. All disclosure forms shall be forwarded from tier to tier until received by the Prime Contractor who will forward it to City.

**CERTIFICATION OF COMPLIANCE WITH FEDERAL LOBBYING REQUIREMENTS  
(49 CFR PART 20)**

**To be submitted with each Bid/Proposal or offer of Bidder/Proposer exceeding \$100,000**

The \_\_\_\_\_ (Bidder/Proposer) certifies to the best of its knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency; a member of Congress, an officer or employee of Congress, an employee of a member of Congress; or any Board member or employee of City in connection with the awarding of any federal contract; any federally funded contract; or the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment or modification of any federal contract, federally funded contract grant, loan or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts, or influencing or attempting to influence; an officer or employee of any agency; a member of Congress; an officer or employee of Congress; an employee of a member of Congress or a Board member or employee of City in connection with this federally funded contract, grant, loan, or cooperative agreement, the undersigned shall register and comply with all federal disclosure requirements.
3. The undersigned shall require that the language of this certification be included in the solicitation and award documents for all subawards at all tiers including but not limited to subcontracts, subgrants and contracts under grants, loans and cooperative agreements and that all subrecipients shall certify and disclose accordingly.

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

Executed on this \_\_\_\_\_ day, of \_\_\_\_\_, 20\_\_\_\_, by:

Bidder/Proposer: \_\_\_\_\_

Authorized Representative: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

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

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

## DISCLOSURE OF LOBBYING ACTIVITIES INSTRUCTIONS FOR COMPLETION OF SF-LLL

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient, at the initiation of receipt of a covered federal action, or a material change to a previous filing, pursuant to Title 31 USC § 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with a covered federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime if the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks Subawardee, then enter the full name, address, city, state and zip code of the prime federal recipient. Include the Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program, name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identified in item 1 (e.g. Request for Proposal (RFP) number, Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the federal agency). Include prefixes, e.g., RFP-DE-90-001.
9. For a covered federal action where there has been an award or loan commitment by the federal agency, enter the federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box (es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the dates of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with federal officials. Identify the federal official(s) or employee(s) contacted or the officer(s), employee(s), or member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (03-46-00046), Washington, D.C. 20503.

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to Title 31 USC § 1352

(See next page for public burden disclosure.)

1. Type of Federal Action: ... a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: ... a. bid/offer/application b. initial award c. post award	3. Status of Federal Action: ... a. initial change b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity Prime _____ ... Subawardee _____  Tier _____, if known:  Congressional District, if known:		5. If Reporting Entity in No. 4 is subawardee. Enter name and Address of Prime:   Congressional District, if known:
6. Federal Department/Agency:  <b>Department of Transportation          Federal Transit          Administration</b>	7. Federal Program Name/Description:  CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known:  \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):  attach continuation sheet(s) SF-LLL-A if necessary	b. Individuals Performing Services (including address if different from No. 10.a) (last name, first name, MI):  attach continuation sheet(s) SF-LLL-A if necessary	
11. Amount of Payment (check all that apply):    \$ _____... actual ... planned		
12. Form of Payment (check all that apply): a. cash b. in-kind; specify: nature _____  value _____	13. Type of Payment (check all that apply):  ... a. retainer ... b. one-time fee ... c. commission ... d. contingent fee ... e. deferred ... f. other; specify _____	
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employer(s), or member(s) contacted, for Payment indicated in Item 11:		
15. Continuation Sheet(s) SF-LLL-A attached: ... Yes ... No		
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;">           16. Information requested through this form is authorized by Title 31 USC § 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.         </div> <div style="width: 50%;">           Signature: _____            Print Name: _____            Title: _____            Telephone No.: _____ Date: _____         </div> </div>		
Federal Use Only: <span style="float: right;">Authorized for Local Reproduction Standard Form - LLL</span>		

**DISCLOSURE OF LOBBYING ACTIVITIES  
CONTINUATION SHEET**

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

## **SAMPLE AGREEMENT**

**THIS AGREEMENT** (the "Agreement") dated as of April \_\_\_\_, 2017 (the "Effective Date") is made by and between ("Contractor") and the City of Commerce, a municipal corporation (the "City").

### **RECITALS**

WHEREAS, Contractor represents that it is specially trained, experienced and competent to perform the special services that will be required by this Agreement; and

WHEREAS, Contractor is willing to render such Services, as hereinafter defined, on the terms and conditions below; and

### **AGREEMENT**

1. Scope of Services and Schedule of Performance.

Contractor shall perform the services (the "Services") set forth in Exhibit A which is attached hereto and incorporated herein by reference. Contractor shall adhere to the schedule and benchmark timeline set forth in Exhibit B, which is attached hereto and incorporated herein by reference.

2. Term.

The term of this Agreement shall be for a period of one year from the issuance of a "Notice of Award."

3. Compensation.

A. The Services will be provided in accordance with the proposed prices set forth in Exhibit A. So long as Contractor is discharging its obligations in conformance with the terms of this Agreement, Contractor shall be paid a fee by the City in accordance with the fee schedule set forth in Exhibit A and with the other terms of this Agreement. The fees payable hereunder shall be subject to any withholding required by law.

B. Such fees shall be payable following receipt of an itemized invoice for services rendered. Contractor shall send and address its bill for fees, expenses, and costs to the City to the attention of the City Administrator. The City shall pay the full amount of such invoice; provided, however, that if the City or its City Administrator object to any portion of an invoice, the City shall notify Contractor of the City's objection and the grounds therefore within thirty (30) days of the date of receipt of the invoice; the parties shall immediately make every effort to settle the disputed portion of the invoice.

4. Access to Records and Reports.

A. Contractor shall provide the City, the Federal Transit Administration (“FTA”), the US Comptroller General or their authorized representatives access to any books, documents, papers and Contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to Contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

B. Contractor shall maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

5. Independent Contractor.

Contractor is and shall perform its services under this Agreement as a wholly independent contractor. Contractor shall not act nor be deemed an agent, employee, officer or legal representative of the City. Contractor shall not at any time or in any manner represent that it or any of its agents, employees, officers or legal representatives are in any manner agents, employees, officers or legal representatives of the City. Contractor has no authority to assume or create any commitment or obligations on behalf of the City or bind the City in any respect. This Agreement is not intended to and does not create the relationship of partnership, joint venture or association between the City and Contractor. None of the foregoing shall affect any privilege or protection against disclosure which applies to the services Contractor undertakes under this Agreement.

6. Contractor to Provide Required Personnel; Subcontracting.

A. Contractor shall provide and direct the necessary qualified personnel to perform the Services required of, and from, it pursuant to the express and implied terms hereof, with the degree of skill and judgment normally exercised by recognized professional firms performing services of a similar nature at the time the Services are rendered, and to the reasonable satisfaction of the City.

B. Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for Contractor pursuant to this Agreement. If Contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the City shall cancel, terminate or suspend this Agreement.



7. Full and Open Competition.

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

8. Responsible Principal and Project Manager.

Contractor shall have a Responsible Principal and a Project Manager who shall be principally responsible for Contractor obligations under this Agreement and who shall serve as principal liaison between the City and Contractor. Designation of another Responsible Principal or Project Manager by Contractor shall not be made without the prior written consent of the City.

9. City Liaison.

Contractor shall direct all communications to the City Administrator or his designee. All communications, instructions and directions on the part of the City shall be communicated exclusively through the City Administrator or his designee.

10. Licenses.

Contractor shall maintain a valid business license for the City of Commerce; and all federal, state, and local certificates, approvals, authorizations, and permits required for the lawful performance of this Contract, and for operation of the business conducted by the Contractor as applicable to this Contract.

11. Compliance with Laws.

Contractor shall, and shall ensure that its employees and its subcontractors, if any, comply with all applicable city, county, state, and federal laws and regulations (including occupational safety and environmental laws and regulations) in performing the Services and shall comply with any directions of governmental agencies and the City relating to safety, security, and the like.

12. Compliance with Federal Regulations.

A. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the City and FTA, as they may be amended or promulgated from time to time during the term of the Agreement. Contractor's failure to comply shall constitute a material breach of this Agreement. Contractor shall comply with the Federal Requirements, which is attached hereto and incorporated by reference; to the extent that any part of the Federal Requirements differs from the requirements set forth in this Agreement, the express terms of the Agreement shall prevail.

B. All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1 F, are incorporated herein by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement.

Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the City to be in violation of FTA terms and conditions.

C. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this Agreement. Federal Requirements and Certifications are referenced on Exhibit E. Contractor's failure to so comply shall constitute a material breach of this Agreement.

13. Government Wide Debarment and Suspension (Non Procurement).

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor is required to verify that none of the contractors, 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. 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 recipient.

If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the recipient, 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.

14. Conformance with ITS National Architecture.

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., May 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

15. Environmental Protections.

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C, and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project.

Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

16. Energy Conservation.

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

17. No Government Obligation to Third Parties.

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

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

18. Insurance.

Contractor shall maintain insurance and provide evidence thereof as required by Exhibit C hereto (the "Required Insurance") which is attached hereto and incorporated herein by this reference, for the term provided herein.

19. Warranty and Liability.

Contractor warrants that the Services provided under this Agreement will be performed with the degree of skill and judgment normally exercised by recognized professionals performing services of a similar nature at the time the services were rendered. Contractor shall be liable for injury or loss caused by the negligence of, or breach of this warranty by Contractor, its employees, its subcontractors, if any, and/or its agents hereunder. This warranty survives the completion and/or termination of this Agreement.

20. Indemnification.

A. Contractor shall indemnify and hold the City and their respective officials, officers, agents and employees harmless from and against any and all liabilities, losses, damages, costs

and expenses the City and their respective officials, officers, agents and employees hereafter may suffer in connection with any claim, action, or right or action (at law or in equity) because of any injury (including death) or damage to person or property proximately caused by any negligent acts, errors, or omissions by Contractor, its employees, its subcontractors or its agents in the performance of the Services hereunder.

Contractor shall not be liable to the extent that any liability, loss, damage, cost, and expense is caused solely from an act of negligence or willful misconduct by the City or its respective officials, officers, employees or agents. Upon demand, Contractor shall promptly provide a defense to such claims, actions or right of action (at law or equity) and shall promptly pay for all associated and resulting costs, damages, settlements, penalties, judgments, fees and expenses, including attorneys' fees and costs.

B. City shall indemnify and hold the Contractor harmless from and against any and all liabilities, losses, damages, costs and expenses the Contractor and their respective officials, officers, agents and employees hereafter may suffer in connection with any claim, action, or right or action (at law or in equity) because of any injury (including death) or damage to person or property proximately caused by any negligent acts, errors, or omissions by City, its employees, its subcontractors or its agents in the performance of the Services hereunder. City shall not be liable to the extent that any liability, loss, damage, cost, and expense is caused solely from an act of negligence or willful misconduct by the Contractor or its respective officials, officers, employees or agents. Upon demand, City shall promptly provide a defense to such claims, actions or right of action (at law or equity) and shall promptly pay for all associated and resulting costs, damages, settlements, penalties, judgments, fees and expenses, including attorneys' fees and costs.

21. Confidentiality.

Contractor shall maintain as confidential and not disclose to others, either before or after the termination of this Agreement, any data, documents, reports, or other information provided to Contractor by the City, or employees or agents of the City, or any data, documents, reports, or other information produced by Contractor during its performance hereunder, except as expressly authorized in writing by the City, or to the extent required for: (1) compliance with professional standards of conduct for the preservation of the public safety, health, and welfare, but only after Contractor notifies the City of such need for disclosure; and (2) compliance with any court order or other government directive or requirement, but only after Contractor notifies the City of such an order, directive, or requirement. Contractor shall keep all "Confidential" materials received or generated under this Agreement in separate files marked "Confidential." Any non-compliance by Contractor with this part of the Agreement shall be deemed a material breach of this Agreement. The obligations of this paragraph shall survive the termination of this Agreement.

22. Data and Services to be Furnished by the City.

All information, data, records, reports and maps as are in possession of the City, and necessary for the carrying out of this work, shall be made available to Contractor without charge. The City shall make available to Contractor, members of the City's staff for consultation with Contractor in the performance of this Agreement. The City does not warrant that the information data, records, reports and maps heretofore to be provided to Contractor are complete or accurate; Contractor shall satisfy itself as to such accuracy and completeness. The City and Contractor agree that the City shall have no liability should any of the information, data, records, reports, and maps be inaccurate, incomplete or misleading.

23. Covenant against Contingent Fees.

Contractor warrants that it has not employed or retained any company or person to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person any fee, City or percentage from the award or making of this Agreement, except for subcontractors listed in this Agreement.

For breach or violation of this warranty, the City shall have the right, among other available legal remedies, to terminate this Agreement without liability, or in its discretion, to deduct from the consideration payable to Contractor, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

24. Conflict of Interest.

Contractor covenants that neither it nor any officer or principal of its firm have any interests, nor shall they acquire any interest, directly or indirectly which will conflict in any manner or degree with the performance under this Agreement. Contractor further warrants its compliance with the Political Reform Act (Government Code § 81000, *et seq.*) and all other laws, respecting this Agreement and that no Services shall be performed by either an employee, agent, or a subcontractor of Contractor, who has a conflict relating to the City or the performance of Services on behalf of the City.

25. Interest of Members or Delegates to Congress.

No members of, or delegates to, the United States Congress shall be admitted to any share or part of this Agreement nor to any benefit arising therefrom.

26. Other Agreements.

Contractor warrants that it is not a party to any other existing agreement that would prevent Contractor from entering into this Agreement or that would adversely affect Contractor's ability to perform the Services under this Agreement.

During the term of this Agreement, Contractor shall not, without City's prior written consent, perform services for any person, firm, or corporation other than City if such services could lead to a conflict with Contractor's obligations under this Agreement.

27. Civil Rights Requirements.

Contractor understands that the City must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Specifically:

A. Nondiscrimination in Federal Public Transportation Programs. The City agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute): (1) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, or (g) Age, and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity,

B. Nondiscrimination - Title VI of the Civil Rights Act. The City agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,

C. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The City agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General.

The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, and (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note.

D. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the City agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: (1) Requirements. The City agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), the City provides assurance that: The City shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The City shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The City's

DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement.

Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the City of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.,

E. Nondiscrimination on the Basis of Sex. The City agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

F. Nondiscrimination on the Basis of Age. The City agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 - 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

G. Nondiscrimination on the Basis of Disability. The City agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to

Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance.

H. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The City agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd - 290dd-2,

I. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the City agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: (1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,

J. Environmental Justice. Except as the Federal Government determines otherwise in writing, the City agrees to promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance, and

K. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the City agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.

L. Contractor shall include these requirements in each subcontract financed in whole or in part with FTA assistance, modified only if necessary to identify the affected parties.

28. Prohibition Against Exclusionary or Discriminatory Specifications.

Contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

29. Access Requirements for Persons with Disabilities.

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation



services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy.

Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

30. Termination.

A. The City may terminate this Agreement in whole or in part, because of Contractor's failure to fulfill contract obligations. The City shall terminate by delivering to Contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process.

If termination is for Contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and Contractor shall be liable for any additional cost incurred by the City.

B. Opportunity to Cure. The City in its sole discretion may, in the case of a termination for breach or default, allow Contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to the City's satisfaction the breach or default or any of the terms, covenants, or conditions of this Agreement within thirty (30) days after receipt by Contractor or written notice from the City setting forth the nature of said breach or default, the City shall have the right to terminate the Agreement without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the City from also pursuing all available remedies against Contractor and its sureties for said breach or default.

31. Waiver of Breach.

No waiver of any term, condition or covenant of this Agreement by the City shall occur unless signed by the City Administrator and such writing identifies the provision which is waived and the circumstances or period of time for which it is waived. In the event that the City elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Agreement, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

32. Assignment.

Neither this Agreement nor any rights or obligations hereunder may be assigned or otherwise transferred by Contractor, nor shall this Agreement inure to the benefit of any trustee in bankruptcy, receiver, or creditor or Contractor, whether by operation of law or otherwise, without the prior written consent of the City which may be withheld in its sole discretion. Any attempt to so assign or transfer this Agreement or any rights or obligations hereunder without such consent shall be void and of no effect.

33. Arbitration.

If any dispute arises out of or relates to this Agreement, or the breach thereof, and if such a dispute cannot be settled through direct discussions, the parties agree to settle any disputes involving only monetary amounts less than \$100,000 by binding arbitration pursuant to the rules of the American Arbitration Association by an arbitrator sitting in Los Angeles County.

34. Force Majure

Contractor is not liable for failure to perform its obligations, if such failure is a result of Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telephone service. No party is entitled to terminate this Agreement in such circumstances.

35 Attorneys' Fees.

In the event arbitration or a judicial proceeding is brought to enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party its reasonable costs and attorneys' fees incurred in connection therewith.

36. Notices.

Notices provided hereunder shall be delivered by certified First Class U.S. Mail, postage prepaid, or by personal service as required in judicial proceedings, directed to the address provided below:

For the City:

City of Commerce  
2535 Commerce Way  
Commerce, California 90040  
Attn: Claude McFerguson, Director of Transportation

For Contractor:

Notice shall be deemed received three days after its mailing to the above address or upon actual receipt as indicated by return receipt, whichever is earlier. Personal service shall be deemed received the same day personal delivery is affected.

37. Severability.

Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this

Agreement, absent the unexercised portion, can be reasonably interpreted to give effect to the intentions of the parties.

38. No Construction of Agreement against any Party.

Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, it shall not be construed against any party on the basis such party drafted this Agreement or any provision thereof.

39. Entire Agreement and Amendments to Agreement.

This Agreement contains the entire understanding and agreement between the parties hereto with respect to the subject matter hereof and supersedes all previous communications, negotiations, and agreements, whether oral or written, between the parties with respect to such subject matter, and no addition to or modification of this Agreement or waiver of any provisions of this Agreement shall be binding on either party unless made in writing and executed by Contractor and the City.

40. No Representations Except as Expressly Stated in this Agreement.

Except as expressly stated in this Agreement, no party, nor its employees, agents or attorneys have made any statement or representation to any other party or its employees, agents or attorneys regarding any fact relied upon in entering into this Agreement, and each party does not rely upon any statement, representation and/or promise of any other party, its respective employees, agents or attorneys in executing this Agreement.

41. Program Fraud and False or Fraudulent Statements or Related Acts.

A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project.

Upon execution of the underlying Agreement, 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 Agreement or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on Contractor to the extent the US Government deems appropriate.

B. If Contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n) (1) on Contractor, to the extent the US Government deems appropriate.

C. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the

subcontractor who will be subject to the provisions.

42. Counterpart Signatures.

This Agreement may be executed in one or more counterparts. When this Agreement has been properly signed by an authorized representative of each of the parties hereto, it shall constitute a valid Agreement, though each of the signatories may have executed separate counterparts hereof.

**IN WITNESS WHEREOF**, the parties hereto have each executed or caused to be executed this Agreement as of the Effective Date.

**CITY OF COMMERCE**

DATED: August \_\_, 2017

By: \_\_\_\_\_  
Oralia Rebello, Mayor

ATTEST:

\_\_\_\_\_  
Lena Shumway  
City Clerk

**CONTRACTOR**

DATED: August \_\_, 2017

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

APPROVED AS TO FORM

\_\_\_\_\_  
Eduardo Olivo, City Attorney

**EXHIBIT A**

**STATEMENT OF WORK**

**1. Contractor shall perform the following work:**

[Insert Description of Services]

**2. The maximum payment under this Contract, including expenses, is:**

“Not To Exceed” amount of \$ [Insert Amount, or other information as required and delete this text box].

DRAFT

**EXHIBIT B**

**SCHEDULE AND BENCHMARK TIMELINE**

- 3. Contractor shall adhere to the following schedule and benchmark time:**  
[Insert Schedule and Timeline]

DRAFT