
Capital Area Transportation Authority

CTC West Retaining Wall Repair, Fence Removal and Replacement

Request for Proposal # 2012 - 106

Schedule of Activities

RFP Released:	July 24, 2012
Written Questions due to CATA:	August 13, 2012
CATA's Responses released by	August 15, 2012
Pre-Proposal Meeting	August 8, 2012 @ 10:00a.m. EST at CATA Transportation Center, 420 S. Grand Ave., Lansing, MI 48933
Proposal Due Date:	Submit three (3) proposal copies by 4:30pm EST, August 23, 2012
Proposed Award Date:	September 20, 2012 or before
Proposed Contract Signature Date:	October 01, 2012
Proposed Contract Start Date:	October 01, 2012
Proposed Kick-off Meeting @ CATA/Telecom:	October 01, 2012
Progress Meetings:	On-going, weekly/monthly as required

ISSUED on July 24, 2012

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Capital Area Transportation Authority CTC West Retaining Wall Repair and Fence Removal and Replacement Request for Proposal Project #2012-106

SECTION I: PROCUREMENT PROCESS

I-A Issuing Office

This Request for Proposal (RFP) is issued by Capital Area Transportation Authority ("CATA"), 4615 Tranter Street, Lansing, MI 48910.

All communications regarding this project during the procurement process must be addressed to CATA's Purchasing & Contracts Manager:

Ms. Beverly Anderson
Purchasing & Contracts Manager
Capital Area Transportation Authority
4615 Tranter Street
Lansing, MI 48910
E-mail: banderson@cata.org

I-B Project Management

The person designated to perform as CATA's Project Manager **AFTER AWARD** of the Project is named below. This person is not to be contacted by respondents prior to award. The only CATA contact during the RFP process is CATA's Purchasing & Contracts Manager named above.

Mr. Barry Flowers
Building Superintendent
Capital Area Transportation Authority
4615 Tranter Street
Lansing, MI 48910
(517) 394-1100
(517) 394-3733 (fax)
E-mail: bflowers@cata.org

I-C Project Oversight

The oversight of this CATA Project is the responsibility of the CATA Project Manager named in Project Management Section above.

The Contractor will be required to work with CATA staff and service agencies as directed by CATA throughout the duration of the Contract and attend meetings with the CATA Project Manager.

I-D Incurring Costs

CATA is not liable for any cost incurred by any party prior to signing of a contract with that party and then only upon written authorization from CATA to proceed with the project.

I-E Contract Term

The activities in the proposed contract are to begin at an agreed upon start date between Project Manager and Contractor, approximately within the month of October of 2012 or before, and thereafter, project completion within one week of start date.

I-F Contract Extension

CATA reserves the right to extend the term of any contract resulting from this RFP for up to one year. Any extension will be in writing.

I-G Type of Contract

This is a **fixed price contract**. CATA reserves the right to expand or decrease service/use of the contract as conditions require.

I-H Questions /Changes to the RFP

It is the desire of CATA to provide the same information to all interested parties to insure fairness and impartiality in the procurement process. To that end, CATA will not respond to telephone inquiries or personal visits. Visitation by respondents or their representatives may be made to CATA only at the pre-proposal meeting, if held. All questions are to be submitted in writing. **Submit written questions (via postal service, e-mail, or fax) to the CATA Purchasing & Contracts Manager at the address indicated in Section I above not later than the date and time indicated on the Schedule of Activities above.** Any changes made to this RFP, in response to the questions or concerns raised through correspondence received by CATA will be put in writing to all firms indicating an interest in this project by the date stated on the above Schedule of Activities page. No changes will be made in the RFP after such changes/answers are distributed.

I-I Pre-Proposal Meeting

August 8, 2012 @ 10:00a.m. EST at CATA Transportation Center, 420 S. Grand Ave., Lansing, MI 48933

I-J Proposals

To be considered, each respondent must submit a complete response to this RFP using the format provided in this RFP and accepting the requirements of Sections II and III below. No other distribution of proposals is to be made. An official authorized to bind the respondent to the proposal's provisions must sign this proposal in ink. All provisions of the proposal, including costs, must remain valid for a period not to exceed one hundred eighty (180) days from the due date for proposal to this RFP. **Three (3) original hardcopies of the proposal, including price sheets, must be submitted by 4:30 P.M. EST on the date indicated on the Schedule of Activities above, to the CATA Administrative Office (4615 Tranter Street, Lansing MI 48910), ATTN: Purchasing Manager.** Proposals must arrive by the stated date and time. Late proposals will not be considered. The respondent is solely responsible for the timely receipt of their proposal by CATA. All proposals submitted in response to this RFP will become the property of CATA and will not be returned to the respondent.

I-K Acceptance of Proposal Content

The contents of this RFP, its attachments, and the proposal will become contractual obligations if a contract ensues. Failure of the successful respondent to accept these obligations may result in elimination of the respondent from the selection process. CATA further reserves the right to interview the key personnel assigned by the successful respondent to this project and to recommend reassignment of personnel deemed unsatisfactory by CATA.

I-L Economy of Presentation

Each proposal should be prepared simply and economically, providing a straightforward, concise description of the respondent's ability to be creative and to meet the requirements and objectives of this RFP. Emphasis should be on completeness and clarity of content

I-M Primary Contractor Responsibilities

The selected contractor will be required to assume responsibility for all services offered in its proposal whether or not the contractor performs them. Further, CATA will consider the selected respondent to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract. If any part of the work is to be subcontracted, the prime contractor must provide a complete description of work subcontracted and descriptive information about the subcontractor's organization and capabilities. The prime contractor is totally responsible for adherence by the subcontractors to all provisions of the contract. CATA must review and approve in writing all subcontractors. All subcontractors must be included in the initial proposal with descriptions of the firms' qualifications, DBE status, and the qualifications of the key individuals assigned to this project.

I-N Other Duties Assigned by CATA

Because of the nature of this project, CATA is unable to determine all possible work components and tasks to be completed. The Contractor may be asked to provide additional service that has not been outlined in this RFP. When additional duties beyond those outlined in this RFP and in the Contractor's proposal are identified, CATA and the Contractor will discuss the Contractor's ability to complete this work. If CATA determines the Contractor should conduct the additional work, contractor will provide request for Task Order describing the work to be done and all associated costs. A written task order will then be issued by CATA.

I-O Selection Criteria

Responses to this RFP will be evaluated based upon the following factors as presented in the respondent's proposal. These are listed in order of importance:

- 1) **Price.** The vendor shall fill in a cost for each item listed. Prices will be evaluated as below.
- 2) **Capability and qualifications of the prime firm and all subcontractors:** The vendor shall submit a detailed description of their experience in providing services of this nature. This addresses distribution of staff time to the project, the respondent's past record of performance on similar assignments (such as quality of work and ability to meet schedules).
- 3) **Quality Assurance.** Quality of the information submitted in the proposal based on completeness, and organization of the materials presented and how the respondent proposes to assure the quality of the delivered products whether off-the-shelf or custom developed, quality of management and installation process and other key deployment elements.
- 4) **Compatibility and usability.** Based upon proposal, compliance to the specification, compatibility with CATA's existing CTC structure, and proposed delivery schedule.
- 5) **References.** Vendors shall provide a list of references from at least three (3) companies in which they proved services of similar size and complexity. At a minimum the reference list shall contain the following information:

1. Company name
2. Contact person
3. Telephone number
4. Size and type of project

CATA will constitute an ad hoc committee to evaluate all proposals. Those firms deemed by CATA to be most responsive to the needs of CATA may be asked to make oral presentations to CATA. That firm determined to be the most highly qualified based on the submitted proposal and any oral presentation if requested may be asked to enter final negotiations. If the firm initially selected is unable to consummate agreement with CATA, then the next most qualified firm will be considered for award, and so on. At any time during this process, CATA reserves the right to re-bid or cancel the project, as CATA determines.

Each prime contractor should make every effort to include Certified Disadvantaged Business Enterprises in this project.

I-P Oral Presentation

Orals presentations are not anticipated to be required.

I-Q Independent Price Determination

By submission of a proposal, the respondent certifies, or, in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this proposal:

The prices in the proposal have been determined independently and without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such prices with any other respondent or with any competitor.

Unless otherwise required by law, the prices that have been quoted in the proposal have not been knowingly disclosed by the respondent prior to award directly or indirectly to any other respondent or to any competitor.

No attempt has been made or will be made by the respondent to induce any other persons or firm to submit or not submit a proposal for the purpose of restricting competition.

Each person signing the proposal certifies that she/he:

Is the person in the respondent's organization responsible within that organization for the decision as to the prices being offered in the proposal and has not participated (and will not participate) in any action contrary to the bullets above.

Is not the person within the respondent's organization responsible for the decisions as to the pricing being offered in the proposal but has been authorized, in writing, to act as an agent for the persons responsible for such a decision and certifying that such persons have not participated (and will not participate) in any action contrary to the bullets above.

I-R Contract Payment Terms

Payments for any contract entered into as a result of this RFP will be made Net 30 Days upon acceptance of invoice.

There will be no charge for taxes, shipping, handling, delivery, set-up, or returns or rejected items, rejected as not meeting specifications.

SECTION II: SPECIFICATIONS

II-A Background

The Capital Area Transportation Authority (CATA) is the regional public transportation provider for the Greater Lansing area. Specifically, CATA currently provides transit service to the cities of Lansing and East Lansing, the Townships of Lansing, Delhi, and Meridian and Ingham County. CATA operates over 34 fixed bus routes and demand-response services in the rural Ingham area as well as in Delhi and Meridian townships and the Cities of Mason and Williamston. CATA also provides a demand-response service designed to meet the needs of persons with disabilities, called Spec-Tran. CATA provided 12 million passenger trips in FY11. Over 3 million of those rides occurred on MSU campus that year. CATA became the sole operator of transportation services on the campus of Michigan State University (MSU) in August of 1999.

II-B Objectives of the Project

The objective of this Project is to provide for CTC West Retaining Wall Repair and Fence Removal and Replacement per drawings A or B (not to scale) known as Appendix "F" and specifications.

II-C Scope of Work

The Capital Area Transportation Authority (CATA) is requesting written proposals from qualified suppliers for the purpose of providing for CTC West Retaining Wall Repair and Fence Removal and Replacement located at the:

CATA Transportation Center (CTC), 420 S. Grand Avenue, Lansing, MI 48933.

The service shall consist of CTC west retaining wall repair and removing and disposing of the current fence and replacing with new as detailed within, Section II-G Detailed Specifications. Bidders must have a minimum of 3 years experience with this type of service and must be able to document successful completion of projects of this size and type within the past three years. Documentation shall include a list of a minimum of three references, including the size and type of work performed, and a contact person including phone number.

II-D CATA Responsibility

CATA will provide access to the facility:

- Access to the CTC facility will be available Monday through Friday between the hours of 8:00 p.m. and 4:00 a.m. EST.

Building and Installation Materials cannot be stored on site.

II-E General Requirements

Safety:

Timeliness: The services of the successful respondent are to commence upon execution of the contract and continue in a timely manner throughout the contract period until completion.

Meetings: The successful respondent (Contractor) shall meet with the CATA project manager during the project as needed. These sessions may be conducted over the telephone, in person, or via e-mail, as determined by the CATA Project Manager. The Contractor shall make immediate phone calls to the CATA Project Manager if any significant problems are encountered during the project.

Project Reports: The Contractor will provide to the Project Manager reports as may be required.

II-F Deliverables

Please see Detailed Specifications below.

II-G Detailed Specifications: CTC

The vendor shall provide all material, labor and equipment to deliver FOB installed, CTC West Retaining Wall Repair and Fence Removal and Replacement in accordance with Attachment Drawings A and B and specifications as follows:

1. Remove existing fence and dispose of.
2. Remove all old mortar from existing fence post holes.
3. Remove all loose and fracture concrete from around fence pole holes on retaining wall.
4. Fill all post holes and fracture areas on retaining wall with fast setting epoxy patching material (Mapie Quick Patch or approved equal). Apply a rub coat to blend color of patching to match existing wall.
5. There is approximately 314 feet of retaining wall on the west side of CATA property. On top of this wall are four lot lights and five section of fencing between the lot lights. Spacing is as follows from south to north. All measurement are approximate, contractors must field verify all measurements.

40' of fence, lot light

73' of fence, lot light

78' 6" of fence, lot light

83' 9" of fence, lot light

31' 6" of fence
6. Fence must be constructed so that the posts are evenly spaced with no section greater than 10 feet 6 inches long.
7. Fence shall be mounted to the top of the retaining wall with LTD ½" X 4" four per post.
8. Fence post will be 4' tall and constructed from 2 ½" sq. X .125 wall 6063-T52 aluminum tubing with welded top cap. Anchor plates shall be 3/8" X 6" X 6" with four 5/8" mounting holes.
9. Top and bottom rails shall be constructed from 1" sq. X .125 wall 6063-T52 aluminum tubing.
10. Spindles shall be constructed from ¾" sq. X .062 wall 6063-T52 aluminum. Spindles shall be no further than 3" apart.
11. Section shall be bolted together with stainless steel fasteners.
12. Fencing must be powder coated black with a four step process Sand blasted, Detergent bath, Power primed half cured, powder coated full cured.
13. Fence, powder coating and retaining wall shall have a minimum of a five year warranty.

14. See attached drawings for two different styles of fence to be priced. Include separate pricing for both styles installed.
15. Working hours will be from 8:00pm to 4:00am
 - CATA reserves the right to accept or reject any proposal as part of this solicitation as it deems to be in its own best interest.
 - In the event a firm responding to this solicitation is a Disadvantage Business enterprise (DBE), the contractor shall submit a copy of all certifications.

Within one week of award, the contractor's representative will meet with CATA's Project Manager to plan commencement of service.

II-H Proposal Requirements

Vendors to include the following information, at a minimum:

- Detailed description of Respondent's plan for implementing Scope of Work; Respondent's detailed technical work plan including such things as a proposed schedule/time line.
- Statement describing the Respondent's understanding of CATA's stated problem and project objectives.
- Qualifications of the Primary Contractor and each subcontractor.
- Listing of all Job Titles allocated to this project including corresponding hourly wage rates and hourly fringe rates stated individually for each job title.
- Qualifications of the key individuals from each firm assigned to the project.
- Past experience on similar projects – at least three customers of similar size and complexity to CATA for which similar services have been provided by the prime and each subcontractor.
- List of references including specific contact names, addresses, phone numbers, and e-mail addresses.
- DBE firms to be involved in the project.
- Statement of compliance with CATA terms & conditions and Federal Transit Administration and State Regulations.
- Detailed project timeline.
- Additional Information and Comment – include any other information that is believed to be pertinent but not specifically asked for elsewhere.
- A description of the Respondent's quality assurance program.
- Basis of Cost proposal.
- A list of any work that is to be sub-contracted and a description of the qualifications of the Prime Contractor and each Sub-Contractor on the team.
- An organizational chart of the Respondent and all Sub-Contractors.

- The name and telephone number of person(s) in the Respondent's organization authorized to negotiate/expedite the proposed contract with CATA.
- Executed "Buy American," "Lobbying," and "Debarment, Suspension and other responsibility matters" certificates.

II-I Cost of Project

- Respondents to include with their proposal detailed and complete project cost.

These individual prices shall be guaranteed for 180 days.

- | | | |
|--|---|----------------------|
| 1. | Removal and haul-away of current fence per specifications. | \$_____ /Lot |
| 2. | Remove all old mortar from existing fence post holes and all loose and fracture concrete from around fence pole holes on retaining wall and repair of same. | \$_____ /Lot |
| 3. | A. Replacement Fence including delivery and install (A) \$_____ /Lot
B. Description: _____
C. Warranty _____ | |
| 4. | A. Replacement Fence including delivery and install (B) \$_____ /Lot
B. Description: _____
C. Warranty _____ | |
| TOTAL COST (Items 1, 2, 3A, 4A) | | \$_____ Total |

- Company Name _____
- Address _____
- Telephone _____
- Contact _____
- Authorized Signature _____
- Date submitted _____

II-J Project

Permits - Contractor shall be responsible for determining what licenses, permits, and registrations are required for performance of the work, and obtaining and posting on the job site.

Labor: Contractor shall perform all work:

- i. In strict conformance with the requirements of the contract documents (e.g., the statement of work), including any services, materials and equipment reasonably inferable from the statement of work, though not expressly stated therein.
- ii. In strict accordance with all applicable laws, rules and regulations (including, but not limited to, occupational safety and health and environmental laws).
- iii. In a good and workmanlike manner, free of defects, in accordance with all generally accepted industry standards and practices.
- iv. Shall perform all work independent of Owner supervision, being responsible for satisfactory completion of the work.
- v. To the purchaser's reasonable satisfaction.

and will not cause damage to existing property, personal injury or interfere with the other works of the site, and agrees to clean and remove all debris from the work area.

The Contractor shall comply with all applicable provisions of the MIOSHA Standards and other measures that may be in force at the defined work area(s), including provision of appropriate barricades to prohibit pedestrian traffic within the work zone.

Materials: All materials shall be new, in compliance with all applicable laws and codes, and shall be covered by a manufacturer's warranty.

Insurance: Upon acceptance of this proposal as contract, Contractor will provide proof of Worker's Compensation, General Liability, and Automobile Liability insurance and surety bond if requested as specified in attached Terms and Conditions.

Site Maintenance: The Contractor shall take all safety precautions during the execution of awarded work and shall maintain and leave the site safe at all times. At the end of each working day and at all times when the work is temporarily suspended, Contractor shall ensure that all loose materials, equipment and debris are free from the work area.

SECTION III: COMPLIANCE REQUIREMENTS

III-A FTA and MDOT Required Clauses

The Contractor will comply with all relevant procurement and contract requirements of the Federal Transit Administration (“FTA”) and the Michigan Department of Transportation (“MDOT”). See for example FTA Best Practices procurement Manual, Appendix A.1 and FTA Circular 4220.1F.

The website address of the Federal Transit Administration is www.fta.dot.gov

The website address of the Michigan Department of Transportation is www.michigan.gov/mdot

The Contractor shall furnish to CATA upon request, certificates of compliance with all such laws, rules and regulations. The Contractor shall, at its own expense, be responsible for obtaining all necessary permits and licenses required for performance of the Contract.

All contractual provisions required by MDOT or mandated by FTA as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. The Contractor shall not perform any act, fail to perform any act or refuse to comply with any CATA requests which would cause CATA or the Contractor to be in violation of FTA or MDOT terms and conditions.

III-B Small and Disadvantaged Business Enterprises

Small and Disadvantaged Business Enterprises (DBE) are encouraged to bid on this project. Any applicable DBE firm’s certifications must be included in the proposal. Cost Proposals must list the amount and activity of service provided by the DBE firm, as applicable. Information on becoming certified as a Disadvantaged Business Enterprise is available from Michigan Department of Transportation (MDOT) at the following website address: <http://mdot270.state.mi.us:8080/UCP/HomePageServlet>.

III-C Compliance with Laws

The Contractor shall comply with all federal, state, and local laws, ordinances, rules, regulations, and orders, including but not limited to:

1. Motor Carrier Safety Act, 1963 P A 181, as amended.
2. Motor Bus Transportation Act, 1982, P A 432, as amended.
3. Rules and Regulations of the Department of Transportation may promulgate to accomplish the purpose of 1990 P A 339.
4. Motor Safety Carrier Regulations, being 49 CFR, Parts 387, 390-393, 395-397, and 399 including appendices C, D, E, and G.
5. Drug-Free Workplace Act of 1988.
6. Procedures for Transportation Workplace Drug Testing Progress, 49 CFR 40.
7. Physical Qualification Requirements of 49 CFR 391.41 to 391.49
8. Debarment Certification per 49 CFR 29; Appendix C must be signed by respondent and included in proposal submittal.
9. Surface Transportation Assistance act of 1982 (“Buy America Act”); Appendix D must be signed by respondent and included in proposal submittal.

10. Lobbying Disclosure Act of 1985; Appendix E must be signed by respondent and included in proposal submittal
11. Non-Discrimination Clause per 49 CFR, Part 26
12. Prohibition of Discrimination per 1976 P A 453, Public Acts of 1976.

Upon request, Contractor shall furnish to CATA certificates of compliance with all such laws, rules and regulations. The Contractor shall, at its own expense, be responsible for obtaining all necessary permits and licenses required for performance outlined in this RFP.

Information regarding the regulations listed above may be obtained from the Federal Motor Carrier Safety Administration at www.fmcsa.dot.gov/rulesregs/fmcsr/fmcsrguide.htm

III-D Ownership

All original documents, calculations, and work product produced by the contractor, whether produced on paper or on electronic media or otherwise in performance of the contract, shall be the property of CATA. The contractor shall have the right to retain a copy of such documents, calculations, and work product. The contractor shall make available to CATA copies of all contractor correspondence, notes, and other papers relating to the work, upon request of CATA. All works of original authorship created in the scope of this contract are "works made for hire", as that term is used in connection with the U.S. Copyright Act. To the extent that by operation of law the contractor retains any intellectual property rights to any work product, the contractor hereby assigns to CATA all right, title, and interest in such work product, including copyrights and patents. The work product produced by the contractor in performance of services under this contract is intended for use by CATA solely for the purpose intended. Any use or reuse of such work product by CATA for any purpose other than its intended purpose shall be at the sole risk of CATA and without any liability or responsibility of the contractor. To the extent that the work product produced by the contractor contains standard design or construction details or other standardized material previously developed by the contractor in its professional architectural, engineering, and planning practices, then the contractor shall have the right to reuse any such material on other products for other clients or persons without the prior knowledge or permission of CATA and without the payment of any compensation to CATA, provided that the reuse or continued use of such material contains no CATA identifying information or confidential information.

III-E News Releases

News releases pertaining to this RFP or the services, study, data, or project to which it relates will not be made without prior written CATA approval and then only in accordance with the instructions from CATA's Executive Director.

III-F Audit and Inspection of Records

In the case of all negotiated contracts, and contracts for construction, reconstruction, or improvement of facilities and equipment which were entered into under other than competitive bidding procedures, the Contractor agrees that the grantee, the Comptroller General of the United States, or any of their duly authorized representative shall, for the purpose of audit and examination, be permitted to inspect all work, materials, payrolls, and other data and records, and accounts with regard to the project. Further, the Contractor agrees to maintain all required records for at least three (3) years after grantees make final payments and all other pending matters are closed.

III-G Contractual Terms and Conditions

See attached CATA Terms and conditions for detailed terms and conditions

CAPITAL AREA TRANSPORTATION AUTHORITY

CONSTRUCTION STANDARD TERMS AND CONDITIONS OF PROCUREMENT

A. THE FOLLOWING TERMS AND CONDITIONS WILL BE A PART OF THE CONTRACT AWARDED.

1. **CHANGES.** CATA, at any time, by a written order, and without notice to the sureties, may make changes within the general scope of this contract, in (a) drawings, designs or specifications where the supplies to be furnished are specifically manufactured for CATA in accordance therewith; (b) method of shipment or packing; and (c) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for performance of this contract, whether changed or not changed by such order, an equitable adjustment shall be made by written modification of the contract. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; provided that CATA, if it decides that the facts justify the action, may receive and act upon any such claim if asserted prior to dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
2. **TERMINATION FOR DEFAULT.** CATA, by written notice, may terminate the contract awarded on the basis of this proposal, in whole or in part, for failure of the Contractor to perform any of the provisions hereof. In such event, the Contractor shall be liable for damages, including the excess cost of reprocurring similar supplies or services, provided, that if (a) it is determined for any reason that the contract was not in default or, (b) the Contractor's failure to perform is without his control, fault or negligence, the termination shall be deemed to be a termination for convenience under the following Paragraph 3.
3. **TERMINATION FOR CONVENIENCE.** CATA, by written notice, may terminate the contract, awarded on the basis of this proposal, in whole or in part, when it determines it is in the best interest of CATA. If this contract is for supplies and is so terminated, the Contractor shall be compensated in accordance with its auditable cost incurred at the time of notification of termination. To the extent that the contract is for services and is so terminated, CATA shall be liable only for payment in accordance with the payment provisions of the contract for services rendered to the effective date of termination.
4. **ADDITIONAL INFORMATION.** The Contractor shall promptly furnish any additional information requested by CATA relative to the equipment it proposes.
5. **SUPPLIER RESPONSIBILITY.** No advantage shall be taken by the Contractor or its Subcontractor in the omission of any part or detail which goes to make the equipment complete and operable for use by CATA. In case of any variance, this specification shall overrule Contractor or Subcontractor specifications. The Contractor shall assume responsibility for all materials used whether the same is manufactured by the Contractor or purchased ready made from a source outside Contractor's company. In the case of the replacement of a Subcontractor, the Contractor must,

within five (5) working days, notify CATA in writing of the replacement and provide name, address, telephone number, and the type of service.

6. DELIVERY. Service and/or equipment will be delivered to Capital Area Transportation Authority, 4615 Tranter Street, Lansing, Michigan 48910. The Authority will assume custody of all property at one of its other locations, if so directed, in writing by CATA. Invoices shall be furnished with the delivery of each item. CATA reserves the right to inspect all deliveries or services before acceptance.
7. BREACH OF CONTRACT. If the Contractor shall fail, refuse or neglect to comply with the terms of these contract conditions, such failure shall be deemed a total breach of contract and the Contractor shall be subject to legal recourse by CATA, plus costs relating to failure to comply.
8. DISPUTES (AFTER BID AWARD). Except as otherwise provided in the contract, any dispute concerning a question of fact arising under the contract which is not disposed of by Contractor shall be decided by CATA in writing, with a copy mailed or otherwise furnished to the Contractor. The decision of CATA shall be final and conclusive unless within ten (10) days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to CATA a written appeal addressed to the Executive Director for the determination of such appeal, which shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending a final decision of the dispute, the Contractor shall proceed diligently with the performance of the contract and in accordance with CATA's decision.
9. DELIVERY EXTENSION AND DELAYS. CATA reserves the right to extend, postpone or reschedule delivery in case the delivery of service equipment, under this contract, shall be necessarily delayed because of strike, injunction, civil disturbance, government controls, or by reason of any cause or circumstance beyond the control of the Contractor, as detailed in writing by the Contractor, the time of completion or a delivery shall be extended by a number of days to be determined in each instance by CATA.
10. INSTALLATION. If specified, the Contractor shall install and place in operation, subject to approval by CATA, the equipment at the Contractor's expense within thirty (30) days from issuance of a notice to install issued by CATA.
11. INSTALLATION EXTENSION AND DELAYS. CATA reserves the right to extend, postpone, or reschedule installation in case the installation of equipment under this contract shall be necessarily delayed because of strike, injunction, civil disturbance, government controls, or by reason or cause or circumstances beyond the control of the Contractor. The time of completion or installation shall be extended by a number of days to be determined in each instance by CATA.
12. ASSEMBLY. If required, the Contractor shall assemble the equipment of the installation.

13. ACCESSORIES. The Contractor shall furnish all accessories required to permit CATA to operate the equipment as contemplated by the Authority. Accessories shall be included in the bid price.
14. TRAINING. The Contractor shall properly train CATA personnel in the operation and maintenance of the equipment.
15. SERVICE MANUAL AND WIRING SCHEMATIC. If specified, the Contractor will provide at least one copy of a service manual and at least one copy of a wiring schematic for individual components and other schematics and drawings.
16. WARRANTY. The Contractor shall describe its policy or warranty(s) both on workmanship and material as applying to the equipment, along with the method or adjustment, and shall be further subject to warranty requirements of CATA as set forth in the following Paragraph 17.
17. CATA WARRANTY. The Contractor agrees that the supplies or services furnished under this contract shall be covered by the most favorable warranties the Contractor gives any customer for such equipment and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to CATA by any other clause of this contract. The Contractor shall state the warranty and supply with its bid.
18. INSURANCE. The Contractor shall place and maintain with responsible insurance carriers the following insurance. The Contractor shall deliver to CATA, upon request, certificates of insurance which shall provide thirty (30) days' written notice to be given to CATA in the event of cancellation. Contractor shall require all Subcontractors to maintain adequate insurance coverage.
 - (a) Workers' Compensation and Employer's Liability Insurance.
 - (1) Workers' Compensation in compliance with the applicable state and federal laws.
 - (2) Employer's Liability. Limit \$1,000,000.
 - (b) Commercial General Liability Insurance, including Professional Liability, Blanket contractual, XCU Hazards, Broad Form Property Damage, Completed Operations, and Independent Contractor's Liability, all applicable to Personal Injury, Bodily Injury and Property Damage to a combined single limit of \$1,000,000 each occurrence/claim, subject to a \$2,000,000 annual aggregate for Professional Liability, Completed Operations and Personal Injury other than Bodily Injury.
 - (c) Automobile Liability Insurance, including owned, hired and non-owned automobiles, Bodily Injury and Property Damage, to a combined single limit of \$1,000,000 each occurrence.
19. INDEMNIFICATION. In addition to the protection afforded by any policy of insurance, the Contractor agrees to indemnify and save harmless CATA, the Michigan Department of Transportation ("MDOT"), the Federal Transit Administration ("FTA"), and all officers, agents, and employees thereof:

- (a) From any and all claims by persons, firms, or corporations for labor, materials, supplies, or services provided to the Contractor in connection with the Contractor's performance of the contract; and
- (b) From any and all claims for injuries to or death of any and all persons, for loss of or damage to property, for environmental damage, degradation and response, and cleanup costs, and for attorney fees and related costs arising out of, under, or by reason of the Contractor's negligent performance of the contract.

CATA will not be subject to any obligations or liabilities by Subcontractors of the Contractor or their Subcontractors or any other person not a party to this contract without its specific consent and notwithstanding its concurrence in or approval of the award of any contract or subcontract or the solicitation thereof.

- 20. ACCEPTANCE OF MATERIAL - NO RELEASE. Unless CATA otherwise agrees in writing, acceptance of any portion of the material prior to final acceptance shall not release the Contractor from liability for faulty workmanship or materials or for failure to fully comply with all of the terms of this contract. CATA reserves the right and shall be at liberty to inspect all materials and workmanship at any time during the manufacturing process, and shall have the right to reject all materials and workmanship which do not conform with the contract requirements and specifications; provided, however, that CATA is under no duty to make such inspection and no inspection so made shall relieve Contractor from any obligation to furnish materials and workmanship in accordance with the contract requirements and specifications.
- 21. FINAL ACCEPTANCE. Upon final acceptance by CATA of all work to be performed by the Contractor, CATA will so notify the Contractor in writing. The date of final acceptance shall commence the warranty period.
- 22. LIQUIDATED DAMAGES. If the Contractor fails to deliver the requirements by the date as set forth in the bid documents scheduled for delivery, CATA shall be paid damages for each consecutive calendar day thereafter until the goods are delivered, unless a completion date is extended by CATA in writing. Inasmuch as the amount of such damages will be extremely difficult to ascertain, the Contractor agrees to compensate CATA the sum of **\$1,000.00 per day**, which sum is hereby agreed upon, fixed and determined by the parties hereto as the liquidated damages that CATA will suffer by reason of said delay and default and not as a penalty; and CATA shall have the right to deduct such sum from any amounts which may otherwise become due under contract.
- 23. NO ASSIGNMENT OF CONTRACT. Contractor may not assign or transfer any interest in the contract without the prior written consent of CATA.
- 24. DEFECTIVE WORKMANSHIP AND MATERIAL. When and as often as CATA determines that the work done or being done under the contract or the kind of quality or materials supplied in connection therewith are not fully and completely in accordance with any requirement of the contract documents, it may give notice of such noncompliance to the Contractor in writing and the Contractor shall immediately upon receipt of such notice do all things required to remedy such noncompliance without additional cost to CATA. If the Contractor fails to comply with such written notice, then CATA, upon written notice to the Contractor, shall deduct the cost of repair,

replacement or correction of defective or damaged work from the compensation due or to become due to the Contractor.

25. WAIVER OF BREACH. The waiver by either party hereto or any breach of any provision of this contract by the other party shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision of this contract by either party hereto.
 26. OWNERSHIP OF DOCUMENTS. All original documents, calculations, and work product produced by CONTRACTOR, whether produced on paper or electronic media or otherwise in performance of this Agreement, shall be the property of CATA. CONTRACTOR shall have the right to retain a copy of such documents, calculations, and work product. CONTRACTOR shall make available to CATA copies of all CONTRACTOR correspondence, notes, and other papers relating to the work, upon request of CATA. All works of original authorship created in the scope of this Agreement are "works made for hire", as that term is used in connection with the U.S. Copyright Act. To the extent that by operation of law CONTRACTOR retains any intellectual property rights to any work product, CONTRACTOR hereby irrevocably assigns and licenses to CATA all right, title, and interest in such work product, including copyrights and patents, and agrees to execute such assignments and licenses as may be required in the opinion of CATA's legal counsel to confirm this provision. The work product produced by CONTRACTOR in the performance of services under this Agreement is intended for use by CATA solely for the purpose intended. Any use or reuse of such work product by CATA for any purpose other than its intended purpose shall be at the sole risk of CATA and without any liability or responsibility of CONTRACTOR. To the extent that the work product produced by CONTRACTOR contains standard design or construction details or other standardized material previously developed by CONTRACTOR in its professional architectural, engineering, and planning practices, then CONTRACTOR shall have the right to reuse any such material on other projects for other clients or persons without the prior knowledge or permission of CATA and without the payment of any compensation to CATA, provided that the reuse or continued use of such material contains no CATA identifying information or confidential information.
 27. EXCUSES FOR FAILURE TO PERFORM OR DELAYS. The Contractor will not be in default by reason of any failure in the performance of this contract, if such failure arises out of causes beyond the control and without the fault or negligence of Contractor. Such causes may include, but are not limited to, acts of God or the public enemy, acts of the government either in its sovereign or contractual capacity, fires, floods, and strikes. But in every case, a failure to perform must be beyond the control and without the fault or negligence of the Contractor or its Subcontractors. An excusable delay will permit the Contractor an extension of time for such reasonable period as may be mutually agreed upon between the parties.
- B. TERMS INCLUDED IN CONTRACTS FUNDED IN WHOLE OR PART BY FTA, MDOT, OR OTHER GOVERNMENTAL AGENCY.
1. NONDISCRIMINATION.
 - (a) Compliance with Regulations. Contractor shall comply with Federal Regulations relative to nondiscrimination of the Department of Transportation,

Title 49, Code of Federal Regulations, Part 21, and Title 23, Code of Federal Regulations, Part 710.405(b), as they may be amended from time to time (hereinafter referred to as the Regulations), and with Executive Order 11246 titled Equal Employment opportunity, as amended by Executive Order 11375, and as supplemented by Department of Labor Regulation (41 CFR 60) which are herein incorporated by reference and made a part of this contract. Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

- (b) Nondiscrimination. With regard to the work performed by it during this contract, Contractor shall not discriminate on the grounds of race, color, sex, disability, or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. Contractor shall not participate either directly or indirectly in discrimination prohibited by Section 21.5 and Part 710.405(b) of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (c) In connection with the performance of services under this contract, Contractor agrees to comply with the State of Michigan provisions for "prohibition of discrimination in state contracts" as set forth in Appendix A dated March 19, 1998, a copy of which is attached hereto and made a part hereof.
- (d) This provision B.1 (a)-(d) will be included in all subcontracts relating to this contract. Further, each contract which Contractor signs with a Subcontractor must include the following assurance:

The Contractor, Subrecipient, or Subcontractor shall not discriminate on the basis of race, color, national origin, creed, disability, 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 US DOT-assisted contracts. 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 recipient deems appropriate.

- 2. **DBE REQUIREMENTS.** Contractor will carry out the applicable requirements of the Michigan Department of Transportation's Disadvantaged Business Enterprise ("DBE") program and 49 CFR 26, including, but not limited to those requirements set forth in Appendix B, attached hereto and made a part hereof.
- 3. **CONTINGENT FEES.** The Contractor warrants that it has not employed or retained any company or person, other than a bonafide employee working solely for the Contractor, to solicit or secure this contract and that it has not paid or agreed to pay any company or person, other than a bonafide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, CATA shall have the right to annul this contract without liability.

4. RECORDS/AUDITS. The Contractor shall maintain complete and accurate books, documents, papers, accounting records, and other evidence with respect to allowable costs incurred and manpower expended under this contract. All such records shall be maintained on the basis of generally-accepted accounting principles and shall be clearly identified and readily accessible. The Contractor shall provide access during regular business hours to authorized representatives of CATA to such data and records, and the right to inspect and audit all data and records of the Contractor relating to its performance under the contract, and to make transcripts therefrom as necessary to allow inspection of all work data, documents, proceedings, and activities related to this contract for a period of four (4) years from the date of final payment under this contract. In the event of a dispute as to allowable costs or any other issue under this contract, Contractor will thereafter continue to maintain such records until the dispute has been resolved.
5. CONFLICT OF INTEREST. The Contractor certifies that, to the best of its knowledge, no CATA employee or officer of any public agency interested in this contract has any pecuniary interest in the business of the Contractor and that no person associated with the Contractor has any interest that would conflict in any manner or degree with the performance of this contract.
6. INTEREST OF MEMBER OF CONGRESS OR DELEGATES TO CONGRESS. No member of Congress or delegates to the Congress of the United States shall be admitted to any share or part of the contract, or to any benefit arising therefrom. This shall not be construed to prevent any such person from owning stock in a publicly owned corporation.
7. DEBARMENT AND SUSPENSION. Contractor agrees to comply, and assure the compliance by each of its Subcontractors at any tier, with the provisions of Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 USC § 6101 note, and U.S. DOT regulations on Debarment and Suspension at 49 CFR Part 29. Contractor shall furnish the Certificate of Compliance, as set forth in Appendix C, as a term and condition of the procurement.
8. MDOT AND FTA TERMS. All contractual provisions required by MDOT or mandated by FTA as set forth in FTA Circular 4220.1F, dated November 1, 2008, as amended, are hereby incorporated by reference. Anything to the contrary notwithstanding, all FTA mandated terms or MDOT mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any CATA requests which would cause CATA to be in violation of the FTA terms and conditions.
9. COMPLIANCE WITH LAWS. The Contractor shall at all times observe and comply with all laws, ordinances, and regulations of the state, federal, local, and city government which may, in any manner, affect the performance of the contract.
10. CLEAN AIR.
 - (a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§ 7401 *et seq.* The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

- (b) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.
11. BUY AMERICA PROVISIONS. This procurement is subject to the FTA's Buy America Requirements in 49 CFR 661. *The attached certificate, entitled "Buy America" Provision (Appendix D), must be completed and submitted with the proposal as a term and condition of the procurement. Failure to fill out the certificate completely and return it with the proposal will render your proposal non-responsive.* A waiver from the Buy America Provision may be sought by the bidder if grounds for a waiver exist. Section 165a of the Surface Transportation Act of 1982 permits FTA participation on contracts only if steel and manufactured products used in the contract are produced in the U.S.A.
 12. CERTIFICATION REGARDING LOBBYING. This procurement is subject to the Federal Transportation Administration Lobbying requirements. The attached certificate, entitled Certificate Regarding Lobbying (Appendix E), must be signed and returned as a term and condition of the procurement.
 13. FEDERAL WAGE REQUIREMENTS FOR CONSTRUCTION CONTRACTS.
 - (a) This procurement is subject to the Davis-Bacon Act, 40 USC § 3141, *et seq*, and to the Copeland Anti-Kickback Act, 18 USC § 874, and to the regulations promulgated thereunder ("the Acts"). Contractor must comply with the provisions of the Acts, which are incorporated herein by reference, including, without limitation, in the payment of prevailing wages in the area in which the work is performed and in its subcontracting practices. The contract between Contractor and CATA shall contain in its body or as an attachment the full clause set forth in the Department of Labor regulations at 29 CFR 5.5(a). In the event that the final contract fails to include in its body, or as an exhibit, the required clause, then Contractor agrees and stipulates that the omission shall be deemed a clerical mistake and that the contract shall be reformed, without objection by Contractor for any reason, to include said clause as if present from the inception of the contract. Construction contracts valued at \$2,000 or less are exempt from this provision.
 - (b) If the amount of the construction contract exceeds \$100,000, then this procurement is subject to the Contract Work Hours and Safety Standards Act, 40 USC § 3701, *et seq*. The contract between Contractor and CATA shall contain, in its body, or as an attachment, the full clause set forth in the Department of Labor regulations at 29 CFR 5.5(b). In the event that the final contract fails to include, in its body, or as an exhibit, the required clause, the Contractor agrees and stipulates that the omission shall be deemed a clerical mistake and that the contract shall be reformed, without objection by Contractor, for any reason, to include said clause as if present from the inception of the contract.
 - (c) Construction contracts include contracts for alterations, repairs, including painting and decorating, as well as those for actual construction.
 14. BID BOND. As security for the acceptance of any construction contract, each bid submitted for award of a construction contract shall be accompanied by a bidder's bond or certified check in the amount of five percent (5%) of the bid drawn payable

to the CATA. Such bid deposits of all bidders will be held by CATA until all bids submitted shall have been evaluated, and the bids have either been rejected in whole or in part, or the award of the Contract or Contracts has been made. The bid deposit of the successful bidder will be held until the Contract is duly executed. Bid deposits will be returned to unsuccessful bidder(s) upon award of the Contract. If the successful bidder to whom the Contract has been awarded refuses to execute the Contract within ten (10) calendar days, after Contract award, the amount of its bid deposit shall be forfeited to and retained by CATA as liquidated damages for such neglect or refusal, and CATA may proceed to place the order with another company.

15. PROTESTS. Any protests shall be filed timely in accordance with the CATA Procurement Protest Procedures dated July 13, 2007. These Procedures are available from the CATA Purchasing & Contracts Manager and the CATA CEO/Executive Director, at the following address: Capital Area Transportation Authority, 4615 Tranter Street, Lansing, MI 48910.
16. PERFORMANCE & PAYMENT BONDS. The successful bidder on a construction contract shall furnish at its own expense performance and payments bonds. These bonds shall be furnished to CATA within ten (10) calendar days after contract award. Bond requirements are as follows:
 - (a) A performance bond for construction contracts shall be payable to CATA in the amount of 100 percent (100%) of the full contract amount as a guarantee of good faith on behalf of the Contractor that the Contractor will perform all of its obligations under the contract.
 - (b) A payment bond shall be payable to CATA in the amount of 100 percent (100%) of the full amount of any construction contract to assure payment as required by law of all persons supplying labor and material in the execution of work provided for in the contract.
17. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between CATA 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.
18. The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
19. (a) The Purchaser and Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for

which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

- (b) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 USC § 5307, the Government reserves the right to impose the penalties of 18 USC § 1001 and 49 USC § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- (c) The Contractor agrees to include this Paragraph 19 (a)-(c) in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

20. CLEAN WATER.

- (a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (b) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

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

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

23. RECOVERED MATERIALS. The Contractor agrees to comply with all requirements of Section 6002 of the Resource Conservation and Recovery Act ("RCRA"), as amended (42 USC 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.

24. FEDERAL CHANGES. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those

listed directly or by reference in the Master Agreement between CATA 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.

25. NO OBLIGATION BY THE FEDERAL GOVERNMENT

- (a) CATA and Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to CATA, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (b) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with the Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provision.

26. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

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

C. MISCELLANEOUS.

1. COMPUTATION OF TIME. In computing a period of time prescribed by these conditions, the following rules apply:
 - (a) "Day" means days of the week (e.g., Monday through Friday), not business days.
 - (b) The day of the act or event after which the designated period of time begins is not included.
 - (c) The last day of the period is included, unless it is a Saturday, Sunday, or legal holiday. In that event, the period runs until the end of the next day that is not a Saturday, Sunday or legal holiday.

2. NOTICE. All notices and other communications required under this Contract shall be given in writing, signed by an authorized representative, and be personally delivered or delivered by overnight courier, or certified mail (return receipt requested) to the addresses set forth below:

To CATA: Ms. Sandra L. Draggoo
CEO/Executive Director
Capital Area Transportation Authority
4615 Tranter Street
Lansing, MI 48910

With a copy to: Dan W. Chandler, Esq.
Chandler, Bujold & Chandler, PLC
2855 Coolidge Hwy., Suite 109
Troy, MI 48084

To Contractor: _____

With a copy to: _____

3. JURISDICTION. This Contract will be governed by the internal laws of the State of Michigan without reference to its choice of law rules. Exclusive jurisdiction and venue of any suit, action or claim relating to this contract will be in the Ingham County Circuit Court or the Federal District Court for the Western District of Michigan.

4. This contract constitutes the entire contract between the parties and supersedes all negotiations, commitments, and previous contracts and may be modified only by a further written contract which is executed by a duly authorized officer of each of the parties.

APPENDIX A**PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS**

In connection with the performance of work under this contract, Contractor agrees as follows:

1. In accordance with Act 453, Public Acts of 1976, Contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980, Contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.
2. Contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. Contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. Contractor or its collective bargaining representative will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this appendix.
6. Contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. Contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as Contractor itself, and said Contractor will permit access to its books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that Contractor has not complied with the contractual obligations under this Agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare Contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until Contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom Contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. Contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

APPENDIX B**ASSURANCES THAT RECIPIENTS AND CONTRACTORS MUST MAKE
(EXCERPTS FROM US DOT REGULATION 49 CFR § 26.13)**

- A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US 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 recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801, et seq.).

- B. Each contract Contractor signs with a subcontractor must include the following assurance:

The contractor, subrecipient, or subcontractor 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 US DOT-assisted contracts. 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 recipient deems appropriate.

POLICY #204

DISADVANTAGED BUSINESS ENTERPRISE POLICY

The Capital Area Transportation Authority ("CATA") is committed to a policy of non-discrimination in the conduct of its business, including the procurement of goods and services. CATA will take affirmative action to assure maximum practical opportunity for participation of Disadvantaged Business Enterprise ("DBE") in the performance of contracts financed in whole or in part with funds from the United States Department of Transportation, the Federal Transit Administration ("FTA"), the Michigan Department of Transportation ("MDOT"), or other state and federal agencies with DBE programs.

The Executive Director of CATA will annually set an overall goal or goals as a "level playing field" for the amount of DBE participation that can reasonably be expected in the absence of discrimination. This goal will be based on demonstrable evidence of ready, willing, and able DBEs that are available to participate in government assisted contracts. Affirmative action shall be consistent with sound procurement principles and applicable law.


This Policy Statement will be executed by the Executive Director and the Board Chair of CATA, and then circulated to all Department Directors, and Department Managers within the organization and circulated to contracting organizations, the state offices which administer programs, and DBE organizations. The Executive Director will give public notice of DBE goals, how the goals were determined, and contact information for public comment.

CATA's Purchasing Manager shall be the DBE liaison for CATA and will be responsible for administering the program. The DBE liaison will report to the Assistant Executive Director and shall have direct access to the Executive Director, as necessary. The DBE liaison will work with all directors and department managers to insure the effective functioning of CATA's DBE program.

The efforts and results of the entire staff will be reported to the Board through the Development Report of the Executive Director.



Sam Singh, Board Chair



Sandra L. Draggoo, CEO/Executive Director

Adopted: 2/9/84
Amended: 6/27/84
11/14/84
3/15/89
10/19/05

APPENDIX C**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY, AND VOLUNTARY EXCLUSION****INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this proposal, the prospective Participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective Participant knowingly rendered an erroneous certification in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective Participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective Participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "primary", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective Participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective Participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A Participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A Participant may decide the method and frequency by which it determines the eligibility of its principals. Each Participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a Participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a Participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The Primary Participant (applicant for an FTA grant to cooperative agreement or potential contractor for a major third party contract), _____, ("CONTRACTOR"), certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph 2 above of this Certification; and
4. Have not within a three year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.

(If the Primary Participant (applicant for an FTA grant, or cooperative agreement, or potential third party contractor) is unable to certify to any of the statements in this Certification, the Participant shall attach an explanation to this Certification).

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential contractor for a major third party contract), _____, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this Certification and understands that the provisions of 31 USC §§ 3801, et seq., are applicable thereto.

Date: _____

By: _____
Signature and Title of Authorized Official

The undersigned chief legal counsel for Contractor, _____, hereby certifies that the Contractor has authority under federal, state, and local law to comply with the subject assurances and that the Certification above has been legally made.

Date: _____

By: _____
Signature of Contractor's Attorney

Name, Address, and Phone of Contractor's Attorney:

Appendix D

"BUY AMERICA" PROVISION

This procurement is subject to the Federal Transit Administration "Buy America" Requirements in 49 CFR Part 661.

The "Buy America" Certificate below **must** be completed and submitted with your bid/proposal. A bid/ proposal which does not include the Certificate or where both certificates are signed will be considered non-responsive.

A waiver from the "Buy America" provision may be sought by Capital Area Transportation Authority if grounds for the waiver exist.

In order to qualify as a domestic end-product, the cost of components produced in the United States must be 100% American made.

CERTIFICATE ONE:
 BUY AMERICA CERTIFICATE

The bidder hereby certifies that it **WILL** comply with the requirements of section 165(a) of the Surface Transportation Assistance Act of 1982, but it may qualify for an exception to the requirement pursuant to Section 165(b)(2) or (B)(4) of the Surface Transportation Assistance Act and regulations in 49 CFR Part 661.7.

Signature: _____

Title:

Date:

CERTIFICATE TWO:
 BUY AMERICA CERTIFICATE

The bidder hereby certifies that it **CANNOT** comply with the requirements of section 165(a) of the Surface Transportation Assistance Act of 1982, but it may qualify for an exception to the requirement pursuant to Section 165(b)(2) or (B)(4) of the Surface Transportation Assistance Act and regulations in 49 CFR Part 661.7.

Signature: _____

Title:

Date:

Appendix E
CERTIFICATE REGARDING LOBBYING

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS
 (To be submitted with each bid or offer exceeding \$100,000).

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

1. No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, Disclosure Form to Report Lobbying, in accordance with its instructions (as amended by "Government Wide Guidance for New Restrictions on Lobbying", 61 Fed. Reg. 1413 (11/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 USC § 1601, et seq.).
3. The undersigned shall require that the language of this Certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

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

The Contractor, _____ certifies or affirms to the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 USC § 3801, et seq., apply to this certification and disclosure, if any.

_____ Signature of Contractor's
 Authorized Official

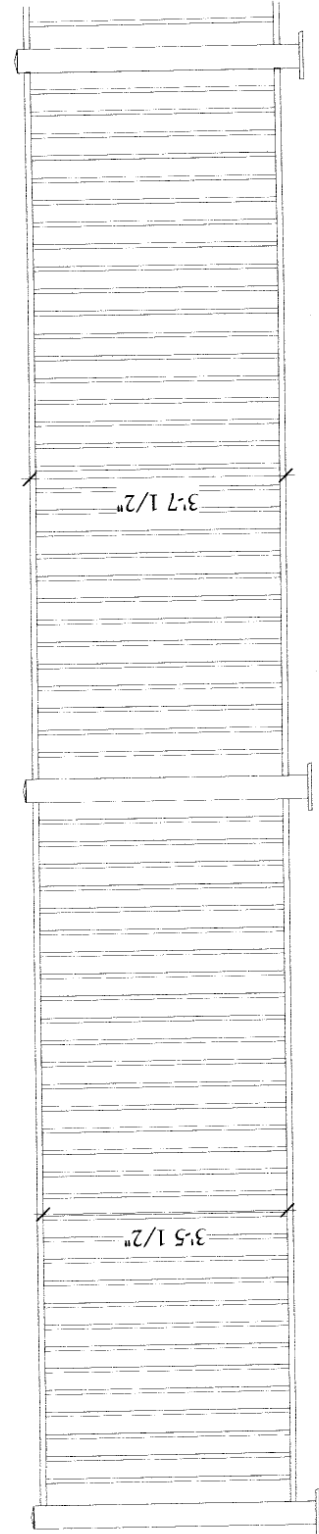
_____ Name & Title of Contractor's
 Authorized Official

_____ Date

ATTACHMENT
DRAWING A

2 - 1/2 sq x .125 wall 6063-T52 Aluminum Tubing for the anchor post with cap welded. 3/8 x 6 x 6 aluminum plate welded on for anchors in 4 places
1" sq x .125 wall 6063-T52 Aluminum Tubing for the rails with 3/4" sq Aluminum .062 wall 6063-T52 for the pickets
SAND BLAST, DETERGENT BATH, POWDER PRIME, HALF CURE, POWDER COATED FULL CURE,

**** PYRAMID TOPS ON POST *****



ATTACHMENT
DRAWING B

2 - 1/2 sq x .125 wall 6063-T52 Aluminum Tubing for the anchor post with cap welded. 3/8 x 6 x 6 aluminum plate welded on for anchors in 4 places
1" sq x .125 wall 6063-T52 Aluminum Tubing for the rails with 3/4" sq Aluminum .062 wall 6063-T52 for the pickets
SAND BLAST, DETERGENT BATH, POWDER PRIME, HALF CURE, POWDER COATED FULL CURE,

**** PYRAMID TOPS ON POST ****

