

INVITATION FOR BID FURNITURE

For
The Rapid

At
300 Ellsworth SW

In
Grand Rapids, Michigan

Issued: August 2, 2023

progressive|ae

Project Number: 55286044

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A. Invitation for Bid / Project Information

1. Progressive AE, Inc. (Progressive AE), acting on behalf of The Rapid (“the Client”), invites you (“Furniture Vendor”) to submit your company’s response to this Invitation for Bid (“IFB”) as it relates to providing furniture, furnishings and related services as outlined in the scope of work below. By submitting your response, you agree to be bound by all terms and conditions contained in this IFB.

Progressive AE will be acting as the Furniture, Fixtures and Equipment (“FF&E”) consultant for the Project. All correspondence, meetings and communication for the Project shall be directed to Progressive AE. All submittals required within the IFB shall be provided to Progressive AE.

2. The project team consists of:
The Rapid, Ellsworth – Client
Progressive AE – Architectural firm/FFE consultant
CarbonSix – General Contractor
3. The following is the proposed schedule:

08/02/2023	Invitation for Bid Issued
08/14/2023	RFI deadlines
08/23/2023	Bids due
09/06/2023	Tentative interview
09/27/2023	Award bid
01/02/2024	FF&E installation
01/25/2024	FF&E completed
01/26/2024	Client move-in
4. Should a Furniture Vendor find discrepancies in, or omissions from the IFB specifications, plans, drawings, quantities, bidding instructions and Bid Proposal Form he should notify Progressive AE immediately. It is the Furniture Vendor’s responsibility to note in his bid any detail or specification that, in his opinion, is not practical or functional.
5. All questions or requests for information shall be submitted in writing via email to:
Progressive AE
Contact: Lydia Fries
Project Assistant
1811 4 Mile Road
Grand Rapids MI 49525
616-365-3539
friesl@progressiveae.com

no later than August 14, 2023 at 2 p.m. All responses to questions will be issued via written addendum by Progressive AE. Furniture Vendors, manufacturers, installation companies and any related parties are not allowed to contact the Client directly.

B. Submission Requirements

Sealed bids will be accepted until August 23, 2023 at 2:00 p.m., local time. They shall be submitted to:

Kevin Wisselink
Director – Procurement and
Capital Planning
ITP - The Rapid
Rapid Central Station
250 Cesar Chavez
Grand Rapids, MI 49503

Bids submitted to ITP shall include one (1) original, 2 copies and a digital copy.

The following items must be provided, noted, and/or accepted in the Furniture Vendor's bid response:

1. Federal Certificates are attached in section L. Bidders must submit the following with their bid to be considered responsive:
 1. Certificate of Compliance with FTA Clauses
 2. Build America Buy America Compliance
 3. DBE Participation Form
 4. Debarment and Suspension
 5. Debarment and Suspension Lower Tier
 6. Certificate of Restrictions on Lobbying
 7. Iran Sanction Certificate
2. Bid Proposal Form as provided in the Appendices -
Where requested, unit prices are to be provided for a Furniture Type as a single complete unit, including all specified items. It is to be assumed that where common parts are shared with more than one unit (i.e. common furniture panels between two workstations), the unit price will include all parts required to complete the entire unit. As such, it is understood that unit prices will not be an equal dividend of the total sell price as divided by the total quantity. Unit prices should be based upon the cost for the total sell of the project including all discounts. Unit prices are to be fully loaded and include all project management, freight, delivery, permit and license fees, insurance, tax, labor for installation, profit and fees. Quantity, unit sell price and extended sell price are to be provided on the Bid Proposal Form only. Labor rates for installation shall meet or exceed, Davis Bacon Wage Rates.
3. Signature and Notary Form as provided in the Appendices-

Signatures must be in long hand and executed by a principal duly authorized to make contracts. The Furniture Vendor's legal company name, incorporation and tax license numbers must be fully stated. Responses must be notarized on the provided form.

4. Description and contact information for proposed project team with main point of contact identified.
5. Three references from companies currently or recently under contract with similar size, scope and quantity. Include the contact person's name, title, email and phone number.
6. Proof of insurance requirements outlined below in section F – Bidder Qualifications and Contractual Commitments.
7. Terms of payment including deposits, and/or progress payments are to be included with the bid.
8. The Furniture Vendor will either possess its own in-house installation crew with qualified personnel to install this job or subcontract to an Installation Contractor qualified per the terms of the IFB. If it is the intent to subcontract installation services, the Furniture Vendor will provide the name of the Installation Contractor, contact information, a list of references, resumes of project manager assigned to the project, and certification from the manufacturer that the installation company is trained and qualified to install the specified products. Sub-contracted Installation Contractors are bound by all the same conditions and requirements as the Furniture Vendor.
9. A breakdown of hourly rates for installers/job site supervisors and the number of installers/supervisors on the job site shall be included. Include crew sizes, identify all anticipated shift work and similar items required to fulfill the schedule requirements. The Furniture Vendor shall include, as a part of this bid. Davis Bacon Wage rates along with certified payroll with each pay application.
10. The Furniture Vendor is required to include all labor, materials, equipment, freight and other items necessary for the proper execution and completion of the work. It is intended that all work required for the interior furnishings of the project shall be supplied, including all such work that is in the contract documents as being necessary to provide the intended results.
11. All standard warranty information shall be provided. Warranty provisions will be considered when bids are measured between the Furniture Vendor and their aligned manufacturers.
12. A letter from each manufacturer guaranteeing the availability of specified products for ten (10) years from date of original delivery.
13. Terms and Conditions and proposed service agreement; Exceptions or exclusions from this Invitation for Bid, must be outlined in the Terms and Conditions.

14. Any costs related to storing furniture and furnishings if shipped earlier than required per the construction schedule until the general contractor has completed construction.
15. The Furniture Vendor shall provide with their bid response a schedule showing time required to complete production runs, shipping and complete delivery in a manner that coordinates with the construction and occupancy of the project. They shall provide a written plan of installation and graph type schedule (MS Project or equal) which will establish a flow and milestones of installation at the site starting with initial deliveries through final fine tuning and punch list. The written plan and schedule will provide a description of stages, phases, major activities, installation crew capacities and installation activities. The schedule must include points at which electricians retained by the general contractor will be required to finalize electrical connections and installation and termination of low voltage voice/data cabling in furniture.
16. The Furniture Vendor will be required to chalk the layout of the panels from a mutually established work point prior to installation of any electrical poke-thrus, power poles and concrete floor boxes (to the extent they have not already been installed). Cost of any chalking is to be included in this bid.
17. Provide plan and axonometric drawings for each private office and workstation typical identifying final product name, dimensions, component style, finish, size, accessories and options. Include any typicals modifications due to field conditions.
18. Bids that contain modifications to the specifications or Bid Proposal Form may be rejected. Clarifications and/or specific exclusions must be provided on a separate sheet with a full explanation of why said clarification of exclusion is required and the difference in cost from what was specified.
19. Submissions may require revision upon review by the Client or Progressive AE.
20. The IFB is separated into six (6) Packages as follows:

Package 1	Workstation / Filing
Package 2	Private Office
Package 3	Conference
Package 4	Seating
Package 5	Lounge
Package 6	Ancillary

C. Evaluation Criteria

1. The proposed products must meet ANSI/BIFMA, UL and ASTM industry standards for performance and must perform to the intended use for a contract environment which operates single shift (i.e. 8/5/52).
2. The selection of a Furniture Vendor will be based primarily on quality of product, qualifications of staff and firm, net pricing, and demonstration of understanding of project scheduling needs for implementation of project scope to achieve all of the milestone schedule requirements.
3. There shall be no minimum order requirements for any items specified in the specification for one (1) year from delivery date.
4. The specification documents in conjunction with the attached plans shall indicate the design, finish, components, function and quality standards required. Proprietary components shall be the manufacturer's product or products which meet the performance requirements, sizes, shapes, finishes, and colors as shown and specified.
5. Specifications meet the functional requirements of the Client's needs and the design intent. The Furniture Vendor is to recommend proposed products as close to the specifications and note any deviations or variations from those specifications as well as the related cost savings or benefits.
6. Furniture Vendors are required to verify all model numbers to written description. Description shall take precedence over model numbers. Notify Progressive AE of any discrepancies during verification and prior to bid submission.
7. Furniture Vendors are responsible for verifying quantities and for providing those quantities on the Bid Proposal Form.
8. Pricing for the Systems Furniture shall include panel to panel connections, electrical outlets and electrical system components, task light fixtures and bracket hardware, receptacles and data jack faceplates. All electrical components, including electrical whips for connection to building power and labor required for electrical connections of the whip to activate the electrical system at the building power demarcation, will be provided by Frontier Electric.
9. Products for Workstations and Private Office Casegoods
 - a. All work surfaces and transaction surfaces shall be shown in the attached drawings and specifications. Provide one grommet or scallop as shown. In lieu of grommets, continuous cable management space between work surface and panels can be provided. Workstations with panels against a wall shall still be panel hung. Wall hung work surfaces are not permitted except where specifically approved by the Client, regardless of indication on Architectural documents.

- b. All plastic laminate and wood tops which require field scribing for purposes of addressing field partition and column conditions shall be included in the basic scope of services included in the bid response.
- c. Provide all support brackets required. Work surfaces that are not fully supported by panels shall receive end panel support. Support panels shall not obstruct wall outlets. Provide access doors where necessary.
- d. Provide all connectors, end caps, top caps and variable height connectors required for installation. Provide filler posts at all two way and three way connections. All connectors shall be securely installed and in alignment. All panels, intermediate covers, three way connection points and corners shall be painted. Colors of metal and plastic components shall match wherever possible.
- e. All panels are to be provided with carpet grippers.
- f. Each fabric and paint is to be from one dye lot. Any exception of this must be reviewed and approved by Progressive AE.
- g. All drawers, overhead bins, files, wardrobes and similar items to be provided with locks and keys. All locking elements shall be keyed alike per workstation, office or conference/training room, but each office, workstation or conference/training room shall be keyed differently. All general files shall be keyed differently from each other. Locks to be in steel/chrome finish. All lock cylinders to be keyed to one master for all manufacturers' products in the entire project. Provide four (4) master keys per product family and plug pullers to the Client at project completion. Leave two (2) keys in each office and/or workstation for the end user. All extra keys are to be turned over to the Client.
- h. Drawer and file pedestals for all new products provided for Project shall be full depth of work surfaces which they are beneath, unless noted otherwise, and shall be provided with full extension extra heavy duty glides. One convenience/pencil tray should be provided for every pedestal containing a 6"h box drawer.
- i. Where overhead cabinets, wardrobe units and similar components with tops are adjacent to each other in the final installed position, tops of units are to be configured so they are flush with each other.
- j. Provide two shelf dividers in each overhead or work wall storage bin.
- k. The clear dimension between the bottom of overhead units and the work surface is to provide no less than 21 inches clear for computer monitors. Bids shall specifically identify any deviations in this dimension if smaller than requested.
- l. All task lights under overhead units (binder bins or shelves) to be installed such that bottom of task light is flush with bottom of unit. Task lights shall not under any

circumstances project below lowest component of overhead unit with doors in open or closed positions.

- m. Provide electronic LED task lights under each overhead component as shown in the specifications. Lamp temperature color to be coordinated with Progressive AE. Provide fused plugs where required by local municipality. Plugs must be provided so that no one plug covers the adjacent outlet in the electrical duplex. Conceal plug cord behind tackable panels mounted to wall. Provide wire management for all task light cords. Verify proper usage after installation. Wherever overhead components are specified, provide task lighting in the largest possible dimension, no smaller than 12" less than the overhead component's width.
- n. Provide cable wire management for all equipment cords. Place any cords in wire management during installation.
- o. Electrical raceways for all products shall be provided with all components, grounding systems and other appurtenances and shall comply with all U.L. and ASTM standards applicable to the type of product being provided, as allowed by local electrical codes. All such costs are to be included in the bid. Power components to be provided as shown in the specifications.
- p. All powered panels shall be pre-punched in factory with knock-outs for both power and data on each face of every panel. Provide factory prepared knock-outs for not less than two duplex receptacles and one data/communication receptacle per 36 inch or wider panel, both sides, and one each for each 24 inch wide panel. Knock-out locations which do not currently call for electrical telephone and data connections shall be provided with factory snap in fillers, or shall have the "punch-out" only scored for future removal.
- q. Provide telecommunications panel pathway and in-feed locations capable of accepting minimum of eighteen Cat 6 cables at 40% fill capacity.

D. Owner Rights and Responsibilities

1. The Client shall not be responsible for any cost incurred by the Furniture Vendor during the preparation or submission of this bid response. If requested, additional bid response copies shall be furnished by the Furniture Vendor at the Furniture Vendor's expense.
2. Subsequent to the receipt of bids, the Client project team may conduct interviews with selected IFB respondents to discuss the project in greater detail and to meet the key members of the Furniture Vendor's team. These interviews will be at the sole discretion of the project team and will be conducted either at Progressive AE's or the Client's offices. The date and time for these interviews is to be determined after receipt of bids.
3. The Client reserves the right to split the award to multiple Furniture Vendors along product lines or Packages. The Client will be under no obligation to accept the lowest or any bid and will have the right to reject any or all bids. Incomplete, late or unsolicited bids may be rejected.
4. The Client reserves the right to deduct twenty percent (20%) from the original specification without any effect on discounts on all products or the unit prices submitted.
5. The Client or the project team shall promptly notify the Furniture Vendor of any changes in the schedule for construction of the project which may affect the Furniture Vendor's delivery and installation schedule.
6. The Client and the project team reserve the authority to stop work on a given segment of the work or item to ensure proper interpretation and execution of the requirements of the specifications.
7. The Client reserves the right to reject any item whose design, workmanship or material does not comply with design requirements.
8. The Client shall become familiar with and follow the Furniture Manufacturer's recommended guidelines for maintenance and cleaning.

E. Progressive AE Rights and Responsibilities

1. Progressive AE shall be the interpreter of all work covered in this IFB document.
2. The detailed layouts will define components within each workstation, office, room or area. Detail drawings shall take precedence over floor plan graphics. Every attempt has been made to fully identify the components and accessories required for the workstations; however, all accessories, components, and hardware to affix, fully erect and complete these configurations are to be included in this bid, regardless of their inclusion.
3. Progressive AE and the Furniture Vendor shall conduct a final inspection of all furniture ordered to assure that all items meet specifications, are new and in undamaged condition, are assembled and installed properly and placed in their designated locations. The final inspection shall not waive the Furniture Vendor's obligation to furnish furniture conforming to the specifications nor the provisions of any guarantees.
4. No written publication or photographs will be allowed without the written approval of the Client and Progressive AE. The Client and Progressive AE shall not be used as a reference for any manufacturer, vendor, contractor or dealer without the prior written approval from the Client and Progressive AE.

F. Bidder Qualifications and Contractual Commitments

1. The Furniture Vendor warrants to the Client that all materials, furniture, furnishings, and equipment furnished under this IFB will be new (unless specified as refurbished), and that work will be of industry standard quality, free from defects and faults, and in conformance with the contract documents and specifications. All work not conforming to these requirements may be considered defective. If required by the Client, the Furniture Vendor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
2. Dimensions supplied in these specifications and drawings are approximate. The Furniture Vendor shall carefully check all dimensions and other conditions affecting the work in the field, including wall/floor outlet/feed locations, prior to order entry and shall be responsible for proper installation in the required areas in order to meet design intent.
3. The furniture plans will dictate orientation/handling. The Furniture Vendor is to field verify all conditions and advise Progressive AE and the Client of any conflicts.
4. Insurance Requirements
 - a. Prior to the commencement of installation, the Furniture Vendor and the Installation Company shall obtain the following insurance, at its own expense, to be maintained until the completion of the Work and Final Acceptance. Your firm must submit a copy of your Errors & Omissions and Liability Policies. The requirements below are the minimums that must be met.
 - i. Commercial General Liability Insurance (including broad-form contractual liability and completed operations, explosion, collapse and underground hazards) in the amount of \$1,000,000 single limit.
 - ii. Comprehensive Automobile Liability Insurance, including hired and non-owned vehicles, if any, in the amount of \$1,000,000 single limit.
 - iii. Workman's Compensation Insurance in the amount of the statutory maximum and employer's liability insurance in the amount of \$500,000.
 - b. The Developer, Building Manager and the Client will require Certificate of Insurance indicating the job site, additional insured and evidencing all required coverage, and must be submitted to and approved by the Developer, Building Manager and the Client five (5) business days prior to the commencement of any of the work.
 - c. All insurance policies shall expressly require **THIRTY (30) DAYS** written notice to the Developer, Building Manager and the Client of the cancellation or material alteration of such policy, and the Certificates of Insurance shall so provide.

G. Awarded Vendor's Responsibilities

1. The Awarded Vendor will be expected to enter into an Agreement with the Client within ten (10) business days of an award.
2. All products and services are to be provided as per the specifications and Request document herein and as per the approved purchase orders from the Client.
3. The Furniture Vendor agrees that, in the performance of its work under the award of this IFB, they shall abide by and comply with all applicable federal, state and local laws, codes and regulations.
4. After award and specification of furniture, finishes and fixtures, the following Submittals will be required from the Furniture Vendor prior to order placement. The Furniture Vendor will not commence the shipment of any item until all related samples have been reviewed and approved by Progressive AE.
 - a. Submit manufacturers' data, including color graphic representations, written descriptions, and installation instructions for each product specified.
 - b. Include the manufacturer's printed instructions and current recommendations for storage procedures, protection, and final cleaning of the finished installation.
 - c. Shop drawings for all custom or modified from standard products shown in the specifications attached to this IFB.
 - d. Installation Drawings: Submit not less than two (2) sets and one (1) CAD file to Progressive AE indicating complete layout of all systems, office and ancillary furniture accurately showing all components, accessories, grommets, electrical and telecom feeds, finishes and related items. For each typical office, workstation and specialty areas of the Project, provide large scale detailed plans and isometrics of the rooms showing all furniture, components, accessories and dimensions.
 - e. Samples for custom finishes: Submit two (2) samples not less than 12 inches by 12 inches of each fabric, paint, wood and laminate and two (2) 12-inch lengths of trim finish, properly identified with the names of the Project, Furniture Vendor, Manufacturer and identifying the specific location and product(s) where the finish is to be applied.
 - f. Fabric samples will be cuttings from the actual bolts of fabric which will be shipped to the respective upholsterers unless Furniture Vendor guarantees the actual field supplied products will match the samples provided. In the case of specially designed fabrics, the manufacturer will submit to Progressive AE as many samples as required to show the range within which the final product will fall. Fabrics outside this range will not be accepted.

- g. Submit elevation indication area of required in-wall blocking as well as anchoring details for all wall hung overhead interior furniture.
 - h. Submit Shop Drawings for all custom furniture.
5. The Furniture Vendor shall prepare final installation drawings and cost quotation for Progressive AE's review and the Client's sign-off prior to placing any orders.
 6. The Furniture Vendor shall confirm manufacturer's acknowledgments of purchase orders to ensure accuracy, count and delivery and advise of any long lead times.
 7. The Furniture Vendor shall coordinate manufacturing and shipping of product and C.O.M.'s (should any be specified) to ensure that the product arrives at the manufacturer and site properly tagged and in the correct sequence for expedient installation in accordance with the schedule.
 8. The Furniture Vendor must provide updates on production status, lead times and COM status and ship dates on all furniture items to Progressive AE at a minimum of every thirty (30) days from the point of award until forty-five (45) days before delivery at which point the Furniture Vendor and the project manager from the installation team will be required to attend, at a minimum, weekly project meetings at the project site. Additional updates are required for all occurrences that may affect production status and ship dates regardless of the point in the schedule which they occur. Every effort shall be made to ensure that schedules will be met and that specifications are being accurately followed.
 9. The Manufacturer(s) of product for both workstations and office products shall have factory authorized product expert(s) available during the full performance of the installation of the furniture products on this project to provide guidance and direction to the installation crews on proper use, installation, and adjustments of their products as well as overall Quality Assurance.
 10. The Furniture Vendor shall assist in enforcing all manufacturers' warranties.
 11. The Furniture Vendor is required, as part of the scope of this IFB, to provide instruction to the Client personnel for the proper use of ergonomic tools, seating, lighting, storage components or systems. Furniture Vendor personnel and if required, Furniture Manufacturer personnel specifically versed in the proper use of products, shall be present on site for no less than ten business days of accumulated time and to be scheduled by the Client as the Client sees fit. The total number of presentations and/or instruction events and the size of groups of the Client personnel are to be determined by the Client. All task chairs shall be provided with instruction manuals attached to chair base, which fully describe the function of all controls. The Furniture Vendor is required to provide demonstration of task chair functions and settings.

H. Vendor / Installer Responsibilities for Installation

1. All work shall be installed by skilled workmen, specially trained in this type of work by the manufacturer or their authorized representatives.
2. The Furniture Vendor shall provide an adequate number of qualified, experienced personnel, working in harmony with other workers at the site, capable of performing the required work within the time frame set forth in the project schedule. All workmen and sub-contractors shall be skilled in their respective trades.
3. This Furniture Vendor shall coordinate their work with other trades and cooperate with the Client's contractors and consultants (A/V, electrical, communications, etc.) to ensure a smooth and timely installation. Furniture Vendor and the Installation Contractor shall attend all foreman and safety meetings at the request of the general contractor.
4. The Furniture Vendor and its subcontractors shall cooperate and coordinate with other contractors for expedient completion of the work.
5. An Officer of the Furniture Vendor or other authorized representative, whether in-house or sub-contracted, who is fully authorized to negotiate and approve changes, pricing, labor overtime or similar items, shall be present at the project site at the time of installation and/or available to the Client or the project team representatives by telephone.
6. The Furniture Vendor shall be responsible for compliance with all Owner rules and regulations pertaining to the work to be performed and as such shall make their own inquiries as to access, hours and elevator requirements/availability, and similar items. All costs associated with delivery to the project site must be included in the IFB. No additional costs for delivery, other than unforeseen failure of elevator equipment, will be allowed after award of the Furniture contracts. The Furniture Vendor shall not be entitled to any additional costs as a result of labor or material cost increases resulting from access limitations.
7. Furniture Vendor and the Installation Contractor must review actual conditions forty-five (45) days prior to the initial delivery of furniture. All concerns and requests must be raised to the Client, the project team and general contractor, in writing, forty days (40) prior to the initial delivery of furniture. The Furniture Vendor shall not proceed with the work until unsatisfactory conditions detrimental to the proper and timely completion of the work are corrected unless specifically directed to do so by the Client in writing. Commencement of the work shall constitute acceptance of areas and conditions to receive the work.
8. The Furniture Vendor shall take all reasonable precautions for the protection and safety of the work, all items or materials to be installed which are in his custody, the building, adjacent property, his and other workmen at the site, and the public. The Furniture Vendor shall be responsible for any damage or injury due to his own acts or

- neglect. Should the Furniture Vendor fail to properly restore any damaged property, the Client or the general contractor may make all the necessary repairs and deduct the cost thereof from the Furniture Vendor's contract price. The Scope of Work shall include restoration to original conditions any areas damaged as a result of the Furniture Vendor's operations. The Furniture Vendor shall advise the project team and general contractor, in writing, of any questionable areas prior to commencing with the work.
9. Provide suitable temporary coverings and protection during shipment, storage, installation and throughout the remainder of the construction period. Within all floor areas of tenant space that the Furniture Vendor intends to roll dollies and similar equipment for delivery of furniture and accessories, Furniture Vendor shall place new, clean Masonite floor protection over stone, carpeted and tile floor areas in all primary circulation zones. This requirement is in addition to any wall protection and any requirements, rules or regulations of the building manager. Should Furniture Vendor be observed not in compliance with this requirement, the Client shall, at their option, repair and/or replace any flooring materials in these zones which they believe may be prematurely worn or damaged and charge such costs to the Furniture Vendor. It is recommended, but not required, that a staging plan addressing items such as these be presented by Furniture Vendor for review by project team prior to implementation.
 10. Furniture Installers will be required to chalk the layout of all workstation panels, file cabinets, conference room furniture (including table bases where power and communication cable will be fed to tabletop devices) and private office case goods, in conjunction with the layout of fixed walls by the general contractor.
 11. Furniture Vendor shall, at the time of receipt, verify the physical quantities of product against the Bill of Lading or shipping document. This document will then substantiate the manufacturer's invoice quantities. Furniture Vendor's invoice shall result from verification of the manufacturer's invoice against the original order and all such certified Bills of Lading shall be included with invoices. All items are to be tagged for the particular room or area in which they will be placed as shown on the Furniture Plans provided by Progressive AE.
 12. The Furniture Vendor shall bear responsibility for inspection and receipt of goods at a designated warehouse location or on-site to determine damage and file freight claims when necessary. Any damaged material or equipment delivered to the building shall be immediately removed and replaced unless permission to touch up and repair is received from the Client. Do not install units which are defaced or otherwise damaged. Repair such damage or replace units, if un-repairable, as directed by the Client at no additional cost to the Client. The Furniture Vendor shall arrange for minor repairs to be made at this time, where advisable, by competent specialists. Items to be replaced as directed by the Client shall be reordered on a fast-track basis.

13. The Furniture Vendor shall inspect materials and finishes for damage and faulty installation; test, lubricate and adjust all operating hardware; and repair, make good, or replace materials as required at no cost to the Client.
14. The Furniture Vendor shall be responsible for removing tags from chairs, cleaning all surfaces, plugging in and cleaning task lights, tape removal, trimming loose yarns, Furniture Vendor equipment removal, and trash removal from the site and legal disposal thereof.
15. The Furniture Vendor is to ensure all items are installed level, properly aligned and located as shown on the furniture plans. Metal files are to be leveled horizontally and plumbed vertically. Counterweights are to be supplied where deemed necessary. All workstations to be leveled by individual cluster. Each cluster to have the leveling legs set to their minimum point at the highest point of the slab within the cluster in order to minimize gaps between the finished floor and the bottom of the panel base.
16. The Furniture Vendor shall execute final cleaning of their debris just prior to acceptance by the Client and the project team. This will include removal of all protective materials, cleaning of all surfaces of dirt, smears, marks and all other contamination and foreign extraneous material. Coordinate cleaning schedule with general contractor. The Furniture Vendor shall use cleaning agents and solvents which will not damage materials and finishes as recommended for that purpose by the furniture manufacturer.
17. Upon completion of installation, the Furniture Vendor shall arrange a punchlist walk-through and sign-off process, including a deficiency resolution outline with timeframes and responsibilities outlined, with the Client. Progressive AE will also perform a punchlist walk-through and provide a list of items for the Furniture Vendor to remedy. The Furniture Vendor shall notify Progressive AE when items are complete in order to do a final review.
18. The Furniture Vendor is responsible for removal of all trash and debris from the site and legal disposal thereof. Furniture Vendor shall make their own arrangements for ordering, placement and removal of dumpsters. Placement is to be coordinated with the general contractor prior to ordering. All costs for these services are to be included as part of the bid. All packing materials eligible for recycling must be recycled. The Furniture Vendor shall remove from the site daily all waste materials, packing cartons, debris and rubbish resulting from its operation. If the Furniture Vendor fails to do so, the Client or general contractor may do so and the cost be charged to the Furniture Vendor or may be deducted from the contract price.

I. Instruction to Bidders (Construction IFB)

1. FUNDING

This Project will be funded with the assistance of capital improvement grants from the Federal Government under the Federal Transit Act and the Michigan Department of Transportation (MDOT). The successful bidder will be required to comply with all terms and conditions prescribed for third party contracts in a grant contract between the United States of America and ITP. This grant contract is available for examination by prospective bidders at the ITP offices.

2. PROJECT BUDGET

The budget for this Project will be funded through financial assistance grants from the Federal Transit Administration (FTA) and Michigan Department of Transportation (MDOT). The total Project budget will be determined by the final negotiated price between ITP and the successful bidder.

3. TYPE OF CONTRACT

The Contract for this Project shall be a firm fixed price type.

4. PROJECT NUMBER(S)

All bidders and Contractors will include the FTA Project Number in all correspondence with ITP and with the FTA. The FTA Project Number for this Project is 2023-06E.

5. USE OF "INTERURBAN TRANSIT PARTNERSHIP" NAME IN CONTRACTOR ADVERTISING OR PUBLIC RELATIONS

ITP reserves the right to review and approve any advertising copy related to this Project in any way prior to publication. The successful bidder will not allow such copy to be published in their advertisements or public relations programs until submitting such copy and receiving prior written approval from ITP. The successful bidder agrees that published information relating to this Project will be factual and in no way imply that ITP endorses the successful bidder's firm, service or product.

6. INTENT OF SPECIFICATIONS

It is the intent of these specifications to provide completed Project of substantial and durable construction in all respects, which will be most suitable and advantageous for ITP. Experimental or unproven equipment, materials or design will not be accepted without prior review and written acceptance by ITP.

7. APPROVED EQUALS AND DEVIATIONS

All bids must be in strict compliance with the requirements and provisions of these specifications, including the provisions herein regarding "approvals", "approved equals", and "deviations". Where a feature, component or item is specified by brand name in these specifications, the words "or approved equal" will apply. Where the approval of ITP is specifically required by these specifications in connection with a particular feature, or if the bidder proposes to submit a bid containing "approved equals" or "deviations" from specific requirements of these specifications, the bidder must obtain such approval, confirmed in writing, prior to the date for the bid opening. With respect to "approved equals" or "deviations", the details of same and the reasons and justifications therefor must be submitted to ITP, including a statement whether the bidder has previously furnished or offered to furnish the item in question, is herein specified. Bids may be submitted containing such "approvals", "approved equals", or "deviations", as are specifically approved by ITP, confirmed in writing, prior to the bid opening date. Each bid must be accompanied by documentation regarding any such approvals granted by ITP for the bid. Notice of any such approvals required by and/or granted to a bidder shall be furnished by ITP to other prospective bidders prior to the bid opening date. Any unapproved deviations, exceptions, substitutions, alternates, or conditional qualifications contained in a bid may be cause for its rejection. The decision of ITP, as represented by the Executive Director, shall be final with respect to whether any proposed deviations from the specifications are acceptable. It should be understood that specifying a brand name, components, and/or equipment in this specification shall not relieve the supplier from his responsibility to produce the product in accordance with the performance warranty and contractual requirements. The supplier is responsible for notifying ITP of any inappropriate brand name, component, and/or equipment that may be called for in the specifications, and to propose a suitable substitute for consideration.

8. PROTEST PROCEDURES

The following terms, conditions and appeal procedures will apply:

- a. ITP reserves the right to postpone the bid opening or receipt of bids for its own convenience.
- b. Changes to the specifications will be made by addendum only.
- c. Prime Contractors and subcontractors may make appointments to discuss the Project specifications. This, however, does not relieve them from the written documented requests required by paragraphs (d) and (f), following.
- d. ITP's replies to requests under paragraph (d) above will be postmarked at least four (4) working days before the date scheduled for the bid opening or receipt of bid.
- e. A protest by any adversely affected person regarding restrictive specifications or alleged improprieties in the solicitation must be made in writing and received by the

ITP Purchasing Manager two (2) working days before the date scheduled for bid opening or receipt of bid. The formal written protest shall state the name of the protester, a description of the Project, and the facts and law upon which the protest is based, and a statement as to what relief is requested.

- f. Upon receipt of a protest, ITP shall immediately determine if the date for the bid opening or closing date for receipt of bids should be postponed. If the bid opening or closing date is postponed, ITP will contact all Contractors and subcontractors who were furnished a copy of the specifications by ITP that an appeal has been filed and that the bid opening or receipt of bids is postponed until a decision has been issued. Notice of the postponement will be made in writing by addendum.
- g. Representatives of ITP and the protester shall meet within twenty-four (24) hours after receipt of the protest or at such a time as mutually agreed, to discuss all substantive issues raised in the protest. Upon completion of discussion between ITP and the protester, the ITP Executive Director will transmit a final decision in writing to the protester within five (5) working days. The final decision will respond to each substantive issue raised in the protest. If the written decision cannot be issued within this time period, the protester will be notified in writing of the time extension. Upon issuance of the written decision, ITP will then issue an appropriate addendum to reschedule the date for the bid opening or closing date for the receipt of bid.
- h. Protests by any adversely affected person for reasons other than for restrictive specifications or alleged improprieties in the solicitation must be made in writing and received by the ITP Purchasing Manager not more than three (3) working days after the posting of the Notice of Award is made to the participating bidders. Upon receipt of a protest after Contract award, ITP shall immediately determine if work on the protested Project should be suspended until such time as the protest is resolved.
- i. Representatives of ITP and the protester shall meet within twenty-four (24) hours after receipt of the protest or at such time as mutually agreed to by both parties to discuss the protest. Upon completion of discussions between ITP representatives and the protester, ITP will issue a written decision to the protester within five (5) working days. If the written decision cannot be issued within this time period, the protester will be notified in writing of the time extension.
- j. Except as noted in paragraph (l), ITP will not open bids, receive bids or award a contract if a formal written protest has been received and no final decision has been issued by the ITP Executive Director. After the issuance of a final decision, ITP will wait a minimum of five (5) working days before opening bids or bids or before awarding a Contract for a Project.
- k. ITP may open bids, receive bids and award a Contract for a Project while a protest is pending final disposition when the ITP Executive Director determines that:
 - 1. The items to be procured are urgently required;

2. Delivery or performance will be unduly delayed by failure to make an award promptly; or,
 3. Failure to make prompt award will otherwise cause undue harm to ITP or the Federal Government.
- I. Protester may request a reconsideration after a final decision has been issued by the ITP Executive Director within five (5) working days after the issuance of a final decision if new data or information becomes available that was not previously known, or there has been an error of law or regulation.
 - m. The provisions of Chapter V of FTA Circular 4220.1B (5/5/88), are hereby incorporated and made part of the rules of ITP. Protests to the FTA by a protester must be made in accordance with FTA Circular 4220.1B. FTA will only consider a protest that alleges failure of ITP to have a written protest procedure or failure to follow such procedure. Alleged violations of a specific Federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that Federal regulation.
 - n. Any appeal or protest may be withdrawn at any time.

9. MAILING BIDS/BIDS

Bids submitted by mail shall be mailed a minimum of three (3) days prior to the bid opening date or date scheduled for receipt of bids. Postmarks by the U.S. Postal Service or other mail delivery service is required. Postage meter dates are not acceptable. Bids which are not mailed in a timely manner and received after the scheduled bid opening or bid submittal date will not be accepted.

10. DURATION OF OFFER

All bids shall remain in effect for a minimum of 90 days from the bid opening date or scheduled date for receipt of bids. Offers that allow less than 90 days for acceptance by ITP will be considered non-responsive and will be rejected.

11. BID PRICE

- a. Bid prices shall be submitted on the forms provided. Prices submitted in any other form may be considered non-responsive and may be rejected.
- b. Bid prices shall be based on F.O.B. ITP, Grand Rapids, Michigan.
- c. The price stated in any bid submitted shall include all items of labor, materials, equipment, tools and other costs necessary to fully complete and deliver this Project pursuant to the specifications. It is the intention of these specifications to provide and require a complete project of the type prescribed. Any item or items omitted from such specifications which are clearly necessary for the completion of such Project and its appurtenances shall be considered a portion of such Project although not directly specified or called for in these specifications.

12. DISCOUNTS

Prompt payment discounts will not be considered in the evaluation of bids. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the bidder. As an alternative to offering a prompt payment discount in conjunction with the offer, bidders awarded Contracts may include prompt payment discounts on individual invoices.

13. PAYMENT TERMS

ITP will make payment within thirty (30) days after delivery and final acceptance of the project. The Contractor may submit invoices to ITP prior to or upon delivery. Payment will not be made without an invoice.

14. LATE BIDS, MODIFICATIONS OF BIDS OR WITHDRAWAL OF BIDS

Any bid or modification to a bid received at the ITP office designated in the solicitation after the exact time specified for bid opening will not be considered and will be returned to the bidder unopened.

A bid may be modified or withdrawn in person by a bidder or their authorized representative, provided their identity is made known and a receipt is signed for the bid, but only if the modification or withdrawal is made prior to the exact time set for opening of bids.

15. BIDDER QUALIFICATIONS

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

Responsive offers are those complying in all material aspects of the solicitation, both as to the method and timeliness of submission and as to the substance of the resulting Contract. Bids which do not comply with all the terms and conditions of the solicitation may be rejected as non-responsive.

Responsible bidders are those prospective Contractors who, at a minimum, must:

- a. Have adequate financial resources, as required during performance of the Contract.
- b. Are able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.
- c. Have a satisfactory record of past performance.
- d. Have necessary technical capability to perform.
- e. Provide evidence satisfactory to ITP that the bidder will comply with the DBE requirements.

- f. Certify that they are not on the U.S. Comptroller General's list of ineligible Contractors.
- g. Are qualified as a manufacturer or regular dealer of the items being offered.
- h. Are otherwise qualified and eligible to receive an award under applicable laws and regulations.

All prospective bidders may be requested to submit written evidence verifying that they meet the minimum criteria necessary to be determined a responsible Contractor. Refusal to provide requested information may cause rejection of the bid.

16. ACCEPTANCE OF BID

Each bid shall be submitted with the understanding that the acceptance in writing by ITP of the offer to furnish any or all goods or services described therein shall bind the bidder on his part to furnish and deliver at the bid price, in accordance with the condition of said accepted bid and specifications.

17. WITHHOLDING AWARD

This solicitation for bids does not commit ITP to award a contract, pay any costs incurred in preparation of bids in response to this solicitation, or to procure or contract for goods or services. Bidder shall be responsible for all costs incurred as part of their participation in the pre-award process.

18. BID ACCEPTANCE, REJECTION, AND POSTPONEMENT

The ITP reserves the right to postpone, accept, or reject any and all bids in whole or in part, on such basis as the ITP Board deems to be in its best interest to do so, subject to the rules and regulations set forth by the U.S. Department of Transportation.

19. USDOT/FTA CONCURRENCE FOR CONTRACT AWARD

The award of a Contract for this Project may be subject to review and concurrence by the U.S. Department of Transportation, Federal Transit Administration.

20. SINGLE BID RESPONSE

If only one (1) bid is received in response to the Invitation for Bids, a detailed cost proposal may be requested of the single bidder. A cost/price analysis and evaluation and/or audit may be performed of the cost proposal in order to determine if the price is fair and reasonable.

21. DBE PARTICIPATION

In connection with the performance of this Contract, the successful bidder agrees to cooperate with ITP in meeting its commitments and goals with regard to maximum utilization of Disadvantaged Business Enterprises (DBE). The policy and obligations for maximum utilization of DBE's are herein set forth:

- a. Policy - It is the policy of the Department of Transportation that Disadvantaged Business Enterprises, as defined in 49 CFR, Part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR, Part 26 apply to this Agreement.
- b. DBE Obligation - ITP or its Contractor agrees to ensure that Disadvantaged Business Enterprises, as defined in 49 CFR, Part 26, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, ITP or its Contractors shall take all necessary and reasonable steps in accordance with 49 CF, Part 26, to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and to perform contracts. ITP and its Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT assisted contracts.

Requirements and goals for Disadvantaged Business Enterprise participation in this Project are as follows:

A minimum of zero percent (0%) of the total contract price, as awarded. However, the corporate goal for The Rapid is 2.27%. Compliance with the percentage goal may be fulfilled by DBE's performing as either:

- a. A member of a joint venture as a prime contractor;
- b. An approved subcontractor;
- c. An owner-operator of equipment;
- d. A renter of equipment to a prime contractor;
- e. A firm manufacturing and supplying goods used in the project;
- f. A firm supplying goods used in the project (when supplying goods, only 60 percent (60%) will be counted).

Prior to Contract award, the apparent successful bidder shall submit a written assurance of meeting the above goals and shall include names of DBE subcontractors, addresses of contact persons, a description of work to be performed and dollar values of each proposed DBE subcontract. This information shall be submitted on the attached "DBE Participation Form" furnished with this solicitation.

If the goals were not met, the bidder must demonstrate that sufficient good faith efforts were made to meet the DBE contract goals and shall document the steps he has taken to obtain DBE participation.

Failure to provide required documentation of good faith efforts may be reason for disqualification of the Bid.

Bidders good faith efforts will include the following actions.

Soliciting through all reasonable and available means the interest of all certified DBE's who have the capability to perform work under the contract. This shall include attendance at pre-bid meetings, advertising and /or written notices. The bidder shall allow sufficient time to allow the DBE's to respond to the solicitation.

Selecting portions of the work to be performed by DBE's.

Providing interested DBE's with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

Negotiations in good faith with interested DBE's. It will be the responsibility of the bidder to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or materials consistent with the available DBE's. Evidence of negotiations shall include the names, addresses, and telephone numbers of DBE's that were considered and a description of the information provided regarding the plans and specifications for the work selected for subcontractors, and evidence as to why additional agreements could not be reached for DBE's to perform the work. Not rejecting DBE's as being unqualified without sound reasons based on a thorough investigation of their capabilities.

Efforts to assist interested DBE's in obtaining bonding, lines of credit, or insurance as required.

Efforts to assist interested DBE's in obtaining necessary equipment, supplies, materials, or related assistance or services.

Use of services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBE's.

The prime contractor agrees not to terminate for convenience a DBE subcontractor, and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without ITP's prior written consent. When a DBE subcontractor is terminated or fails to complete its work on the contract for any reason, the prime contractor agrees to

find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated.

22. DEBARMENT AND SUSPENSION

Bidders shall complete and submit as part of their bid, the Certification of Primary Contractor Regarding Debarment, Suspension, And Other Responsibility Matters for all projects when the total aggregate value of the contract exceeds \$25,000. The bidder shall also submit a list of subcontracts and subcontractors which will have a financial interest in this Project which exceeds \$25,000 or will have a critical influence on or substantive control over the Project. A Certification Of Lower-Tier Participants Regarding Debarment, Suspension, And Other Ineligibility And Voluntary Exclusions shall be submitted by the bidder to ITP for each listed subcontractor prior to contract award.

During the term of the Contract the successful bidder will be required to immediately notify ITP of 1) any potential subcontractor that is subject to this provision and to submit the appropriate certification prior to award of a subcontract, 2) any information that its certification or certification of its subcontractors was erroneous when submitted, 3) any information that certifications have become erroneous by reason of changed circumstances.

23. LOBBYING CERTIFICATION

Bidders shall complete and submit as part of their bid the Certification of Restrictions on Lobbying for all projects when the total aggregate value of the contract exceeds \$100,000. The Contractor shall also submit a list of subcontracts and subcontractors which will exceed \$100,000. A Certification of Restrictions on Lobbying shall be submitted by the bidder to ITP for each listed subcontractor prior to contract award.

24. PRODUCT DESCRIPTION

Bids must be accompanied by a comprehensive description of bidder's product. This description shall include drawings, overall dimensions and photographs which show the construction characteristics and explain the operation of the bidder's product. The descriptive literature shall also include information on design details, components, performance characteristics, methods of manufacture and assembly. The descriptive literature is required for the purpose of evaluation and award. Failure of the descriptive literature to show that the product proposed conforms to the specifications and other requirements of this solicitation may result in rejection of the bid. Additionally, failure to submit the descriptive literature will require rejection of the bid. The quality of standard components not covered by the language of these specifications will be a factor in determining an award. No advantage shall be taken by the bidder or manufacturer in the omission of any part or detail which goes to make the product complete and ready for service, even though such part is not mentioned in this specification. All units or parts not specified shall be Contractor's standard units or parts and shall conform in materials, design and workmanship to the best practices known in the industry. All parts will be new and in no case will used, reconditioned, or obsolete parts be accepted without prior review and written acceptance by ITP.

25. DEMONSTRATION

Bidder may be requested to demonstrate to ITP the capability of their proposed product to perform and function as herein called for by this specification. The demonstration shall be at no expense to ITP in compliance with provisions outlined in the technical specifications contained herein.

26. PERFORMANCE & PAYMENT BONDS

The successful bidder shall furnish at its own expense performance and payments bonds. These bonds shall be furnished to ITP within ten (10) calendar days after contract award. Bond requirements are as follows:

A performance bond shall be payable to ITP 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.

A payment bond shall be payable to ITP in the amount of 100 percent (100%) of the full contract amount to assure payment as required by law of all persons supplying labor and material in the execution of work provided for in the contract.

27. PAYMENT TERMS

The Contractor may submit invoices to ITP upon delivery and acceptance of the Project by ITP. Invoices will be paid by ITP, if satisfactory, within thirty (30) days after receipt of the invoice or acceptance of the work by ITP, whichever is later. Payment of invoices by ITP shall also be subject to provisions for performance and payment sureties, if any.

The ITP Project Manager shall have the power to withhold payment or nullify the whole or a part of any payment, to such extent as may be reasonably necessary to protect ITP from loss on account of:

1. Defective work not remedied.
2. Claims filed or reasonable evidence indicating probable filing of claims.
3. Failure of the Contractor to make payments properly to subcontractors for material or labor.
4. A reasonable doubt that the Contract can be completed for the balance then unpaid.
5. Damage to another Contractor.
6. When the above grounds are removed, payment shall be made for amounts withheld to another Contractor.

28. EQUAL EMPLOYMENT OPPORTUNITY NOTICE FOR GOALS

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER NO. 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.
2. The goals and the timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

Timetables

Goals for Minority
Participation in
Each Trade

0.0%

Goals for Female
Participation In
Each Trade

0.0%

These goals are applicable to all the Contractor's work (whether or not it is federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the

covered area, it shall apply the goals established for such geographical area where the work is actually performed with regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations at 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific Affirmative Action obligations required by the specifications set forth at 41 CFR § 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall made a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in at 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

The Contractor shall provide written notification to the Director Of The Office Of Federal Contract Compliance Programs within ten (10) working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

As used in this notice, and in the contract resulting from this solicitation, the "Covered Area" is Grand Rapids Metropolitan Area, Kent County, Michigan.

34. WAGE RATES

For construction project utilizing Davis – Bacon Wages Rates, please refer to the following link: <https://sam.gov/wage-determination/MI20210088/8>

J. Advertisement for Bid

NOTICE – INVITATION FOR BID FOR RENOVATION OF RAPID ELLSWORTH BUILDING

The Interurban Transit Partnership (ITP), also known as The Rapid, is accepting sealed bids for Rapid Ellsworth Furniture (Rapid Project Number 2023-06C), due on August 23, 2023 at 2:00 local time. Bids will be opened at that time and read aloud. Sealed bids should be submitted to:

300 Ellsworth Ave SW, Grand Rapids, MI 49503

All bids shall be subject to all applicable Federal and State laws and subject to a financial assistance contract between ITP and the U.S. Department of Transportation, under the Urban Mass Transportation Act of 1964, as amended, and the Michigan Department of Transportation.

The ITP Board hereby notifies all bidders that it will affirmatively insure in regard to any contract entered into pursuant to this advertisement, that Disadvantaged Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, religion, sex, handicap, or national origin in consideration for an award.

The ITP Board reserves the right to postpone, accept or reject any and all bids on such basis as the ITP Board deems to be in its interest to do so, subject to the rules and regulations set forth by the Federal Transit Administration.

No bid may be withdrawn for at least sixty (60) days after the scheduled closing time of the bid. An original, two (2) hard copies and a digital copy of the bid shall be submitted according to the format laid out in this Design Manual.

K. Davis Bacon Wage Rages

12/2/22, 7:15 AM SAM.gov

2	06/24/2022
3	07/15/2022
4	08/05/2022

* ASBE0047-002 07/01/2022

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST		
INSULATOR.....	\$ 34.62	18.58

BOIL0169-001 01/01/2021		
	Rates	Fringes
BOILERMAKER.....	\$ 35.95	34.52

BRMI0009-002 08/01/2020		
	Rates	Fringes
TILE FINISHER.....	\$ 22.80	17.54
TILE SETTER.....	\$ 26.40	20.08

FOOTNOTE:

Paid Holiday: Fourth of July, if the worker has been employed by the contractor in any period of seven working days before said holiday within the current calendar year.

 CARP1102-001 06/01/2019

	Rates	Fringes
MILLWRIGHT.....	\$ 28.59	24.79

ENGI0324-035 06/01/2022		

	Rates	Fringes
OPERATOR: Power Equipment		
GROUP 1.....	\$ 38.18	24.85
GROUP 2.....	\$ 36.47	24.85
GROUP 3.....	\$ 34.72	24.85
GROUP 4.....	\$ 30.61	24.85

PAID HOLIDAYS: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day.

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 1: Concrete Pump; Grader/Blade; Highlift; Hoist; Roller; Scraper; Trencher

GROUP 2: Broom/Sweeper

GROUP 3: Boom Truck (non-swinging)

GROUP 4: Oiler

 IRON0340-006 06/19/2017

	Rates	Fringes
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<https://sam.gov/wage-determination/MI20220088/4>

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IRONWORKER, REINFORCING.....	\$ 24.43	24.67

LAB00355-027 06/01/2021		
	Rates	Fringes
LABORER		
Grade Checker; Sandblaster..	\$ 24.90	12.95

PAIN0845-006 06/01/2022		
	Rates	Fringes
PAINTER: Brush and Spray.....	\$ 24.45	15.64

PLUM0174-002 07/01/2021		
	Rates	Fringes
PIPEFITTER (Including HVAC Pipe Installation; Excluding HVAC System Installation).....	\$ 37.89	23.52
PLUMBER, Excludes HVAC Pipe and Unit Installation.....	\$ 37.89	23.52

SHEE0007-014 05/01/2018		
	Rates	Fringes
SHEET METAL WORKER, Excludes HVAC Duct and Unit Installation.....	\$ 30.63	14.74

* SUMI2011-013 02/01/2011		
	Rates	Fringes
BRICKLAYER.....	\$ 21.45	5.00
CARPENTER (Acoustical Ceiling Installation Only).....	\$ 18.61	2.69
CARPENTER (Drywall Finishing/Taping Only).....	\$ 17.35	2.69
CARPENTER (Drywall Hanging Only).....	\$ 16.28	2.69
CARPENTER (Form Work Only).....	\$ 18.62	6.42
CARPENTER, Excludes Acoustical Ceiling Installation, Drywall Finishing/Taping, Drywall Hanging, and Formwork.....	\$ 18.14	4.59
CEMENT MASON/CONCRETE FINISHER..	\$ 17.16	4.25
ELECTRICIAN, Excludes Low Voltage Wiring.....	\$ 20.68	6.39
GLAZIER.....	\$ 15.29	2.68

HVAC MECHANIC (Installation		

<https://sam.gov/wage-determination/MI20220088/4>

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**The Rapid Ellsworth
300 Ellsworth SW
Grand Rapids, MI**

Invitation for Bid for
Furniture, Fixtures and Equipment
August 2, 2023

12/2/22, 7:15 AM SAM.gov

of HVAC Unit Only, Excludes Installation of HVAC Pipe and Duct).....	\$ 16.75	2.75
IRONWORKER, ORNAMENTAL.....	\$ 18.48	7.93
IRONWORKER, STRUCTURAL.....	\$ 18.07	4.84
LABORER: Common or General.....	\$ 13.04 **	4.80
LABORER: Landscape & Irrigation.....	\$ 10.47 **	0.00
LABORER: Mason Tender - Brick...	\$ 18.87	2.16
LABORER: Mason Tender - Cement/Concrete.....	\$ 14.01 **	2.45
LABORER: Pipelayer.....	\$ 18.32	3.28
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 20.23	9.10
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 16.50	6.17
OPERATOR: Bulldozer.....	\$ 18.50	5.81
OPERATOR: Crane.....	\$ 19.21	6.76
OPERATOR: Forklift.....	\$ 21.48	9.13
OPERATOR: Tractor.....	\$ 15.72	1.92
OPERATOR: Loader.....	\$ 17.16	4.05
PAINTER: Roller.....	\$ 16.21	2.81
ROOFER.....	\$ 14.05 **	6.06
SHEET METAL WORKER (HVAC Duct Installation Only).....	\$ 18.32	4.66
SPRINKLER FITTER (Fire Sprinklers).....	\$ 17.07	4.24
TRUCK DRIVER: Dump Truck.....	\$ 17.00	5.71
TRUCK DRIVER: Tractor Haul Truck.....	\$ 13.57 **	1.18

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

** Workers in this classification may be entitled to a higher
minimum wage under Executive Order 14026 (\$15.00) or 13658
(\$11.25). Please see the Note at the top of the wage
determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
for Federal Contractors applies to all contracts subject to the
Davis-Bacon Act for which the contract is awarded (and any

<https://sam.gov/wage-determination/MI20220088/4>

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solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates

<https://sam.gov/wage-determination/MI20220088/4>

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12/2/22, 7:15 AM

SAM.gov

the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor

<https://sam.gov/wage-determination/MI20220088/4>

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**The Rapid Ellsworth
300 Ellsworth SW
Grand Rapids, MI**

Invitation for Bid for
Furniture, Fixtures and Equipment
August 2, 2023

12/2/22, 7:15 AM

SAM.gov

200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISIO"

**The Rapid Ellsworth
300 Ellsworth SW
Grand Rapids, MI**

Invitation for Bid for
Furniture, Fixtures and Equipment
August 2, 2023

L. Federal Certificates *(see following pages)*

INTERURBAN TRANSIT PARTNERSHIP (ITP) d.b.a. THE RAPID

CERTIFICATE OF COMPLIANCE WITH FTA CLAUSES

Applies to Formal procurements only

The undersigned certifies that in all aspects of this procurement the vendor will abide by all the applicable third-party contract clauses as specified in the Federal Transit Administrations' Third-Party Contracting Guideline, Circular 4220.1F. The undersigned also acknowledges the receipt of a copy of these clauses from Interurban Transit Partnership in the General Terms and Conditions.

The undersigned understands the noncompliance with these clauses with these clauses may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR part 31. In addition, the undersigned understands that FTA may suspend or debar a Contractor or Manufacturer under the procedures in 49 CFR, part 29.

By execution below by a duly authorized representative(s) of the Proposer, the Proposer hereby offers to furnish equipment and services as specified in its Proposal submitted to Interurban Transit Partnership in response to Request for Proposal No. (2023-6C) in its entirety.

I/We additionally certify that we are fully licensed, insured and have the proper equipment, systems, and personnel to handle the project as specified in this procurement document.

Proposer:

Street address:

City, state, ZIP:

Name and title of Authorized Signer:

Authorized signature

Date

INTERURBAN TRANSIT PARTNERSHIP (ITP) d.b.a. THE RAPID

BUILD AMERICA - BUY AMERICA CERTIFICATE

Applies to All Construction Contracts and Acquisition of Goods or Rolling Stock valued at more than \$150,000

Pursuant to Section 165 of the Surface Transportation Assistance Act of 1982, as amended by Section 337 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, FTA regulations at 49 CFR, Part 661, and at 49 CFR, Part 663, and guidance issued by FTA including the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52. Section 70914, all bidders shall submit the following certificate with their bid or proposal. Failure to submit this certificate will automatically disqualify the bidder from consideration of a Contract award for this Project. An exemption from the "Buy America" requirements may be sought by ITP if grounds for an exemption exist.

Please check the appropriate box (661.6 or 661.12) then complete remainder of form.

§661.6 Certification requirements for procurement of steel, construction materials or manufactured products.

If steel, iron, construction materials or manufactured products (as defined in §661.3 and 661.5 of this part) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in §661.13(b) of this part.

§661.12 Certification requirement for procurement of buses, other Rolling Stock and associated equipment.

If buses or other rolling stock (including train control, communication, and traction power equipment) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder in accordance with the requirement contained in §661.13(b) of this part.

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661 for Goods including the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52. Section 70914 or for 49 CFR 661.11 for Rolling Stock.

DATED: _____

COMPANY: _____

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____

Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that *it cannot* comply with the requirements set forth above.

DATED: _____

COMPANY: _____

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____

INTERURBAN TRANSIT PARTNERSHIP (ITP) d.b.a. THE RAPID

DBE PARTICIPATION FORM

BLANK forms are NOT acceptable. If DBE subcontractor opportunities are available, please fill out sections 1 thru 5. If no subcontractor opportunities are available fill out section 6. **SIGNATURES ARE REQUIRED.**

Separate forms are required for each DBE subcontractor. This form may be duplicated as necessary.

1. **DBE Firm Name:** _____
Address: _____

2. **Dollar amount awarded:** _____

3. **Description of work to be performed:** _____

4. **CONTRACTOR'S COMMITMENT TO USE DBE FIRM**

_____, is committed to utilize the DBE contractor to utilize the above named DBE subcontractor/supplier in the manner and amount described on this form.
(Name of Contractor)

Dated _____ (Authorized Signature)

5. **DBE'S COMMITMENT TO PARTICIPATE**

_____, as a DBE firm, is committed to perform the work as described above for the amount specified.
(Name of subcontractor/supplier)

Dated _____ (Authorized Signature)

6. **NO SUBCONTRACT OPPORTUNITIES AVAILABLE.**

_____ has no subcontractor opportunities available for work to be performed.

Dated _____ (Authorized Signature)

INTERURBAN TRANSIT PARTNERSHIP (ITP) d.b.a. THE RAPID

**CERTIFICATION OF LOWER-TIER PARTICIPANTS (SUBCONTRACTORS) REGARDING
DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION**
Applies to All Contracts over \$25,000

The Lower Tier Participant (Subcontractor to the Primary Contractor), _____, certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

If the above named Lower Tier Participant (Subcontractor) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.

The Lower-Tier participant (Subcontractor), _____, 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. U.S.C. Sections 3801 et seq. are applicable thereto.

Signature and Title of Authorized Official

The undersigned chief legal counsel for the _____ hereby certifies that the _____ has authority under State and Local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Applicant's Attorney

Date

NOTICE TO BIDDER: THIS CERTIFICATION SHALL BE COMPLETED BY ALL SUBCONTRACTORS WHICH WILL HAVE A FINANCIAL INTEREST IN THIS PROJECT WHICH EXCEEDS \$25,000 OR SUBCONTRACTORS WHICH WILL HAVE A CRITICAL INFLUENCE ON OR A SUBSTANTIVE CONTROL OVER THE PROJECT.

INTERURBAN TRANSIT PARTNERSHIP (ITP) d.b.a. THE RAPID

**CERTIFICATION OF PRIMARY CONTRACTOR REGARDING DEBARMENT, SUSPENSION, AND
OTHER RESPONSIBILITY MATTERS**

Applies to All Contracts over \$25,000

The Primary 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 (3) 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 offense enumerated in paragraph (2) of this certification; and
4. Have not within a three (3) year period preceding this application/proposal had one (1) or more public transactions (Federal, State, or Local) terminated for cause or default.

If the above named Primary Contractor is unable to certify to any of the statements in this certification, the Primary Contractor shall attach an explanation to this certification.

The Primary Contractor, _____, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provision of 31 U.S.C. Section 3801 et seq. are applicable thereto.

Signature and Title of Authorized Official

INTERURBAN TRANSIT PARTNERSHIP (ITP) d.b.a. THE RAPID

CERTIFICATION OF RESTRICTIONS ON LOBBYING

Applies to All Contracts over \$100,000

I, _____, hereby
certify

(Name and title of official)

on behalf of _____ that:

(Name of Bidder/Company Name)

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 any agency, a Member of Congress, and 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 influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the 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.
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 sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

The undersigned 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 U.S.C. Section 3801, et seq., are applicable thereto.

Name of Bidder/Company Name _____

Signature of Authorized Representative _____ **Date** _____

Type or Print Name and Title of Authorized Official _____

**VENDOR CERTIFICATION THAT IT IS NOT AN
“IRAN LINKED BUSINESS”**

Pursuant To Michigan law, (*the Iran Economic Sanctions Act, 2012 PA 517, MCL 129.311 et seq.*), before accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must first certify that it is not an “IRAN LINKED BUSINESS,” as defined by law.

Vendor	
Legal Name	
Street Address	
City	
State, Zip	
Corporate I.D. Number/State	
Taxpayer I.D. #	

The undersigned, with: 1) full knowledge of all Vendors business activities, 2) full knowledge of the requirements and possible penalties under the law MCL 129.311 et seq. and 3) the full and complete authority to make this certification on behalf of the Vendor, by his/her signature below, certifies that: the Vendor is NOT an “IRAN LINKED BUSINESS” as required by MCL 129.311 et seq., and as such that Vendor is legally eligible to submit a bid and be considered for a possible contract to supply goods and/or services to the County of Kent.

Signature of Vendor’s Authorized Agent:	
Printed Name of Vendor’s Authorized Agent:	
Witness Signature:	
Printed Name of Witness:	

INTERURBAN TRANSIT PARTNERSHIP (ITP) d.b.a. THE RAPID

NO BID PARTICIPATION FORM

To assist the Interurban Transit Partnership (ITP) in obtaining sufficient competition on its Request for Proposals/Bids, we ask that if you received an invitation but do not wish to propose, please state the reason(s) below and return this form by email or USPS. Thank you.

ITP The Rapid
Procurement Department
300 Ellsworth Ave NW
Grand Rapids, MI 49503
Purchasing@ridetherapid.org

Project No: _____ Project Name: _____ Due date: _____

Check one or more of the boxes below

- Specifications are unclear (explain below)
- Unable to meet the specifications
- Insufficient time to respond
- Our schedule would not permit us to perform within the required time
- We are unable to meet bond requirements
- We are unable to meet insurance requirements
- We do not offer this product or service
- Other (explain below)

Remarks:

Company Name: _____

Signature: _____ Printed Name: _____

Title: _____ Date: _____

**The Rapid Ellsworth
300 Ellsworth SW
Grand Rapids, MI**

Invitation for Bid for
Furniture, Fixtures and Equipment
August 2, 2023

M. Interurban Transit *(see following pages)*

INTERURBAN TRANSIT PARTNERSHIP (ITP) AND [FEDERAL TRANSIT ADMINISTRATION \(FTA\)](#)
CONTRACT PROVISIONS

APPLIES TO CONTRACTS EXCEEDING \$250,000

GENERAL

1. DURATION OF CONTRACT
This Contract shall become effective on October 1, 2023 and shall remain in effect through substantial completion of the project. This Contract may be extended for up to three months with the concurrence of both parties.
2. PROJECT STARTUP
The Contractor agrees to commence work on this Project immediately upon the signing of this Contract by both parties and the issuance of a Notice to Proceed by ITP.
3. PROJECT COMPLETION — (Notice to Proceed)
This Project shall be completed TBD days after execution of this Contract by both parties and issuance of a Notice to Proceed by ITP.
4. PROJECT COMPLETION - (ITP Board)
This Project shall be completed TBD days after Contract award by the ITP Board.
5. CONTRACT AMOUNT AND PAYMENT — (Payment in Full)
ITP agrees to pay, and the Contractor agrees to accept as payment in full the amount of \$TBD by within 30 days after substantial completion.
6. CONTRACT AMOUNT AND PAYMENT — (Payment Schedule)
ITP agrees to make payments for this Project on a monthly basis. The Contractor agrees to accept these amounts as payment in full.
7. PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK
The granting of any progress payment or payments by ITP, or the receipt thereof by the Contractor, shall not constitute in any sense acceptance of the work of any portion thereof, and shall in no way lessen the ability of the Contractor to replace unsatisfactory work or material, though the unsatisfactory character of such work or material may not have been apparent or detected at the time such payment was made. Material, components, or workmanship which does not conform to the instruction of these Contract requirements and specifications or are not equal the samples submitted to and approved by ITP will be rejected and shall be replaced by the Contractor without delay.
8. LIQUIDATED DAMAGES
Applies to cop/to/ projects as deemed necessary to protect the interests of ITP.

In the event of delay in the completion of deliveries of The Ellsworth Renovation Project beyond the dates specified in the Contract and not subject to the Contract's Unavoidable Delay provision, ITP shall assess, as liquidated damages, \$0.00 per calendar day. These damages shall be deducted from any monies due, or which may thereafter become due to the Contractor under this Contract. Further, the Contractor agrees that sums assessed as liquidated damages shall not be considered penalties but reflect the cost to ITP for

9. AGREEMENT CHANGES
Additions, deletions, or modifications to this Agreement may be made only in accordance with a written agreement between the parties, signed on behalf of ITP by its CEO or the Project Manager.
10. PROVISIONS FOR RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION Includes False Claims Act (FTACLause)
Applies to all contracts over \$250,000
 - (a) Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729.
 - (b) Performance during Dispute. Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents, or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.
 - (c) Remedies. Unless this contract provides otherwise, all claims, counterclaims, disputes, and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of

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

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

11. **PATENT RIGHTS AND RIGHTS IN DATA AND COPYRIGHT REQUIREMENTS — (FTA CLAUSE)**

Applies to Research projects in which FTA finances and the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual or to micro-purchases (less than \$10,000)

Patent Rights

- (a) General. The Recipient agrees that: (1) Depending on the nature of the Project, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable: (a) Invention, (b) Improvement, or (c) Discovery, (2) The Federal Government's rights arise when the patent or patentable information is: (a) Conceived under the Project, or (b) Reduced to practice under the Project, and (3) When a patent is issued or patented information becomes available as described in Patent Rights section A(2), the Recipient agrees to: (a) Notify FTA immediately, and (b) Provide a detailed report satisfactory to FTA,
- (b) Federal Rights. The Recipient agrees that: (1) Its rights and responsibilities, and the rights and responsibilities of each Third Party Participant, in that federally funded invention, improvement, or discovery will be determined as provided by applicable Federal laws, regulations, and guidance, including any waiver thereof, and (2) Unless the Federal Government determines otherwise in writing, irrespective of the Recipient's status or the status of any Third Party Participant as a large business, a small business, a State government, a State instrumentality, a local government, an Indian tribe, a nonprofit organization, an institution of higher education, or an individual, the Recipient agrees to transmit the Federal Government's patent rights to FTA as specified in: (a) 35 U.S.C. § 200 et seq., and (b) U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. part 401, and
- (c) C. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for patents, patent applications, and inventions derived from the Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research -type project, and (b) As FTA determines otherwise in writing.

Rights in Data and Copyrights

- (a) Definition of "Subject Data" means recorded information: (1) Copyright. Whether or not copyrighted, and (2) Delivery. That is delivered or specified to be delivered under the Underlying Agreement,
- (b) Examples of "Subject Data." Examples of "subject data": (1) Include, but are not limited to: (a) Computer software, (b) Standards, (c) Specifications, (d) Engineering drawings and associated lists, (e) Process sheets, (f) Manuals, (g) Technical reports, (h) Catalog item identifications, and (i) Related information, but (2) Do not include: (a) Financial reports, (b) Cost analyses, or (c) Other similar information used for Project administration,
- (c) General Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Recipient's Project supported by the Underlying Agreement: (1) Prohibitions. The Recipient may not: (a) Publish or reproduce any subject data in whole or in part, or in any manner or form, or (b) Permit others to do so, but (2) Exceptions. The prohibitions of Rights in Data and Copyrights C (1) do not apply to: (a) Publications or reproductions for the Recipient's own internal use, (b) An institution of higher learning, (c) The portion of subject data that the Federal Government has previously released or approved for release to the public, or (d) The portion of data that has the Federal Government's prior written consent for release,
- (d) Federal Rights in Data and Copyrights. The Recipient agrees that: (1) License Rights. The Recipient must provide a license to its "subject data" to the Federal Government, which license is: (a) Royalty-free, (b) Nonexclusive, and (c) Irrevocable, (2) Uses. The Federal Government's license must permit the Federal Government to take the following actions provided those actions are taken for Federal Government purposes: (a) Reproduce the subject data, (b) Publish the subject data, (c) Otherwise use the subject data, and (d) Permit other entities or individuals to use the subject data, and
- (e) Special Federal Rights in Data for Research, Development, Demonstration, Deployment, and Special Studies Projects. In general, FTA's purpose in providing Federal funds for a research, development, demonstration, deployment, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its Third-Party Participants, therefore, the Recipient agrees that: (1) Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet, (2) Other Reports. It must provide other reports pertaining to the Project that FTA may request, (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its Third-Party Participants at any tier of the Project, either FTA's copyright license to the subject data or a copy of the subject data, except as the Federal Government determines otherwise in writing, (4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA, (5) Incomplete Project. If the Project is not completed for any reason whatsoever, all data developed under the Project becomes "subject data" and must be delivered as the Federal Government may direct, but (6) Exception Rights in Data and Copyrights Section E does not apply to an adaptation of automatic data processing equipment or program that is both: (a) For the Recipient's use, and (b) Acquired with FTA capital program funding,

- (g) License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for copyrighted material or trademarks derived from Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing,
- (g) Hold Harmless. Upon request by the Federal Government, the Recipient agrees that: (1) Violation by Recipient. (a) If it willfully or intentionally violates any: 1 Proprietary rights, 2 Copyrights, or 3 Right of privacy, and (b) Its violation occurs from any of the following uses of Project data: 1 Publication, 2 Translation, 3 Reproduction, 4 Delivery, 5 Use, or 6 Disposition, then (c) It will indemnify, save, and hold harmless against any liability, including costs and expenses of: 1 The Federal Government's officers acting within the scope of their official duties, 2 The Federal Government's employees acting within the scope of their official duties, and 3 Federal Government's agents acting within the scope of their official duties, but (2) Exceptions. The Recipient will not be required to indemnify the Federal Government for any liability described in Rights in Data and Copyrights section G(1) if: (a) Violation by Federal Officers, Employees or Agents. The violation is caused by the wrongful acts of Federal employees or agents, or (b) State law. If indemnification is prohibited or limited by applicable State law,
- (h) Restrictions on Access to Patent Rights. Nothing in this Rights in Data and Copyrights section pertaining to rights in data either: (1) Implies a license to the Federal Government under any patent, or (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent,
- (i) Data Developed Without Federal Funding or Support. The Recipient understands and agrees that in certain circumstances it may need to provide data developed without any Federal funding or support to FTA. Nevertheless: (1) Protections. Rights in Data and Copyrights Sections A, B, C, and D generally do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project, and (2) Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential," and
- §) Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by: (1) The Freedom of Information Act, 5 U.S.C. § 552, (2) Another applicable Federal law requiring access to Project records, (3) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," specifically 49 C.F.R. § 19.36(d), or (4) Other applicable Federal regulations and guidance pertaining to access to Project records.

12. INDEMNIFICATION (applies on a case-by-case basis)

The Contractor agrees to indemnify and hold ITP, its officers, agents, employees and/or trustees, harmless from and against any and all claims or causes of action brought against ITP and from any and all damages, losses, expenses, attorneys' fees, costs and liabilities sustained by ITP arising out of any claimed defect in the goods or services supplied by the Contractor, any claimed improper manufacture, design, design drawings, specifications, materials or repairs provided by the Contractor pursuant to the Contract, and any claim by a third party for patent, trademark, copyright, or trade secret infringement. The Contractor's obligation under this paragraph shall include the obligation to indemnify and hold ITP harmless for its own negligence whether active, passive, or concurrent, in the performance of ITP's duties and obligations pursuant to the Contract.

13. COVENANT AGAINST GRATUITIES

The Contractor warrants that he or she has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any official or employee of ITP with a view toward securing favorable treatment in the awarding, amending, or evaluating performance of Contract.

14. ASSIGNABILITY

The terms and provisions of the Contract documents shall be binding upon ITP and the Contractor and their respective partners, successors, heirs, executors, administrators, assigns and legal representatives. The rights and obligations of the Contractor under the Contract may not be transferred, assigned, sublet, mortgaged, pledged, or otherwise disposed of or encumbered in any way without ITP's prior written consent. The Contractor may subcontract a portion of its obligations to other firms or parties but only after having first obtained the written approval by ITP of the subcontractor.

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

15. PRICE WARRANTY AND COMMISSIONS

The price to be paid by ITP shall be that stated in this Contract which the Contractor warrants to be no higher than the Contractor's current prices on orders by others for goods similar to those covered by this Contract for similar quantities under similar conditions and methods of purchase. In the event the Contractor breaches this warranty, the prices of the items shall be reduced to the Contractor's current prices on orders by others, or in the alternative at ITP's sole discretion, ITP may cancel this Contract without liability to the Contractor for breach. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, ITP shall have the right in addition to any other rights, to cancel this Contract without liability and to deduct from the Contract price or otherwise recover from the Contractor the full amount of such commission, percentage, brokerage, or contingent fee.

16. ACCESS TO RECORDS AND REPORTS (FTA CLAUSE)

Applies as shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following access to records requirements applies to this Contract:

- 1) Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the 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.

2) Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, 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 receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

3) Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4) Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5) Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6) Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i) (11).

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

17. CONTRACTOR'S LIABILITY INSURANCE

The Contractor shall maintain such insurance as will protect it from claims under Workers' Compensation Acts and other employee benefit acts; from claims for damages because of bodily injury, including death, to its employees and all others and from claims for damages to property; any or all of which may arise out of or result from the Contractor's operations under the Contract, or from any subcontractor or anyone directly or indirectly employed by either of them. This insurance shall be written for not less than the limits specified below. ITP shall be named as additionally insured in respect to all liability insurance policies. All policies shall contain an endorsement that written notice shall be given to ITP prior to termination, cancellation, or reduction in coverage in the policy. Certificates of such insurance shall be filed with ITP prior to the start of the Contract. They can be emailed to purchasing@ridetherapid.org.

Type of Insurance		Limits category	Coverage Amounts
Commercial General Liability	Occur,	Each occurrence	1,000,000
		Personal & Adv Injury	
	General Aggregate Limit per Policy	General Aggregate	2,000,000
		Products/Completed Ops	2,000,000
Automotive Liability		Combined Single Limit, Each Accident	1,000,000
Umbrella Liability	OCCUR	Each Occurrence	5,000,000
		Aggregate	5,000,000
Worker's Compensation Insurance		Each Accident	1,000,000
		Disease — Policy Limit	1,000,000
		Disease — Each Employee	1,000,000

18. UNAVOIDABLE DELAYS

If delivery of completed Project under this Contract should be unavoidably delayed, the ITP Project Manager will extend the time for completion of the Contract for the determined number of days of excusable delay. A delay is unavoidable only if the delay was not reasonable expected to occur in connection with or during the Contractor's performance; was not caused directly or substantially by acts, omissions, negligence or mistakes of the Contractor, the Contractor's suppliers, or their agents; was substantial and in fact caused the Contractor to miss delivery dates and could not adequately have been guarded against by contractual or legal means.

19. NOTIFICATION OF DELAY

The Contractor will notify the Project Manager as soon as the Contractor has, or should have, knowledge that an event has occurred which will delay completion of this Project. Within five (5) working days, the Contractor will confirm such notice in writing, furnishing as much detail as is available.

20. REQUEST FOR EXTENSION

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

21. CONTRACTOR'S REPRESENTATIVE

Prior to the start of Contract performance, the Contractor shall advise ITP in writing of the primary and alternate representatives (including phone numbers) who will have management responsibility for the total Contract effort to receive and act on technical matters and resolve problems of a contractual nature.

22. INTERURBAN TRANSIT PARTNERSHIP'S REPRESENTATIVES

Prior to the start of Contract performance, the ITP Project Manager will furnish a letter to the Contractor indicating the personnel who will represent ITP in the administration of this Contract to insure successful performance. Such letter shall include the specific duties of each individual and their limits of authority.

23. INSTRUCTIONS BY UNAUTHORIZED THIRD PERSONS

In accordance with the Contract Changes provision of the Contract, The ITP Project Manager or his/her authorized representative are the only persons authorized to make changes within the general scope of the Contract.

Any instructions, written or oral, given to the Contractor by someone other than the ITP Project Manager or his/her authorized representative, which are considered to be a change in the Contract, will not be considered as an authorized Contract Change. Any action on the part of the Contractor taken in compliance with such instructions will not be grounds for subsequent payment or other consideration in compliance with the unauthorized change.

24. TERMINATION OF AGREEMENT PROVISIONS (FTA CLAUSE)

Applies to all Contracts over \$10,000

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

(b) Termination for Default [Breach or Cause] (General Provision). If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

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

(c) Opportunity to Cure (General Provision). The recipient 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 recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

(d) Waiver of Remedies for any Breach. In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, 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 Contract.

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

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

Termination, revocation, or rescission of this Agreement for default shall not affect or impair any rights or claims of ITP to damages for breach of any covenants of this Agreement by the Contractor. Further, should the Contractor fail to comply with the conditions of the Agreement or fail to complete the specified work or furnish the specified services as stipulated in the Agreement, ITP reserves the right to purchase on the open market, or to complete the required work at the expense of the Contractor and to pursue all other recoveries available to ITP under Michigan law.

In the event of a dispute under this Agreement, ITP and the Contractor agree that proper venue for purposes of litigation shall be Kent County, Michigan.

25. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES (FTA CLAUSE)

Applies to all Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

(1) ITP and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter

resulting from the underlying contract.

- (2) 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.

26. [PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS](#) (FTA CLAUSE)

Applies to all Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

- (1) 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 contract, 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 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.
- (2) 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.
- (3) 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.

27. [ADDITIONAL NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF POTENTIAL FRAUD, WASTE, OR ABUSE OCCURRING ON A PROJECT RECEIVING ASSISTANCE FROM FTA](#) (FTA CLAUSE)

Applies to all Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

ITP must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which ITP is located, if the ITP has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the ITP and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the ITP. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a 95 criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions.

28. [INTEREST OF MEMBERS OF OR DELEGATES TO CONGRESS](#)(FTA CLAUSE)

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

29. [DISADVANTAGED BUSINESS ENTERPRISE](#) (FTA CLAUSE)

Applies to all Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs and with section 1101(b) of SAFETEA LU, 23 U.S.C. §101.

The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this FTA-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as ITP deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph. The successful proposer/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

30. [GOV'T WIDE DEBARMENT AND SUSPENSION](#) (FTA CLAUSE)

Applies to all Contracts over \$25,000

The Contractor agrees to comply with U. S. Department of Transportation regulations, "Government Debarment and Suspension (Nonprocurement)", 49 CFR Part 29, and otherwise comply with the requirements of those regulations. This includes the requirement of the bidder to submit the Certification Of Primary Contractor Regarding Debarment, Suspension, And Other Responsibility Matter for all projects when the total aggregate value of the Contract exceeds \$100,000 and to submit a Certification Of Lower Tier Participation Regarding Debarment, Suspension, And Other Ineligibility And Voluntary Exclusions for each subcontractor which will have a financial interest in this Project which exceeds \$25,000 or will have a critical influence on or a substantive control over the Project.

During the term of the Contract the Contractor agrees to immediately notify ITP of 1) any potential subcontractor that is subject to this provision and to submit the appropriate certification prior to award of a subcontract, 2) any information that its certification or certification of its subcontractors was erroneous when submitted, 3) any information that certifications have become erroneous by reason of changed circumstances.

The Contractor shall submit a list of all subcontractors to this contract which have a financial interest in this Project which exceeds \$25,000 or have had a critical influence on or substantive control over the Project and submit evidence that the appropriate certificate has been submitted and that they remain valid.

ITP will not make payment to the Contractor or a subcontractor which 1) does not comply with this contract provisions, or, 2) is not in compliance with the above-cited federal requirements.

ITP will not make payment to the Contractor or a subcontractor which 1) does not comply with this contract provisions, or, 2) is not in compliance with the above-cited federal requirements.

31. [ENERGY CONSERVATION](#) (FTA CLAUSE)

Applies to all Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

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.

32. [CLEAN AIR](#) (FTA CLAUSE)

Applies to all contracts over \$150,000

(1) Contractor shall comply with all applicable standards, orders, or regulations pursuant to Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7606, and other requirements of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 — 7671q. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

(2) Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

33. [CLEAN WATER](#) (FTA CLAUSE)

Applies to all Contracts and Subcontracts over \$150,000

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and other requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251— 1377. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

34. [CONTRACT WORK HOURS AND SAFETY STANDARDS ACT](#) (FTA CLAUSE)

Applies to all contracts exceeding \$100,000 involving construction and non-construction that involve the employment of mechanics or laborers.

Contracts For Awards Involving Construction

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29

CFR part 5. Under 40 U.S.C. § 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

Contracts for Awards Involving Non-Construction

The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in

accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.

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

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

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

35. CIVIL RIGHTS (TITLE VI, EEO, ADA) (FTA CLAUSE)

Applies to all Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

- (a) The Recipient agrees that it must comply with applicable federal civil rights laws, regulations, requirements, and guidance, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or a federal program, including the Tribal Transit Program or the Indian Tribe Recipient, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service.
- (b) Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that it and each Third-Party Participant, will: (1) Prohibit discrimination based on the basis of race, color, religion, national origin, sex, disability, or age. (2) Prohibit the: (a) Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332, (b) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332, or (c) Discrimination, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332. (3) Follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance, and other applicable federal guidance that may be issued, but (b) FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.
- (c) Nondiscrimination — Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant, will: (1) Prohibit discrimination based on race, color, or 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, and (3) Follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, 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) All other applicable federal guidance that may be issued.
- (d) Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit, discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, 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" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs, (c) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12.a of this Master Agreement, (d) FTA Circular 4704.1, "Equal Employment Opportunity Program Guidelines for Grant Recipients," July 26, 1988, and (e) Follow other federal guidance pertaining to Equal Employment Opportunity laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability, (2) Specifics. The Recipient agrees to and assures that each Third-Party Participant will: (a) Prohibited Discrimination. As provided by Executive Order No. 11246, as amended by any later Executive Order that amends or supersedes it, and as specified by U.S. Department of Labor regulations, ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their race, color, religion, national origin, disability, age, sexual orientation, gender identity, or status as a parent, (b) Affirmative Action. Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, recruitment, and employment, 2 Rates of pay and other forms of compensation, 3 Selection for training, including apprenticeship, and upgrading, and 4 Transfers, demotions, layoffs, and terminations, but (c) Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer," and (3) Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), 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 in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.
- (e) Disadvantaged Business Enterprise. To the extent authorized by applicable federal laws and regulations, the Recipient 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 Underlying Agreement as follows: (1) Statutory and Regulatory Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of the FAST Act, 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 provided in section 12a of this Master Agreement. (2) DBE Program Requirements. A Recipient that receives planning, capital and/or operating assistance and that will award prime third-party contracts exceeding \$250,000 in a federal fiscal year must have a DBE program

meeting the requirements of 49 C.F.R. part 26, that is approved by FTA, and establish an annual DBE participation goal. (3) Special Requirements for a Transit Vehicle Manufacturer (TVM). The Recipient agrees that: (a) TVM Certification. Each TVM, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, and (b) Reporting TVM Awards. Within 30 days of any third-party contract award for a vehicle purchase, the Recipient must submit to FTA the name of the TVM contractor and the total dollar value of the third-party contract and notify FTA that this information has been attached to FTA's electronic award and management system, the Recipient must also submit subsequent notifications if options are exercised in subsequent years to ensure the TVM is still in good standing.

(4) Assurance. As required by 49 C.F.R. § 26.13(a): (a) Recipient Assurance. The Recipient agrees and assures that: 1 It must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 C.F.R. part 26, 2 It must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT- assisted contracts, 3 Its DBE program, as required under 49 C.F.R. part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement, and 4 Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement. (b) Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance. The Recipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs: 1 The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26, 2 The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable, 3 Failure by

the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of this subparagraph 13.d(4)(b) is a material breach of this subagreement, third party contract, or third party subcontract, as applicable, and 4 The following remedies, or such other remedy as the Recipient deems appropriate, include, but are not limited to, withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible. (5) Remedies. Upon notification to the Recipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 C.F.R. part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

- (i) Nondiscrimination on the Basis of Sex. The Recipient 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.
- (g) Nondiscrimination on the Basis of Age. The Recipient agrees to comply with federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act, 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, (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, Projects, and related activities receiving federal assistance, (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, and (5) Federal transit law, specifically 49 U.S.C. § 5332.
- (h) Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability: (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 assisted Programs, Projects, 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: 1 For FTA Recipients generally, Titles I, II, and III of the ADA apply, but 2 For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of "employer," (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 federal laws, regulations and requirements pertaining to access for seniors 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) 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, (d) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (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 (k) Other applicable federal civil rights and nondiscrimination guidance.
- (i) Drug or Alcohol Abuse. Confidentiality and Other Civil Rights Protections. The Recipient 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.
- (j) Access to Services for Persons with Limited English Proficiency. The Recipient agrees to promote accessibility of public transportation services to persons with limited understanding of English 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.(k) Other Nondiscrimination Laws, Regulations, Requirements, and Guidance. The Recipient agrees to comply with other applicable federal nondiscrimination laws, regulations, and requirements, and follow federal guidance prohibiting discrimination. I. Remedies. Remedies for failure to comply with applicable federal Civil Rights laws, regulations, requirements, and guidance may be enforced as provided in those federal laws, regulations, or requirements.

36. COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor warrants that it is and will remain in compliance with all federal, state, and local laws, regulations, and ordinances relating to the manufacture, sales, and delivery of the goods and services sold to ITP in connection with this Contract.

37. FEDERAL CHANGES (FTA CLAUSE)

Applies to all Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

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

38. PROHIBITED INTEREST

No ITP employee, officer, or agent, including any member of an evaluation committee for an ITP project, may participate in the selection, award, or administration of an ITP contract if a real or apparent conflict of interest would exist. Such a conflict would exist when any of the parties set forth below has a material financial or other interest in a firm selected for award:

- any employee, officer, or agent of ITP;
any member of his/her immediate family;
- his/her partner; or
an organization employing or about to employ any of the above.

Any interest as owner or stockholder of one percent (1%) or less in such a firm shall not be deemed to be a material financial interest, but serving as Director, officer, consultant, or employee of such an organization would be deemed a material interest.

39. LOBBYING CERTIFICATION (FTA CLAUSE)

Applies to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000

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

ITP will not make any payment to the Contractor or a subcontractor which 1) does not comply with this contract provisions, or, 2) is not in compliance with the above-cited federal requirements.

40. CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS (FTA CLAUSE)

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000

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

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

41. DBE & NON-DBE SUBCONTRACTOR'S PAYMENT & REPORTING REQUIREMENTS (FTA CLAUSE)

Applies to all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

A) Prompt Payment

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from ITP. The prime contractor agrees further to return retainage payments to each subcontractor within 10 days after subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of ITP. This clause applies to both DBE and non-DBE subcontractors.

B) Contractor Reporting Requirements

The prime contractor agrees to count only the value of the work actually performed by the DBE firm toward its overall DBE goal. When a DBE performs as a participant in a joint venture, the prime contractor agrees to count the portion of the work of the contract that the DBE performs with its own forces toward its DBE goal only if the DBE is performing a commercially useful function of the contract. The factors listed in 49 CFR Part 26 will be used to determine whether a DBE trucking firm is performing a commercially useful function. The prime contractor understands that expenditures with DBEs for materials or supplies toward DBE goals will be counted according to the factors listed in 49 CFR Part 26. The prime contractor agrees to meet with the ITP DBE Liaison Officer for the purpose of verifying contractor reporting requirements prior to the signing of a contract.

C) Legal and Contract Remedies

The prime contractor agrees to report quarterly to the ITP DBE Liaison Officer on all payments made to DBE subcontractors. Further, the contractor shall provide all copies of canceled checks made to DBE subcontractors showing proof of actual payment. The prime contractor understands that failure to report quarterly to the ITP DBE Liaison Officer may result in the termination of this contract or such other remedy as ITP deems appropriate.

The prime contractor understands that ITP will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT inspector General, action under suspension and debarment of Program Fraud or Civil Penalties rules) provided in 26.109. The prime contractor understands that ITP will consider similar action under their own legal authorities, including responsibility determinations in future contracts.

42. THE MICHIGAN IRAN ECONOMIC SANCTIONS ACT, 2012 P.A. 517

Pursuant to the Michigan Iran Economic Sanctions Act, 2012 P.A. 517, by submitting a bid, proposal or response, Respondent certifies, under civil penalty for false certification, that it is fully eligible to do so under law and that is not an "Iran linked business" as that term is defined in the Act.

43. INDEPENDENT CONTRACTOR

Contractor shall perform all of its services under this Agreement as an independent contractor and not as an employee of ITP. Contractor understands and acknowledges that it shall not be entitled to any of the benefits of a County employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers compensation and protection of tenure.

44. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

45. ENTIRE AGREEMENT

In conjunction with matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties, or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein.

46. NO THIRD-PARTY BENEFICIARY

No person dealing with ITP or Contractor shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement. This Agreement is not intended to, nor shall it be interpreted to create a special relationship between ITP or the Contractor and any staff, visitors, residents, or other individuals who may have business through ITP.

47. VETERAN'S HIRING PREFERENCE (FTA CLAUSE)

Applies to all Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The Interurban Transit Partnership — The Rapid are recipients of federal financial assistance in this contract. The contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5 CFR) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed, or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

48. INCORPORATION OF FTA TERMS (FTA CLAUSE)

Applies to all Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in current FTA Circular 4220.1, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The

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

49. [FLY AMERICA](#) (FTA CLAUSE)

Applies to all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractors shall comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US flag air carriers for US Government - Inance d i n t e m i o n a t a i r t r a v e l a n d t r a n s p o r t a t i o n o f t h e i r p e r s o n a l e f f e c t s o r p r o p e r t y, t o t h e e x t e n t s u c h s e r v i c e i s a v a i l a b l e, u n l e s s t r a v e l b y f o r e i g n a i r c a r r i e r i s a m a t t e r o f n e c e s s i t y, a s d e f i n e d b y t h e F l y A m e r i c a A c t. C o n t r a c t o r s h a l l s u b m i t, i f a f o r e i g n a i r c a r r i e r w a s u s e d, a n a p p r o p r i a t e c e r t i f i c a t i o n o r m e m o r a n d u m a d e q u a t e l y e x p l a i n i n g w h y s e r v i c e b y a U S f l a g a i r c a r r i e r w a s n o t a v a i l a b l e o r w h y i t w a s n e c e s s a r y t o u s e a f o r e i g n a i r c a r r i e r a n d s h a l l, i n a n y e v e n t, p r o v i d e a c e r t i f i c a t e o f c o m p l i a n c e w i t h t h e F l y A m e r i c a r e q u i r e m e n t s. C o n t r a c t o r s h a l l i n c l u d e t h e r e q u i r e m e n t s o f t h i s s e c t i o n i n a l l s u b c o n t r a c t s t h a t m a y i n v o l v e i n t e r n a t i o n a l a i r t r a n s p o r t a t i o n.

50. [SEISMIC SAFETY](#) (FTA CLAUSE)

Applies to Construction & A&E of new buildings or additions to existing buildings; these requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

51. [RECYCLED PRODUCTS](#) (FTA CLAUSE)

Applies to all contracts and subcontracts involving the purchase of items designated by the EPA (that contain the highest percentage of recovered materials practicable) in excess of \$10,000. See 40 C.F.R. part 247 for federal designation of items.

Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247.

52. [PROCUREMENT OF RECOVERED MATERIALS §200.323](#) (FTA CLAUSE)

Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

53. [DOMESTIC PREFERENCES FOR PROCUREMENTS §200.322](#) (FTA CLAUSE)

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

1. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

54. [PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT §200.216](#) (FTA CLAUSE)

(a) ITP is prohibited from obligating or expending loan or grant funds to:

- 1) Procure or obtain;
- 2) Extend or renew a contract to procure or obtain; or
- 3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public](#)

[Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). Telecommunications or video surveillance services provided by such entities or using such equipment. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (l), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See [Public Law 115-232](#), section 889 for additional information.

(d) See also [§ 200.471](#).

55. [TRANSIT EMPLOYEE PROTECTIONS](#) (FTA CLAUSE)

Applies to all Contracts for transit operations except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000) and additionally to all subcontracts at every tier.

(1) The Contractor agrees to comply with applicable transit employee protective requirements as follows:

(a) [General Transit Employee Protective Requirements](#) - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the (Purchaser)'s project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letters. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) [Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310\(a\)\(2\) for Elderly Individuals and Individuals with Disabilities](#) If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) [Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas](#) - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

55. [SAFE OPERATION OF MOTOR VEHICLES](#) (FTA CLAUSE)

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or AGENCY.

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

56. DRUG AND ALCOHOL TESTING (FTA CLAUSE)

Applies to all Operation Service Contracts except micro-purchase (\$10,000 or less, except for Construction Contracts); the rules do not apply to Maintenance Contractors and Subcontractors.

Option 1

The contractor agrees to participate in the (Purchaser)'s drug and alcohol program established in compliance with 49 CFR 653 and 654.

Option 2

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the (Purchaser) to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements", which is published annually in the Federal Register.

Option 3

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the (Purchaser) to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before (insert date) and to submit the Management Information System (MIS) reports before (insert date) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements", which is published annually in the Federal Register. The Contractor agrees further to [Select a, b, or c] (a) submit before (insert date or upon request) a copy of the Policy Statement developed to implement its drug and alcohol testing program; OR (b) adopt (insert title of the Policy Statement the Purchaser wishes the contractor to use) as its policy statement as required under 49 CFR 653 and 654; OR (c) submit for review and approval before (insert date or upon request) a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the contractor agrees to (to be determined by the Purchaser but may address areas such as: the selection of the certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium).

57. SCHOOL BUS OPERATIONS (FTA CLAUSE)

Applies to Contracts for Operation Services except micro-purchases (\$10,000 or less, except for Construction Contracts.

Pursuant to 69 U.S.C. 5323(I) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

58. CHARTER SERVICE OPERATIONS (FTA CLAUSE)

Applies to all Contracts for Operation Services

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

ADDITIONAL CONTRACT PROVISIONS PERTAINING TO EQUIPMENT

59. OSHA REQUIREMENTS

The Contractor expressly warrants that all materials, supplies, and equipment provided under this Contract are provided in full compliance with the Occupational Safety and Health Act of 1970, as amended, and all standards, rules, regulations, and orders issued pursuant thereto, and all other federal and state safety and health statutes. All sales of hazardous materials as defined in Title 29 of the cost of Federal Regulation, Chapter VII, parts 1501-1503, shall be accompanied by a completed U.S. Department of Labor "Materials Safety Data Sheet", Form OHFA-20 by the Contractor for each goodsold to ITP.

60. CARGO PREFERENCE (FTACLAUSE)

Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Pursuant to 46 CFR, Part 381, the Contractor agrees:

1. To utilize privately owned United States flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to 46 CFR, Part 381, to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels.
2. To furnish within twenty (20) days following the date of loading for shipments originating within the United States, or within thirty (30) working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "on-board" commercial ocean Bill-Of-Lading in

English for each shipment of cargo described in paragraph (a) above to ITP (through the prime Contractor in the case of subcontractor Bills-Of-Lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 Seventh Street SW, Washington, DC, 20590, marked with appropriate identification of the Project.

3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Contract.

61. BUILD AMERICA, BUY AMERICA (BABA) (FTA CLAUSE)

Applies to Construction & Infrastructure Contracts and Acquisition of Goods or Rolling Stock valued at more than \$150,000

Contractor shall comply with 49 USC 5323a) and 49 CFR 661, (Infrastructure Investment and Jobs Act ("IUA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52. Section 70914 stating that Federal funds may not be obligated unless steel, iron, manufactured products, and construction materials used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7 and include final assembly in the US for 15 passenger vans and 15 passenger wagons produced by Chrysler Corp., software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 70% domestic content. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

62. CHANGE ORDERS

ITP's Project Manager, at any time by written order and without notice to the sureties, may make changes within the general scope of the Contract in (i) drawings, designs, or specifications where the supplies to be furnished are to be specially manufactured for ITP in accordance therewith; (ii) method of shipment or packing; (iii) 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 modifications 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 ITP's Project Manager, if he decides that the facts justify the action, may receive and act upon any such claim. Nothing in this clause shall excuse the Contractor from proceeding with the Contract as changed.

63. PRODUCT WARRANTY

The Contractor expressly warrants that the goods provided under this Contract shall conform to all specifications, drawings, and other descriptions of the goods made by the Contractor or contained in specifications furnished to the Contractor by ITP, and shall be free from all defects in material, design, and workmanship. The Contractor also expressly warrants that the goods are merchantable and fit for the particular purpose intended by ITP. The warranties of the Contractor contained in this Contract extend to future performance of the goods sold under this Contract. The Contractor further agrees not to attempt to limit or to exclude any remedies for damages, whether incidental, consequential, or otherwise.

64. WARRANTY AND GUARANTEE

The Contractor hereby warrants to ITP that all the equipment furnished under the procurement shall be free from defects in material and workmanship under normal operating use and service. The Contractor shall provide such a Warranty beginning at the time of final acceptance of the system and continuing for a period of one (1) year on all equipment. The Warranty shall cover all parts and labor costs during the Warranty period. The remedial work to correct any of the potential deficiencies shall include the repair or replacement, at the Contractor's option, of equipment, components, devices and/or material. It is expressly understood that this Warranty covers all parts and labor costs necessary and that all cost for the necessary labor and material during the Warranty period shall be borne by the Contractor and not by ITP except as provided for herein.

The Contractor also agrees to provide all labor and material to replace, during the period of this Warranty, without expense to ITP, any and all parts which may be damaged due to defects in, or failure of such parts or of any other part or parts of the equipment furnished under the procurement. ITP shall maintain the equipment in accordance with the Contractor's instructions in order to maintain this Warranty, and the Contractor shall be responsible for all shipping charges. Contractor shall be solely responsible for all materials and workmanship, including all specialties and accessories, whether manufactured by it or others, used in the equipment and for adequate installation and connection of all equipment, accessories, specialties, and components. Under no conditions shall Contractor delegate this responsibility to suppliers or other sources.

Any apparatus, device, or material which, in the sole opinion of ITP, requires excessive service during its operation, shall be brought to the attention of the Contractor by ITP at the conclusion of the first year but prior to the expiration of the Warranty. The Contractor shall be required to repair or replace the apparatus, device, or material (at his or her determination of the problem and its cause) at no expense to ITP. Should a "class failure" be involved, the Contractor may be required by ITP to extend the Warranty on that item until the requirement for excessive service is eliminated. Excessive service is defined as three (3) failures (an event or failure of a given device and/or component in a unit or units which renders the unit or units inoperative and/or unsuitable for the intended purpose) or malfunctions (an event or failure of a given device and/or component in a unit or units which causes a degraded performance of the equipment but does not render the equipment inoperative) during the Warranty period. A "class failure" is a failure of a given component and/or device in five percent (5%) of the equipment provided during the Warranty period. The determination of a "class failure" shall be by ITP and shall assume that all equipment within its respective category has these defects and shall ultimately experience these same failures.

In the event the Contractor fails to comply within ten (10) working days to a request by ITP to repair, replace or correct damaged or defective work, materials, specialties, equipment and accessories, ITP shall, upon written notice to the Contractor, have authority to deduct the cost of labor and material incurred by ITP itself in making such repairs from any compensation due or to become due the Contractor. In the event the Contractor has been paid, the Contractor agrees to reimburse ITP for the cost thereof. It is understood, however, that the said Warranty or Guarantee will not apply to any equipment which has been repaired or altered without the knowledge or consent of the Contractor and which repair or altering affected its stability and/or reliability; nor will said Warranty or Guarantee apply if the equipment has been subjected to other than normal use under conditions which prevail in ITP service. The burden of proof for any negligence on the part of ITP shall rest with the Contractor. Temperature, humidity, bus vibration and ambient electric conditions shall be considered normal operating conditions for this equipment. The Warranty shall not cover the replacement and maintenance items (such as light bulbs) made in connection with normal maintenance service.

Labor costs for ITP to diagnose and to exchange faulty components, subassemblies or equipment and the shipping costs to return such items to a service location nominated by the Contractor for repair or replacement as provided for herein shall be at the expense of the Contractor. The shipping costs, including packing and insurance, to ship repaired or replaced items to ITP shall be at the expense of the Contractor.

Contractor guarantees that a stock of replacement parts for the equipment and all components thereof will be available for a period of not less than fifteen (15) years after the date of acceptance of the completed system under this Contract by ITP.

The above Warranties are in addition to any statutory implied Warranties or Remedies imposed on the Contractor.

65. INTERCHANGEABILITY

All units and components procured under this Contract, whether provided by suppliers or manufactured by the Contractor shall be duplicates in design, manufacture, and installation to assure interchangeability among items in this procurement. This interchangeability shall extend to the individual components as well as to their locations in the unit.

66. TITLE

Title to goods acquired by ITP under this Contract shall pass to ITP when such goods are delivered, installed, and accepted by ITP. The Contractor shall bear all risk of loss until passage of title, or adequate documents for securing title shall be provided to ITP by the Contractor.

67. INSPECTION

- a. ITP reserves the right and shall be at liberty to inspect all materials and workmanship at any time during the manufacturing or installation process; provided, however, it is under no duty to make such inspection, and no inspection so made shall relieve Contractor from any obligation to furnish materials and workmanship strictly in accordance with the instructions, Contract requirements and specifications.
- b. Any work or material found to be in any way defective or unsatisfactory shall be corrected or replaced by the Contractor at its own expense at the order of ITP notwithstanding that it may have been previously overlooked or passed by an inspector. Inspection shall not relieve the Contractor of its obligations to furnish materials and workmanship in accordance with this Contract and its specifications.

68. PREAWARD/POSTDELIVERY AUDIT REQUIREMENTS (FTA CLAUSE)

Applies to acquisitions of rolling stock.

Contractor shall comply with 49 USC 5323(l) and FTA's implementing regulation 49 CFR 663 and submit the following certifications: (1) Buy America Requirements: Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly. (2) Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications. (3) Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

69. BUS TESTING (FTA CLAUSE)

Applies to the acquisitions of rolling stock, except minivans

Contractor shall comply with 49 USC 5323(c) and FTA's implementing regulation 49 CFR 665, to the extent they are consistent with 49 U.S.C. § 5318(e), as amended; and shall perform the following: (1) A manufacturer new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient prior to the recipient's final acceptance of the first vehicle. (2) A manufacturer who releases a report under para. 1 above shall provide notice to the operator of the testing facility that the report is available to the public. (3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to the recipient's final acceptance of the first vehicle. If configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing. (4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the US before Oct. 1, 1988 and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

70. ASSUMPTION OF RISK OF LOSS

ITP shall assume risk of loss of the vehicle after delivery to its facility. Prior to this delivery or release, the Contractor shall have risk of loss of the vehicle, including any damages sustained during the common carrier drive-away operation. Drivers shall keep a maintenance log enroute and it shall be delivered to ITP with the vehicle.

ADDITIONAL CONTRACT PROVISIONS PERTAINING TO CONSTRUCTION

71. BONDING (FTA CLAUSE)

Applies to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold (currently set at \$250,000). See FTA Circular C 4220.1F for specific bonding requirements.

Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the AGENCY if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

- A. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- B. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

72. NONDISCRIMINATION IN CONSTRUCTION CONTRACTS

During the performance of this Contract, the Contractor agrees as follows:

- 1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 3. The Contractor 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 to be provided advising the labor union or workers’ representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 5. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the Secretary of Labor and FTA for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Federal or Federally-assisted Contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or otherwise provided by law.
- 7. The Contractor will include the provisions of paragraphs (a) through (g) of this subsection in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions shall be binding upon each Subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Secretary of Labor or FTA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that if a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

73. DAVIS BACON AND COPELAND ANTI KICKBACK ACT (FTA CLAUSE)

Applies to Construction Contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, over \$2,000

- (1) Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with

the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed. (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers, or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account, assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met: (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination. (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

- (2) Withholding - The recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the grantee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- (3) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the recipient for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5.

This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete; (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section. (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code. (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

- (4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.
- (5) Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or worker tier subcontractor with all the contract clauses in 29 CFR 5.5.
- (7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) Compliance with Davis-Bacon and Related Act requirements- All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3,

and 5 are herein incorporated by reference in this contract.

- (9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- (10) Certification of Eligibility - (i) By entering into this contract, contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in 18 USC 1001.

74. PROJECT SIGN

The Contractor agrees to erect a 4' x 8' sign at the Project construction site and maintain the sign for the duration of the Project. The sign shall be satisfactory to ITP and shall include the following information at a minimum: the Project name, ITP's name, Federal, State, and local financial participation information, and the Contractor's name. The sign layout shall be submitted to ITP for review and approval prior to installation.

75. LABOR AND MATERIALS

Unless otherwise provided in the Contract, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Project, whether temporary or permanent and whether or not incorporated or to be incorporated in the Project.

76. PERMITS AND FEES

Unless otherwise provided in the Contract, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Project which are customarily secured after execution of the Contract, and which are legally required when bids are received, or negotiations conclude.

77. CONSTRUCTION SCHEDULE

The Contractor, promptly after being awarded the Contract, shall prepare, and submit for ITP's information, a Contractor's Construction Schedule for the Project. The schedule shall not exceed time limits current under the Contract, shall be revised at appropriate intervals as required by the conditions of the Project, shall be related to the entire Project to the extent required by the Contract, and shall provide for expeditious and practicable execution of the Project.

78. CLEAN UP

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Project, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials. If the Contractor fails to clean up as provided in the Contract, ITP may do so, and the cost thereof shall be charged to the Contractor.

79. SUBCONTRACTORS

Contractor shall be fully responsible for all acts and omissions of Subcontractor's and of persons directly or indirectly employed by them and persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by Contractor. Nothing in the Contract shall create any contractual relationship between any Subcontractor and ITP or any obligation on the part of ITP to pay or to see to the payment of any moneys due any Subcontractor, except as may otherwise be required by law. ITP may furnish to any Subcontractor, to the extent practicable, evidence of amounts paid to Contractor for specific work done.

80. SAFETY AND PROTECTION

Contractor shall be responsible for initiating, maintaining and supervising safety programs in connection with the Project. Contractor shall take precautions and provide protection to prevent damage, injury, or loss to:

- A. Employees on the Project and other person who may be affected thereby;
 - B. The Project and materials or equipment to be incorporated therein, whether in storage on or off the site; and,
 - C. Other property at the site or adjacent thereto, both above and below ground, not designated for removal, relocation, or replacement. Contractor shall erect and maintain necessary safeguards for safety and protection of property and shall notify ITP of adjacent utilities when performance of the Project may affect them. Contractor shall be responsible for costs associated with all damage, injury, or loss.
- Damage, injury, or loss to property referred to in this Article caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor and anyone directly or indirectly employed by any of them and anyone for whose acts any of them may be liable, shall be remedied. Contractor duties and responsibilities for the safety and protection of the Project shall continue until the Project is completed and ITP has issued the Certificate of Completion.

81. EMERGENCIES

In emergencies affecting the safety of persons, the Project or adjacent property, Contractor, without authorization from ITP, is obligated to act, at Contractor's discretion, to prevent threatened damage, injury, or loss. Contractor shall give ITP prompt notice of the emergency action taken, and any significant changes in the Project or deviations from the Contract caused thereby.

82. WORK BY OTHERS

ITP may perform or may contract with others to do additional work related to the Project. Contractor shall afford others a reasonable opportunity to perform work as well as to store materials and equipment on site and shall properly integrate and coordinate Contractor's work with others. Contractor shall coordinate and cooperate with Contractor's working in the area for other ITP's or jurisdictions.

If any part of Contractor's work depends on proper execution or results upon the work of other Contractor's, or ITP, Contractor shall inspect and promptly report to ITP any defects or deficiencies in such work. Contractor's failure to so report shall constitute an acceptance of the other work as fit and proper for integration with Contractor's work.

83. REJECTING DEFECTIVE WORK

ITP Project Manager will have authority to disapprove of or reject defective work. ITP Project Manager will also have authority to require special inspection or testing of work whether or not the work is fabricated, installed, or completed.

84. CHANGE ORDERS

Without invalidating the Contract, ITP may, at any time, order additions, deletions, or revision in the Project by Change Orders. Upon receipt of an executed Change Order, Contractor shall proceed with the work involved. ITP Project Manager may authorize minor changes or alterations in the Project not involving extra cost and not inconsistent with the overall intent of the Contract. These changes will be authorized by a Bulletin and will be binding upon ITP and Contractor. Additional work will be binding upon ITP and Contractor. Additional work performed by Contractor without authorization of a Change Order will not entitle Contractor to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as set forth in these Contract Conditions.

85. CHANGES IN CONTRACT PRICE

The Contract Price constitutes the total compensation payable for performing all duties, responsibilities and obligations assigned to or undertaken by Contractor. The Contract Price may only be changed by a Change Order. Claims for a change in the Contract Price shall be submitted to ITP Project Manager within fifteen (15) calendar days of the occurrence of the event giving rise to the claim with supporting data. Claims for extra compensation shall not be made by Contractor for reasonable delays caused by the work of other Project Contractors or Subcontractors or due to the failure of ITP to perform any obligations required of ITP under this Contract.

Value of work covered by a Change Order shall be determined as follows:

- A. Where work is covered by Contract unit prices by application of unit prices to the items involved.
- B. By mutual acceptance of a lump sum.
- C. On the basis of the cost of the work, plus overhead and profit, but only in the event ITP and Contractor cannot agree on one of the above methods.

86. ACCESS TO WORK

The ITP Project Manager, his/her representatives, and representatives of ITP shall at all times have access to the Project. Contractor shall provide proper facilities for access, observation of the work, and for any inspection or testing by manufacturers, suppliers, material men, and other parties as authorized by ITP.

87. CORRECTION OR REMOVAL OF DEFECTIVE WORK

Contractor shall promptly, as specified by the ITP Project Manager, either correct any defective work or remove it from the site and replace it with non-defective work. If Contractor does not correct or remove and replace such rejected work within a reasonable time, ITP may have the deficiency corrected or the rejected work removed and replaced by others. All direct and indirect costs of such correction or removal, and replacement, including compensation for additional engineering services, shall be paid by Contractor in an amount as verified by the ITP Project Manager. Contractor shall also repair all work of others destroyed or damaged by replacement of Contractor's defective work.

88. NEGLECTED WORK BY CONTRACTOR

If Contractor should neglect to prosecute the work diligently, including requirements of the Construction Schedule, ITP, after seven (7) days' Notice to Contractor may, without prejudice to any other remedy that ITP may have, correct, and remedy any such deficiency. Direct and indirect costs of ITP, including compensation for additional engineering services, shall be verified by ITP Project Manager and an appropriate reduction in the Contract Price will be made. If the payments due Contractor are not sufficient to cover such amount, Contractor shall pay the difference to ITP.

89. PROGRESS PAYMENTS AND RETAINAGES

For Projects with a Construction Schedule exceeding ninety (90) days, Contractor may submit requests for partial payment. Payment requests shall be proportional to work completed on the Project. ITP will retain ten (10%) percent of any payment until final completion of the Project.

90. PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK

The granting of any progress payment or payments by ITP, or the receipt thereof by the Contractor, shall not constitute in any sense acceptance of the work or any portion thereof, and shall in no way lessen the ability of the Contractor to replace unsatisfactory work or material, though the unsatisfactory character of such work or material may not have been apparent or detected at the time such payment was made. Materials, components, or workmanship which does not conform to the instruction of these Contract requirements and specifications or are not equal the samples submitted to and approved by ITP Project Manager will be rejected and shall be replaced by the Contractor without delay.

91. CONTRACTOR'S WARRANTY OF TITLE

Contractor warrants and guarantees that title to all work, materials and equipment covered by monthly payment requests, passes automatically to ITP at the time of payment, free and clear of all liens.

92. PAYMENT WITHHELD

The ITP Project Manager may not approve any payment or may nullify any payment previously recommended, to such extent as may be necessary to protect ITP from loss because:

- A. Work is defective or completed work has been damaged requiring correction or replacement.
- B. Written claims have been made against ITP or liens have been filed in connection with the Project.

- C. Contract Price has been reduced by Modifications.
- D. ITP has been required to correct defective work or complete neglected work.
- E. Unsatisfactory prosecution of the Project, including failure to clean-up or failure to perform testing as required by field quality control.

93. SUBSTANTIAL COMPLETION

When ITP Project Manager considers that the Project has been substantially, but not entirely completed, and full completion thereof is materially delayed through no fault of Contractor, the ITP Project Manager will issue a Certification of Substantial Completion. Liquidated damages for that portion of work will not be assessed beyond the date of Substantial Completion.

94. NOTIFICATION OF COMPLETION

When Contractor considers the work required in the performance of this Contract to be complete and ready for final inspection, Contractor shall so notify ITP Project Manager.

95. INCIDENTAL CONSTRUCTION WORK

AIA Document A201, General Conditions of the Contract for Construction, 1987 Edition, shall apply to all construction work, including concrete work, associated with this Project.

96. QUANTITY OPTIONS

ITP reserves the unilateral right to increase order quantities up to 50 percent of the maximum amounts shown on the proposal form. Notice of any increase in quantities will be included in the Notice to Proceed.

N. Appendices

Documents Attached (refer to instructions in e-mail notification)

1. Bid Proposal Form and Signature and Notary Form

The Rapid Ellsworth 2023 08 02 Bid Proposal Form.xlsx
Includes Bid Proposal Form and Signature and Notary Form

2. Specifications - Packages 1, 2, 3, 4, 5 and 6

The Rapid Ellsworth 2023 08 02 Furniture Spec.pdf

3. Tagged Furniture Plans in PDF format

The Rapid Ellsworth 2023 08 02 Furniture Plan.pdf

4. Tagged Furniture Plans in AutoCAD 2018 format

The Rapid Ellsworth 2023 08 02 Furniture Plan.pdf.dwg

END OF INVITATION FOR BID