

Central Midlands Regional Transit Authority

dba



Central Midlands Regional Transit Authority
Bus Gate
Invitation For Bid

Columbia, South Carolina

Date: May 24, 2018

Due Date: June 29, 2016

Time: 3:00 P.M.

Receipt Location:
The COMET Administrative

ATTN: Virginia Goodson

3613 Lucius Rd. Columbia, SC 29201

TABLE OF CONTENTS

PART 1: GENERAL INFORMATION & DESCRIPTION OF PROCUREMENT

PART 2: SPECIFICATION OF ITEM

APPENDIX A: NON COLLUSION CERTIFICATION

APPENDIX B: ETHICS – NO CONTACT CERTIFICATION

APPENDIX C: DBE PARTICPATION FORM

APPENDIX D: REQUIRED FEDERAL CLAUSES

PUBLIC NOTICE

INVITATION FOR BIDS (IFB)

The IFB seeks a contractor to provide the scope of services requested herein. The contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

The Central Midlands Regional Transit Authority d/b/a The COMET (referred to as either The COMET or the Authority) will accept bids from qualified firms with experience in providing the item(s) listed in the specifications list.

All bids must be submitted by 3:00 P.M., June 29, 2018. Please reference the IFB document(s) for submission requirements. The COMET encourages the use of recycled paper, and where practicable, printed on both sides, for all submittals.

All bid responses should be mailed or delivered to:

The COMET Administrative Offices
ATTN: Virginia Goodson—Procurement Officer
Virginia Goodson
<virginia.goodson@catchthecomet.org>
3613 Lucius Rd.
Columbia, SC 29201

For a copy of the IFB, please contact Ms. Virginia Goodson, Procurement Officer, at virginia.goodson@catchTheCOMET.org. A copy of the IFB is also posted on The COMET website. Please include your name, contact information (e-mail and mailing addresses, telephone number), including how you want to receive a copy of the IFB, and the name of the organization you are representing.

TIMETABLE

Date and Time

Action

May 24, 2018

Publish/Release RFP

June 29, 2018

Bids Due

To Be Determined

Special Board Meeting; award of Contract

PART 1: GENERAL INFORMATION, TERMS AND CONDITIONS AND PROCUREMENT PROCESS

A. GENERAL INFORMATION

1. Ethics and No Contact Policy. After issuance of this IFB, Offerors, or anyone acting directly or indirectly on behalf of an Offeror or potential Offeror (Offeror) or a subcontractor (Subcontractor) shall not discuss or submit inquiries about this IFB in any way with any of The COMET's employees, agents, or elected or non-elected officials, or a member of the Board of Directors (the Board), other than the Procurement Officer, **Virginia Goodson, virginia.goodson@catchthecomet.org**. Any communication with the Procurement Officer must be in writing. The foregoing restriction expires once the Bus Gate Contract has been executed. Violation of this restriction may result in disqualification of the Offeror for the award of the Contract, suspension or debarment, and may constitute a violation of the South Carolina Ethics Act.

2. No Liability for Costs. The COMET shall not be liable for any costs incurred by the Offeror or any other person in connection with the preparation or submission of the bid or any other materials required pursuant to this IFB.

3. Accuracy and Completeness. By submitting a bid pursuant to this IFB, the Offeror represents that the information contained in such proposal is true, accurate and complete at the time of submission and warrants that such information will remain true, accurate and complete throughout the life of the procurement process and any contract awarded to the Offeror pursuant to this IFB.

4. Misrepresentation. If The COMET finds the Offeror has either knowingly misrepresented any information or failed to provide requested information in a timely manner, this may constitute sufficient grounds for The COMET to deem the Offeror non-responsible or non-responsive.

5. Cancellation of RFB. The COMET reserves the right to accept or reject any and all proposals received as a result of this RFB, to negotiate with all or selected Offerors, or to cancel, in part or in whole, this RFB if it is in the best interest of The COMET to do so.

B. TERMS AND CONDITIONS

1. Non-Discrimination.

a. Non-discrimination Requirement. The Offeror shall not discriminate on the basis of race, color, religion, national origin, age, gender, sexual orientation, veteran status, disability and/or any other protected class under the law in the performance of this RFP.

b. Title VI of the Civil Rights Act of 1964. The Offeror agrees to comply with all requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, USDOT regulations, "Nondiscrimination in Federally-Assisted Programs of the USDOT, 49 CFR Part 21.

c. Equal Employment Opportunity. The Offeror may not discriminate against any employee or prospective for employment because of race, color, religion, national origin, age, gender, sexual orientation, veteran status, disability and/or any other protected classes

under the law. 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 Offeror shall insert the foregoing provision (modified only to show the particular contractual relationship) in all of its third party contracts associated with the Vehicle Paint and Wrap resulting from this RFP, except contracts for standard commercial supplies or raw materials and construction contracts. Further, the Offeror shall require all such subcontractors to insert a similar provision in all subcontracts, except contracts for standard commercial supplies or raw materials, except contracts for standard commercial supplies or raw materials and construction contracts.

d. Access Requirements for Individuals with Disabilities. Offeror must comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101 et seq. and 49 U.S.C. § 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. app. § 1612; and other applicable federal and state statutes, rules and regulations.

2. Term. The initial term of the Contract resulting from this RFB shall be for one (1) year, or until the purchase/project is complete, whichever is less.

3. Termination. Should the contractor be found to have failed to perform its services in a manner satisfactory to The COMET, The COMET will provide written notice of such deficiency to the Contractor. The Contractor shall have, from the receipt of the written notice, thirty (30) business days to cure the deficiency. If the contractor fails to cure the deficiency, The COMET may terminate the contract immediately for cause. The COMET shall be sole judge of non-performance. In the event that The COMET determines to terminate the contract, contractor agrees that it will continue to provide services, if requested to do so by The COMET, pursuant to the contract until the effective date of the new contract.

4. Termination for Convenience or Mutual Agreement. The COMET may terminate this Contract for convenience with a written notice of not less than thirty (30) days. The parties have the right to termination upon mutual written agreement. There will be no additional costs to The COMET upon termination for convenience or mutual termination other than for work already performed satisfactorily and accepted by The COMET.

5. Availability of Funds. This procurement is subject to the availability of funding. The COMET will rely on funds approved by the Board on an annual basis. If sufficient funds are not approved by the Board to fund the contract, The COMET can terminate the contract upon written notice to the contractor.

6. Financial Transparency. Upon written request from The COMET, the contractor shall provide The COMET any and all documents, data, and financial records, in written or electronic form, relating to the expenditure of all funds, regardless of the source of funding, paid to the contractor under this contract. Such information shall be provided within five days, unless otherwise agreed upon in writing by The COMET or his designee, of its request at no cost to The COMET. Such information shall be available for public disclosure by The COMET as provided for in the South Carolina Freedom of Information Act, S.C. Code Ann. §

30-4-10, et seq. (2014) (SCFOIA) and S.C. Code Ann. § 11-35-410 (2011). Contractor agrees to and shall insure that this financial transparency provision is included in each contract that it has with a subcontractor to perform work under this contract.

7. Freedom of Information Act. To the extent that the SCFOIA and S.C. Code Ann. § 11-35-410 require the production and release of public records, The COMET has a statutory duty to comply with SCFOIA and is subject to civil suit, including the award of costs and attorney's fees for failure to comply therewith. Contractor acknowledges that The COMET, in its sole discretion, must determine what a public record is and what The COMET is required to release. In the event there is a dispute regarding what constitutes a public record and whether it is exempt from disclosure pursuant to S.C. Code Ann. § 30-4-40 or § 11-35-410, The COMET will give contractor five (5) days' notice prior to releasing such information, during which time contractor shall take whatever action it deems necessary to challenge the release. Further, if any legal actions are brought against The COMET as a result of contractor's refusal to provide or failure to cooperate with a The COMET request for information, contractor shall reimburse to The COMET all costs and attorneys' fees incurred by The COMET in connection with such an action and shall in all respects indemnify and hold The COMET harmless against any losses or financial penalties in connection with such action.

8. Laws and Regulations. Contractor will comply with all applicable State, Federal and Local Laws and regulations.

9. Immigration Law Compliance. By executing and entering into this contract, the contractor is formally acknowledging without exception or stipulation that it is fully responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 as located at 8U.S.C. 1324, et. seq., and regulations relating thereto, as either may be amended. Failure by the contractor to comply with the laws referenced herein shall constitute a breach of this contract and The COMET shall have the discretion unilaterally to terminate this contract immediately.

10. Contractor Solely Responsible for Performance/Subcontractors. The contractor will be solely responsible for performance under this contract. The COMET will rely upon the contractor for full, complete, and satisfactory performance under the terms and conditions of this contract and for any relief, or judgment which may be requested by The COMET against the contractor or which may be entered against the contractor in any litigation which may arise under this contract or the relationship between the parties. If the contractor's services provided for hereunder include services, equipment or materials supplied by a subcontractor, the contractor must act as the contractor and assume full responsibility for any subcontractor's performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

11. Legal Relationship. The contractor is an independent contractor and is not the legal representative or agent of The COMET. The contractor and The COMET have a business relationship based entirely on and circumscribed by this contract. No partnership, joint venture, agency, fiduciary, or employment relationship is intended or created by reason of this Contract.

12. Prompt Payment. The contractor must comply with all of The COMET's policies and procedures, specifically including its prompt payment policy.

13. Disputes. (1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the Ad Hoc Procurement Review Panel in accordance with the Authority's Procurement and Contract Administration Policy, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the RFP. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

14. Indemnification. Notwithstanding any limitation in this RFP, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee's negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, "Indemnitees" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees. Any term or condition is void to the extent it requires the Authority to indemnify, defend, or pay attorney's fees to anyone for any reason

C. PROCUREMENT PROCESS

1. Procurement Officer. Ms. Virginia Goodson is the Procurement Officer for this IFB and all contact regarding any aspect of this IFB shall be made to Ms. Virginia Goodson. All contact shall occur by e-mail to virginia.goodson@catchthecomet.org, except as otherwise authorized herein.

2. Submission of Bids.

A. **FOIA.** All bids received become the exclusive property of The COMET. At such time as the Contract is agreed to by the contractor and the Board, all bids submitted will become a matter of public record and shall be regarded as public records, with the exception of those elements in each bid that constitute confidential and proprietary information or trade secrets as those terms are used in the South Carolina Consolidated Procurement Code (S.C. Code Ann. § 11-35-410) and the Freedom of Information Act (S.C. Code Ann. § 30-4-40(a)(1)) and that are so marked in the RFP as “TRADE SECRET,” “CONFIDENTIAL” or “PROPRIETARY.” However, bids which indiscriminately identify all or most of the bid as exempt from disclosure without justification may be released pursuant to a freedom of information request. The COMET shall not in any way be liable or responsible to any Offeror or other person for any disclosure of any such records or portions thereof, whether the disclosure is deemed to be required by law, by a court order, and/or occurs through inadvertence, mistake, or negligence on the part of The COMET, its officers, agents, or employees. Any legal costs associated with determining confidential information is excluded or included in a public records request is at the expense of the Offeror.

B. **Bid Format.** Bids must be received at the O&M Facility by 3:00 pm EDT on June 29, 2018. Bids in response to this IFB shall be considered received at the time actually received by The COMET. The COMET will not accept late bids. Bids received after the time and date will be returned unopened at the Offeror’s expense and the Offeror will be disqualified.

Each offeror must submit one (1) original signed unbound hard copy of the bid including pricing and signed forms included in the appendices in a sealed envelope marked “Original with Price Proposal.”

“Do Not Open With Regular Mail.”

Bids shall be delivered to: **Virginia Goodson, Procurement Officer**
The COMET
3613 Lucius Rd
Columbia, SC 29201

3. Opening of Bids. At the designated time for receipt of the bids, the bid packages will be opened and listed for the record of receipt.

4. Start-up. Unless otherwise agreed up during contract negotiations, the contractor is expected to start providing services under the contract beginning the first day of the month after the contract is executed or at such other time as the start date is set by The COMET.

5. **Reservation of Rights.** The COMET reserves the right to seek clarification and to request supporting documentation and contractors shall comply with these requests.

6. **Award Notification.** Notice of “intent to award” a contract will be sent via email to all contractors that submitted a bid. Any amendments to this solicitation will also be provided to all known interested contractors. Award will be made to the lowest priced offeror. Offerors agree to adhere to all applicable State, Federal and Local laws and regulations. Applicable Laws and regulations will be attached to the purchase agreement. The successful offeror will be required to sign a standard “Offeror Certification- Non Collusion” and “Offeror Certifications-Debarment” form. (Appendix A).

7. **Protests.** Protests to this solicitation or contract award must be in accordance with The COMET protest procedures contained in The COMET’s “Procurement and Contract Administration Policy” (Procurement Policy). A copy of the Procurement Policy is posted on The COMET’s website.

PART 2: SCOPE OF SERVICES

The COMET requires pricing on the follow item:

We currently have motorized chain link gate with barbed wire that is eight (8) feet high and sixty-seven (67) feet wide that opens from left to right and was installed in 2008. That gate is not working.

Please provide pricing for a heavy duty replacement gate, installation and warranty. The gate will open about 200 times a day so it needs to be able to accommodate heavy usage.

APPENDIX A

NON-COLLUSION CERTIFICATION

By submission of this proposal, each respondent and each person signing on behalf of any respondent certifies, and in the case of a joint proposal, each party certifies as to its own organization, under the penalty of perjury, that to the best of its knowledge and behalf:

The prices in this Proposal have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such prices with any other Respondent or with any other competitor:

Unless otherwise required by law, the prices quoted in this Proposal have not been knowingly disclosed by the Respondent, directly or indirectly, to any other Respondent or to any other competitor prior to opening; and

No attempt has been made or shall be made by the respondent to induce any other person, partnership, or corporation to submit or not submit a Proposal for the purpose of restricting competition.

Respondent

Date

APPENDIX B

Ethics and No Contact Policy Acknowledgement

After issuance of this IFB, Offerors, or anyone acting directly or indirectly on behalf of an Offeror or potential Offeror or a subcontractor shall not discuss or submit inquiries about this RFP in any way with any of The COMET's employees, agents, or elected or non-elected officials, or a member of the Board of Directors (the Board), other than the Procurement Officer, **Virginia Goodson**, **virginia.goodson@catchthecomet.org**. Any communication with the Procurement Officer must be in writing, and submitted as required in this IFB. The foregoing restriction expires once the Bus Gate Replacement Contract has been executed. Violation of this restriction may result in disqualification of the Offeror for the award of the Contract, suspension or debarment, and may constitute a violation of the South Carolina Ethics Act. The prohibition contained herein does not apply to interviews with the Evaluation Committee, where such interviews are initiated by the Procurement Officer with an Offeror as provided in this IFB.

Respondent

Date

APPENDIX C

THIS FORM IS TO BE COMPLETED BY ANY PROPOSER WISHING TO BE IDENTIFIED AS A DBE OR BY ANY PROPOSER WISHING TO IDENTIFY DBE PARTICIPATION IN ITS PROPOSAL.

SCHEDULE OF DBE PARTICIPATION

If a proposer is a Disadvantaged Enterprise (DBE) or if a proposer intends to utilize DBE firms in the development, manufacture, or delivery of goods or services or as a joint venture under this proposal, the following schedule must be completed:

The _____ will utilize the following:
(Name of firm)

DBE/WBE firm(s) in the development, manufacture, or delivery of goods or services or as a joint venture under this proposal:

Item # and Description	Name of DBE Firm	Type of Work or Parts to be Used/Performed	% of Proposal Attributable to DBE
------------------------	------------------	--------------------------------------------	-----------------------------------

- 1.
- 2.
- 3.
- 4.
- 5.

Total % of Proposal Price Attributable to DBE _____

Signature of Proponent _____

Date _____

APPENDIX D
REQUIRED FEDERAL CLAUSES

No Federal Government Obligation to Third Parties

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

Signature

Date

Program Fraud and False or Fraudulent Statements or Related Acts

31 U.S.C. 3801 et seq.
49 CFR Part 31 18 U.S.C. 1001
49 U.S.C. 5307

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right A-55 to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Signature

Date

Access to Records and Reports

49 U.S.C. 5325
18 CFR 18.36 (i)
49 CFR 633.17

a. Record Retention.

The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

b. Retention Period.

The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) A-4 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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

c. Access to Records.

The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

d. Access to the Sites of Performance.

The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

Signature

Date

Federal Changes

49 CFR Part 18

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

Signature

Date

Termination

49 U.S.C. Part 18

FTA Circular 4220.1E

Termination for Convenience (General Provision)

The AGENCY may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the AGENCY's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to AGENCY to be paid the Contractor. If the Contractor has any property in its possession belonging to AGENCY, the Contractor will account for the same, and dispose of it in the manner AGENCY directs.

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the AGENCY may terminate A-70 this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the AGENCY that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the AGENCY, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

The AGENCY, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to AGENCY's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from AGENCY setting forth the nature of said breach or default, AGENCY 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 AGENCY from also pursuing all available remedies against Contractor and its sureties for said breach or default. Waiver of Remedies for any Breach In the event that AGENCY elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by AGENCY shall not limit AGENCY's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Signature

Date

CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.

Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

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

Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

Signature

Date

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 5%. A separate contract goal has not been established for this procurement.

The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as The COMET deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

Since DBE participation is encouraged, if you submit DBE participants, bidders are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following **concurrent with and accompanying an initial bid**:

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

A description of the work each DBE will perform;

The dollar amount of the participation of each DBE firm participating;

Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;

Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and

If the contract goal is not met, evidence of good faith efforts to do so.

Bidders must present the information required above **as a matter of responsiveness with initial bids**. (*see* 49 CFR 26.53(3)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

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

The contractor must promptly notify The COMET, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of The COMET.

Signature

Date

ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.

49 CFR Part 18

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

Signature

Date