



## REQUEST FOR PROPOSALS

### SOLAR LIGHTING FOR BUS STOPS

### PROJECT NUMBER 1622

### INTERCITY TRANSIT OLYMPIA, WASHINGTON

**RFP RELEASE DATE:**

June 20, 2016

**PRE-PROPOSAL MEETING:**

Date: June 30, 2016

Time: 10:00a.m.

Place: Intercity Transit Administration Facility  
526 Pattison Street SE  
Olympia, WA 98501

**QUESTION SUBMITTAL DEADLINE:**

Date: July 5, 2016

Time: By 5:00p.m.

Submit by email to Procurement Contact

**PROPOSAL SUBMISSION DEADLINE:**

Date: July 14, 2016

Time: By 3:00p.m.

Place: Intercity Transit Administration Facility  
526 Pattison Street SE  
Olympia, WA 98501

**CONTACT:**

Jeff Peterson

Intercity Transit Procurement Coordinator

526 Pattison Street SE

Olympia, WA 98501

Direct (360) 705-5878

[jpeterson@intercitytransit.com](mailto:jpeterson@intercitytransit.com)

[www.intercitytransit.com](http://www.intercitytransit.com)

## **ADVERTISEMENT**

### ***INTERCITY TRANSIT PROJECT 1622***

### ***REQUEST FOR PROPOSALS***

### ***SOLAR LIGHTING FOR BUS STOPS***

Intercity Transit (Transit) is the public transportation provider for Thurston County and is based in Olympia, Washington. Transit is seeking to contract with a provider of high quality ruggedized and durable solar lighting equipment for our bus stop areas. This procurement includes cooperative purchasing language as other government entities have expressed interest in using the resulting contract. The total estimated spend over the initial three (3) year term is projected to be \$900,000. The total contract life is not to exceed five (5) years.

An optional pre-proposal meeting will be held at Intercity Transit's Administrative Facility located at 526 Pattison SE, Olympia, Washington, 98501 on June 30, 2016 at 10:00a.m (PT).

Solicitation documents for this project are available free online through Washington's Electronic Business Solution (WEBS) located at <https://fortress.wa.gov/ga/webs/>.

Please contact Jeff Peterson, Procurement Coordinator at [jpeterson@intercitytransit.com](mailto:jpeterson@intercitytransit.com) or (360) 705-5878 with questions regarding this solicitation.

Proposals are due no later than July 14, 2016 by 3:00pm (PT).

###

#### **AD PUBLISHED IN:**

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# **PART I -- INFORMATION FOR PROPOSERS**

## **1. INTRODUCTION**

Intercity Transit (Transit) is the public transportation provider for Thurston County and is based in Olympia, Washington. Transit is seeking to contract with a provider of high quality ruggedized and durable solar lighting equipment for our bus stop areas. This procurement includes cooperative purchasing language as other government entities have expressed interest in using the resulting contract. The total estimated spend over the initial three (3) year term is projected to be \$900,000. The total contract life is not to exceed five (5) years.

Other government entities expressing interest in using the resulting contract include: Athens Transit, City of Visalia Transit, TriMet, Lane Transit, City of Porterville.

Transit intends to award fixed price contract as a result of this solicitation.

## **2. PROCUREMENT SCHEDULE**

The following is the intended schedule for vendor selection:

<b>Procurement Activity</b>	<b>Date and Time (Pacific Time)</b>
Release of Request for Proposal:	June 20, 2016
Pre-Proposal Meeting:	June 30, 2016 @ 10:00a.m.
Request for Clarification Deadline:	July 5, 2016 by 5:00p.m.
Submittal Due Date and Time:	July 14, 2016 by 3:00p.m.
Anticipated Award Recommendation:	August 3, 2016

## **3. PROCUREMENT CONTACT**

Until the contract is awarded, all inquiries must be directed to:

Jeff Peterson  
Procurement Coordinator  
526 Pattison Street SE  
Olympia, WA 98501  
(360) 705-5878  
[jpeterson@intercitytransit.com](mailto:jpeterson@intercitytransit.com)

## **4. OPTIONAL PRE-PROPOSAL MEETING**

An optional pre-proposal meeting for interested contractors will be held at the Intercity Transit Administrative Facility, 526 Pattison Street SE, Olympia, WA 98501, on the date and time specified in the Procurement Schedule. The purpose of the meeting is to respond to questions about the project or RFP document. Changes to the procurement document or clarifications that would benefit all firms will be published by Transit in WEBS by a formal addendum.

## **5. EXAMINATION OF CONTRACT DOCUMENTS**

Each proposer shall thoroughly examine the Contract Documents, including Information for Proposers, General Terms and Conditions, Scope of Work, Technical Specifications and Addenda (if any). The submission of the proposal shall constitute an acknowledgment upon which Transit may rely that the Contractor has thoroughly examined and is familiar with the Contract Documents. The failure or neglect of a proposer to receive or examine any of the Contract Documents, statutes, ordinances, regulations and permits shall in no way relieve the proposer from any obligations with respect to the proposal or to the Contract. No claim for additional compensation will be allowed which is based upon a lack of knowledge or misunderstanding of any of the Contract Documents, statutes, ordinances, regulations, permit requirements, or other materials referenced or incorporated herein.

### **5.1 DOCUMENT AVAILABILITY**

Solicitation documents for this project are available at no charge on-line through WEBS at <https://fortress.wa.gov/ga/webs/>. Proposers are responsible to register in WEBS and download the solicitation documents. Please contact WEBS customer service at (360) 902-7400 or [WEBSCustomerService@des.wa.gov](mailto:WEBSCustomerService@des.wa.gov) if you require assistance with the WEBS registration process.

## **6. REQUESTS FOR CLARIFICATION**

Prospective proposers shall submit to the attention of the Procurement Coordinator any and all written requests for clarification concerning the Part III - Scope of Work and Specifications or any aspect of the work for this project, including contract language. Requests for clarification shall be submitted to Transit at least ten (10) calendar days before the submittal due date and time. All such requests shall be submitted in writing through email. Transit will not be obligated to consider or respond untimely requests for clarification. Transit shall review and respond to all timely requests for clarification. If necessary, Transit shall issue an addendum to the solicitation which identifies any changes to the procurement document. Proposers shall provide adequate technical information with any request for clarification in order to allow Intercity Transit to formulate a response. It is at Transit's sole discretion to respond to requests for clarification and accept or reject any request for changes to the scope, specifications, or contract terms. Proposers shall not rely upon any oral statements or conversations, whether at the pre-proposal meeting or otherwise, they may have with representatives of Transit regarding requested clarifications or the Contract Documents.

If no request for clarification is received, Transit will construe it to that the proposer intends to fully comply with the document as a whole.

No oral interpretations will be made to any proposer as to the meaning of the Contract Documents. This Contract will be between Transit and the Contractor. The contractor will be responsible for the performance of all work described in the Part III - Scope of Work and Specifications. The Contract Documents have not been written with the intent of, and Transit shall not be party to, defining the division of work between the contractor and his sub-contractors.

## **7. ADDENDUMS TO REQUEST FOR PROPOSALS**

Proposers must submit questions regarding the proposal in writing to the Procurement Coordinator as noted above. All official responses will be distributed by the Procurement Coordinator through written addenda posted on WEBS.

Requests from potential Proposers for clarifications not resulting in an addendum to the RFP shall be responded directly to the requester and may or may not be issued to all parties in possession of solicitation documents. If responses are issued to all parties, names of those requesting the clarification shall be maintained as confidential. Clarifications issued to all parties shall be included in all subsequently issued solicitation documents.

Intercity Transit reserves the right to amend this RFP at any time prior to the submission due date and time. Amendments may be for any reason deemed necessary by Transit including, without limitation, changes in quantity, quality, delivery, submission date, procedures, baseline technical requirements, or selection criteria.

#### **8. POSTPONEMENT OF SUBMISSION**

Transit reserves the right to postpone the date and time of proposal submission at any time prior to the date and time established herein. Such postponement will be documented in a formal addendum.

#### **9. SUBMISSION OF PROPOSALS**

One (1) signed original written, and three (3) copies, sealed proposals will be received by Transit at its Administrative Facility at 526 Pattison SE, Olympia, WA, 98501, by the due date and time noted in the Procurement Schedule.

Proposers must include an electronic copy (Word or PDF format) of their submittal on a CD or thumb drive within their sealed envelope. Should there be any discrepancies between the original printed copy and the electronic copy, the information provided in the printed original shall prevail.

Fax or emailed submission of documents will not be accepted as an original, sealed, proposal. Proposals received after such time and date will not be considered and will be returned to the sender unopened. The proposer accepts all risks of late delivery of mailed proposals regardless of fault.

Address documents to the attention of:

Jeff Peterson, Procurement Coordinator  
Intercity Transit  
526 Pattison Street SE  
Olympia, WA 98501

Label the package, "**Proposal – Project 1622 – DO NOT OPEN.**"

#### **10. INSTRUCTIONS FOR PROPOSAL PREPARATION**

Response to this RFP shall be made in strict conformance with the stated requirements. Failure to conform therewith may be cause for rejecting the proposal submitted. Transit reserves the right to waive minor informalities at its sole discretion.

The format is to be an 8 1/2" x 11" booklet, with a ring binder which shall allow the pages to open fully and lie flat.

All of the required submittals are detailed in Part IV – Proposal Submittals. Contents are to be organized according to the numeric sections in Part IV. All of the required submittals must be included in the proposal and submitted by the submission deadline. It is to the proposer’s advantage to provide all of the information requested in Part IV – Proposal Submittals as completely as possible.

This RFP document may be separated and appropriate documents removed for preparation and submission with the proposal.

## **11. PROPOSAL REQUIREMENTS**

Proposals must be clear, concise, and provide complete information about the company’s qualifications and ability to provide the required products.

In submitting a proposal, the proposer agrees that all information, products and pricing offered in the proposal shall be in effect for a minimum of sixty (60) days from the time and date established by Transit for submitting proposals. Transit reserves the right to request that proposers grant an extension of such effective period.

## **12. MODIFICATION OR WITHDRAWAL OF PROPOSAL OR CLAIM OF ERROR**

A modification of a proposal already received shall be considered only if the modification is received prior to the time announced for the submittal of proposals. All modifications shall be made in writing, executed and submitted in the same form and manner as the original proposal. Notwithstanding the above, a late modification of an otherwise successful proposal that makes its offer more favorable to Transit shall be considered at any time it is received and may be accepted.

Any modification of the proposal or quotation, except a modification resulting from Transit’s request for “best and final” offer, is subject to the same conditions. Proposals may be withdrawn by written request received from proposers prior to the time set for the receipt of proposals. Proposals may be withdrawn in person by the proposer or an authorized representative, if the representative’s identity is made known and the representative signs a receipt for the proposal before award.

No proposer may withdraw a proposal after the time and date established for submitting proposals, or before the award and execution of the contract, unless the award is delayed for a period exceeding ninety (90) days from the deadline for receipt of proposals. Transit reserves the right to request that proposers grant an extension of such effective period.

No consideration shall be given by Transit to a claim of error in a proposal unless written notice of such claim and supporting evidence of such claim, including cost breakdown sheets, are delivered to Transit within forty-eight (48) hours after the opening of proposals. Any review by Transit of a proposal and/or any review of such a claim of proposal error (including supporting evidence) creates no duty or liability on Transit to discover any other error or mistake, and the sole liability for any proposal error or mistake rests with the proposer.

## **13. LATE SUBMISSIONS**

Any proposal received at the office designated in the solicitation after the exact time specified for receipt shall not be considered. The exact time (also referred to as official



time) is the date and time the proposal is actually received by Transit's Administrative Office Receptionist.

#### **14. PROPOSAL SECURITY - PUBLIC DISCLOSURE**

Proposals will become the property of Transit and may be shared with Transit employees or others included in the evaluation.

All the information contained in the proposal is subject to the State of Washington Public Records Act, RCW Chapter 42.56 and may be subject to public inspection. It should be noted that RCW 42.56.270(1) states that the following information may be exempt from disclosure: "Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss."

Proposers, who include in their proposals data which conforms to the above exemption and that they do not want disclosed to the public for any purpose or used by Transit, except for evaluation purposes, shall:

- A. Mark the title page with the following legend:  
"This proposal includes data that shall not be duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate this proposal or quotation. If, however, a contract is awarded to this offeror as a result of, or in connection with, the submission of this data, Transit shall have the right to duplicate, use or disclose the data to the extent provided in the resulting contract. This restriction does not limit Transit's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets]."
- B. Mark each sheet of data they wish to restrict with the following legend:  
"Use or disclosure of data contained on this sheet is subjected to the restriction on the title page of this proposal."

#### **15. SUCCESSFUL PROPOSER**

- a. Transit will determine the top ranking proposers consistent with the established selection criteria. Transit reserves the right to award on the basis of the original proposal. Transit further reserves the right to request clarification.
- b. There may be further evaluation by interview to gain additional understanding of how the proposals meet the criteria. Transit will notify the finalists of the time and date for interviews.
- c. All proposals are subject to Transit's final approval as to whether they meet the scope, specifications and requirements of this RFP and are deemed to present an acceptable product.
- d. Transit also reserves the right to request a "best and final" offer.
- e. The final selection, if any, will be the contractor which in the opinion of Intercity Transit, best meets the requirements set forth in the Request for Proposals and is in the best interest of Intercity Transit. Following the selection, the selection committee will provide a recommendation for award.
- f. Intercity Transit reserves the right to reject any and all proposals received, or to award a contract without discussions with proposers.

#### **16. SELECTION CRITERIA AND CONSIDERATIONS**

Transit, in its sole discretion reserves the right, but without obligation, to waive informalities and irregularities.

The responsive, responsible, proposer achieving the most total points will determine the best overall offer, as described below:

- **Responsiveness (Pass or Fail).** Transit will consider all the material submitted by the firm to determine whether the firm's offering is in compliance with the procurement documents. The following responsiveness items will be scored as pass or fail.
  - Proposal received on time.
  - Proposal package complete.
  - Proposal package signed by appropriate person.
  - Proposed items meet minimum specification requirements.
  
- **Responsibility (70 points possible).** Transit will consider all material submitted by the firm, and evidence it may obtain otherwise, to determine whether the firm, its key personnel, and proposed subcontractors have the qualifications and experience to successfully provide the requested services and products.  
The following responsibility items will be scored as follows:
  - Installations of products in similar environments (20 points)
  - Ease of installation (20 points)
  - Ease of maintenance (20 points)
  - Aesthetically pleasing, and vandal resistant (10 points)
  
- **Price (30 points possible).** The lowest proposed evaluated price. Points will be assigned using the following formula:  $(\text{low price/proposed price}) \times 30$  points equals points allotted.
  
- **References (Pass or Fail).** Transit reserves the right to contact references (provided or otherwise obtained) of any firm during the evaluation process. Negative reviews regarding the company's performance or customer service may disqualify the proposal.
  
- **Field Test (Pass or Fail).** Transit reserves the right to field test products proposed for approximately 30 calendar days to ensure conformance prior to entering into a contract. Transit will consider another proposal should products proposed fail to perform to the satisfaction of Transit during the field test.

Within 60 calendar days after the proposal due date or field test, whichever is greater, Transit will accept a firm, negotiate a best and final offer, reject all proposals, or take such other action as may be in its best interest. Transit reserves the right to request extension of the acceptance period. Acceptance will be followed by a written Notice of Award of Contract letter.

Award shall be contingent on substantial acceptance of the terms and conditions as identified in Part II - Sample Agreement, and compliance with all required assurances.

## **17. SUSTAINABILITY COMMITMENT**

Intercity Transit is a founding signatory with Gold Level recognition for the American Public Transportation Association Sustainability Commitment. Transit is ISO 14001 certified and is committed to: pollution prevention, continual improvement, environmental compliance, and communicating our environmental and sustainability policy to all employees and vendors. Proposers may be required to provide information that demonstrates the goods offered comply with Intercity Transit's policy commitments.

## **18. COLLUSION**

If Transit determines that collusion has occurred among the proposers, none of the proposals of the participants in such collusion will be considered. Transit's determination shall be final.

## **19. SINGLE PROPOSAL, IF RECEIVED**

If only a single proposal is received, Transit may require that the proposer provide a cost analysis or a price comparison between the proposed price and that of similar equipment, materials, supplies, and/or services to assure that the proposed price is fair and reasonable. If requested, the proposer shall provide the cost analysis or price comparison within seven (7) calendar days of the date requested. Transit reserves the right to reject or accept the proposal on the basis of the cost analysis or price comparison.

## **20. AGREEMENT TERMS AND NEGOTIATIONS**

The objective of the negotiations will be to reach agreement on all provisions of the proposed agreement. To assist in the negotiations, Transit's General Terms and Conditions and a sample agreement is provided in this Request for Proposal document. No release of proposal information, nor names of proposing firms, will be made between the due date of proposals and award.

## **21. PROTEST PROCEDURES**

- A. Right to Protest. Any actual or prospective proposer who is aggrieved in connection with the solicitation or award of a Contract shall file a protest with the Intercity Transit General Manager. A protest with respect to this solicitation shall be submitted in writing prior to the proposal due date unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to proposal opening date. The protest shall be submitted within seven (7) calendar days after such aggrieved person knows or should have known of the facts giving rise thereto. If the protester is not satisfied with the solution of the General Manager, a written protest may be filed with the Intercity Transit Authority. Protests filed more than seven (7) calendar days following the receipt of the General Manager's written determination will not be accepted.
- B. Stay of Procurements During Protests. In the event of a timely protest under Subsection A of this section, the General Manager shall not proceed further with the solicitation or award of the Contract until all administrative and judicial remedies have been exhausted or until the Authority makes a determination on the record that the award of a Contract without delay is necessary to protect substantial interests of Transit.
- C. Entitlement to Costs. In addition to any other relief, when a protest is sustained and the protesting proposer should have been awarded the Contract under the

solicitation, but is not, then the protesting proposer shall be entitled to the reasonable costs incurred in connection with the solicitation, including proposal preparation costs, other than attorney's fees.

- D. Process. In order to be considered, a protest shall be in writing and shall include:
- the name and address of the aggrieved person;
  - the project number and title under which the protest is submitted;
  - a detailed description of the specific grounds for protest and any supporting documentation; and
  - the specific ruling or relief requested

Address written protest to Intercity Transit, 526 Pattison Street, SE, Olympia, WA 98501, Attention: Development Director, Proposal Protest. Failure to comply with these protest procedures shall render a protest untimely or inadequate and may result in rejection thereof by Transit.

- E. The Federal Transit Administration (FTA) may entertain a protest that alleges that Transit failed to have or follow written protest procedures. Such protest must be filed with FTA not later than five (5) business days after Transit renders a final decision or five (5) business days after the protester knows or has reason to know that Transit has failed to render a final decision. A protest to FTA must be filed in accordance with FTA Circular 4220.1F (as periodically updated).

## PART II -- SAMPLE AGREEMENT

THIS AGREEMENT is made and entered into in duplicate upon date of fully executed agreement by and between INTERCITY TRANSIT, a Washington municipal corporation, hereinafter referred to as "TRANSIT", and \_\_\_\_\_, hereinafter referred to as "CONTRACTOR."

WITNESSETH:

WHEREAS, TRANSIT desires to have certain products provided as hereinafter set forth requiring specialized skills and other supportive capabilities; and

WHEREAS, sufficient TRANSIT resources are not available to provide such products; and

WHEREAS, CONTRACTOR represents that CONTRACTOR is qualified and possesses sufficient skills and the necessary capabilities, including technical and professional expertise where required, to provide the products and/or tasks set forth in this Agreement.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, TRANSIT and CONTRACTOR agree as follows:

### 1. SCOPE

The CONTRACTOR shall provide products and comply with the requirements set forth hereinafter and in the following attached exhibits, listed in order of precedence, which are incorporated herein by reference:

RFP Project 1622, issued XXX	Attached hereto as Exhibit A
Addendum (if any), issued XXX	Attached hereto as Exhibit B
Response to RFP Project 1622, received XXX	Attached hereto as Exhibit C
Price Agreement	Attached hereto as Exhibit D

In the case of any inconsistency between the Response to Request for Proposals and the Scope of Work and Specifications, the latter shall control.

### 2. DURATION OF AGREEMENT

The term of this Agreement and the performance called for herein shall begin on date of final execution from both parties. Intercity Transit reserves the right to terminate the contract at any time, should it be in the best interest of Intercity Transit. Contract term shall be three (3) years, with two (2) one (1) year extension options. Total contract term is not to exceed five years from date of execution.

### 3. COMPENSATION AND METHOD OF PAYMENT

CONTRACTOR shall submit to TRANSIT on forms approved by TRANSIT, an invoice for products accepted. TRANSIT shall initiate authorization for payment after receipt of the approved invoice and shall make payment to CONTRACTOR within approximately thirty (30) calendar days thereafter.

#### **4. INDEPENDENT RELATIONSHIP**

The parties intend that an independent relationship between CONTRACTOR and TRANSIT will be created by this Agreement. TRANSIT is interested primarily in the products proposed. No agent, employee, servant or representative of CONTRACTOR shall be deemed to be an employee, agent, servant or representative of TRANSIT for any purpose, and the employees of CONTRACTOR are not entitled to any of the benefits TRANSIT provides to its employees. CONTRACTOR will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractor or representatives during the performance of this Agreement.

#### **5. HOLD HARMLESS AND INDEMNIFICATION**

CONTRACTOR shall defend, protect, indemnify and hold harmless Transit and its officers, employees and agents from and against any and all claims, suits, actions, damages, and liability whatsoever, arising out of bodily injury to persons or damage to property or arising out of the contractual services, which Transit may incur by reason of any act, omission or default on the part of CONTRACTOR, whether negligent or otherwise; provided, however, that if such liability is caused by or results from the concurrent negligence of Transit, its officers, employees and/or agents, and CONTRACTOR or CONTRACTOR's employees and agents, this provision shall be valid and enforceable only to the extent of CONTRACTOR's negligence; and provided further, that nothing herein shall require CONTRACTOR to hold harmless or defend Transit, its officers, employees and agents, from any claims arising from the sole negligence of Transit, its officers, employees and/or agents.

The obligation to defend includes the payment of all reasonable attorney's fees and costs of Transit's defense of any claim, suit or action within the scope of this Section. CONTRACTOR specifically waives any immunity it may have under Title 51 RCW for purposes of any claim, suit or action by Transit under this Section. CONTRACTOR and Transit have mutually negotiated this waiver.

#### **6. INSURANCE**

CONTRACTOR shall obtain and keep in force during the full term of this Agreement the following insurance coverages:

A. Worker's Compensation Insurance in compliance with the laws of the State of Washington covering all CONTRACTOR's employees who perform under this Agreement.

B. Comprehensive Auto Liability Insurance on all vehicles used in connection with this Agreement whether owned, non-owned, or hired; with limits for bodily injury or death of not less than \$250,000.00 per person and \$500,000.00 per occurrence, and property damage limits of not less than \$100,000.00; or in the alternative, not less than \$500,000.00 combined single limit coverage.

C. Commercial General Liability Insurance with limits for bodily injury and property damage of not less than \$250,000.00 per incident and \$500,000.00 aggregate. A certificate of such insurance or a copy of such insurance policy or policies shall be provided to TRANSIT within one (1) week after the execution of this Agreement. CONTRACTOR's insurer shall agree to give TRANSIT thirty (30) days written notice of cancellation or reduction in coverage below the limits set forth herein. Coverage in the minimum amount set forth herein shall not be construed to relieve CONTRACTOR from liability in excess of such coverage. TRANSIT shall be specifically named as an additional insured in the insurance coverage required in this section. Notwithstanding,

TRANSIT reserves all claims or rights of action against CONTRACTOR as if TRANSIT were not named in the subject policy or policies.

## **7. TREATMENT OF ASSETS**

Title to all property furnished by TRANSIT shall remain in the name of TRANSIT and TRANSIT shall become the owner of the work product and other documents, if any, prepared by CONTRACTOR pursuant to this Agreement, unless otherwise expressly provided herein.

## **8. COMPLIANCE WITH LAWS**

A. CONTRACTOR, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of equipment, and licensing of individuals, and any other standards or criteria described in this Agreement to assure quality of products.

B. CONTRACTOR agrees to pay any applicable business and occupation (B&O) taxes which may be due on account of this Agreement.

C. If sales tax becomes applicable to the products covered by this Agreement, TRANSIT shall pay such tax to CONTRACTOR, and CONTRACTOR shall pay the tax as required by law.

## **9. NONDISCRIMINATION**

A. TRANSIT is an equal opportunity employer.

B. Nondiscrimination in Employment. In the performance of this Agreement CONTRACTOR will not discriminate against any employee or applicant for employment on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap; provided that the prohibition against discrimination in employment because of handicap shall not apply if the particular disability prevents the proper performance of the particular work involved. CONTRACTOR shall ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and programs for training including apprenticeships. CONTRACTOR shall take such action with respect to this Agreement as may be required to ensure full compliance with Chapter 49.60 Revised Code of Washington, Law Against Discrimination.

C. Nondiscrimination in Services. CONTRACTOR will not discriminate against any recipient of any services or benefits provided for in this Agreement on the grounds of race, creed, color, national origin, sex, marital status, age or the presence of any sensory, mental or physical handicap.

D. If any assignment and/or subcontracting has been authorized by TRANSIT, said assignment or subcontract shall include appropriate safeguards against discrimination. CONTRACTOR shall take such action as may be required to ensure full compliance with the provisions in the immediately preceding paragraphs herein, and further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

**10. POLITICAL ACTIVITY PROHIBITED**

None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

**11. PROHIBITED INTEREST**

No Authority member, officer or employee of TRANSIT shall have any personal interest, direct or indirect, in this Agreement or the proceeds thereof.

**12. GRATUITIES AND KICKBACKS**

A. Gratuities - It shall be a breach of ethical standards for any person to offer, give or agree to give any Intercity Transit Authority member, officer, employee, agent or former Authority member, officer, employee, or agent or for any Authority member, officer, employee, agent or former Authority member, officer, employee or agent to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.

B. Kickbacks - It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

**13. ASSIGNMENT**

CONTRACTOR shall not assign its performance under this Agreement or any portion of this Agreement without the written consent of TRANSIT, and it is further agreed that said consent must be sought in writing by CONTRACTOR not less than thirty (30) days prior to the date of any proposed assignment. TRANSIT reserves the right to reject without cause any such assignment.

**14. CHANGES**

Either party may request changes in the scope of products and performance to be provided hereunder, however, no change or addition to this Agreement shall be valid or binding upon either party unless such change or addition be in writing and signed by both parties. Such amendments shall be attached to and made a part of this Agreement.

**15. MAINTENANCE AND INSPECTION OF RECORDS**

A. CONTRACTOR shall maintain books, records, documents which sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall undertake such accounting procedures and practices as may be deemed necessary to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review or audit, by TRANSIT, its authorized representative, the State Auditor, Federal Transit Administration, or any of their authorized representatives or other governmental officials authorized by law to monitor this Agreement.



B. CONTRACTOR shall retain all books, records, documents and other material relevant to this Agreement for five (5) years after TRANSIT's final payment and all other pending matters are closed. CONTRACTOR agrees that TRANSIT or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

C. CONTRACTOR's fiscal management system shall include the capability to provide accurate, current and complete disclosure of the financial status of this Agreement upon request.

## **16. DISPUTES**

Disputes arising in the performance of this Agreement which are not resolved by agreement of the parties will be decided by arbitration if the parties mutually agree, or in the Superior Court of Thurston County, Washington, which shall have exclusive jurisdiction and venue over all matters in question between TRANSIT and CONTRACTOR.

## **17. TERMINATION**

- A. Termination for Convenience. Transit may terminate the Agreement, in whole or in part, when it is in the best interest of Transit, by not less than ten days written notice to CONTRACTOR. Transit shall be liable only for payment in accordance with the terms of the Agreement for goods or services rendered prior to the effective date of termination. If CONTRACTOR has any property in its possession belonging to Transit, CONTRACTOR will account for the same, and dispose of it in the manner Transit directs.
- B. Termination for Breach or Default. If CONTRACTOR fails to comply with any contract provision and fails to correct the noncompliance within five days written notice thereof, Transit may terminate the Agreement for default. Termination shall be effected by Transit serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. CONTRACTOR will only be paid the Agreement price for goods delivered and accepted or services performed in accordance with the manner of performance set forth in the Agreement.
- C. Opportunity to Cure. Transit in its sole discretion may, in the case of a termination for breach or default, allow CONTRACTOR a 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 Transit's satisfaction, the breach or default or any of the terms, covenants, or conditions of this Agreement within ten days after receipt by CONTRACTOR or written notice from Transit setting forth the nature of said breach or default, Transit shall have the right to terminate the Agreement without any further obligation to CONTRACTOR. Any such termination for default shall not in any way operate to preclude Transit from also pursuing all available remedies against CONTRACTOR and its sureties for said breach or default

- D. Remedies. If breach or default occurs, Transit may do one or more of the following:
  - 1. Exercise any remedy provided by law.
  - 2. Terminate this contract and any related contracts or portions thereof.
  - 3. Impose liquidated damages.

4. Suspend CONTRACTOR from receiving future Invitations for Proposal.
- E. Waiver of Remedies for any Breach. In the event that Transit elects to waive its remedies for any breach by CONTRACTOR of any covenant, term or condition of this Agreement, such waiver by Transit shall not limit Transit's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

#### **18. FORCE MAJEURE**

- A. Any failure to perform by either party will not constitute default under this Agreement or give rise to any claim for damages or otherwise if, and to the extent, caused by an occurrence beyond the reasonable control of the party affected ("Force Majeure").
- B. Force Majeure includes, but is not limited to, compliance with acts of governmental authority; acts of God; strikes or other concerted acts of workmen; fires; floods; explosions; riots; war or armed conflict, declared or undeclared; rebellion; and sabotage. Force Majeure does not include failure to make any payment because of the party's financial condition.
- C. The party affected by Force Majeure must do the following:
  - (1) give notice to the other party within five working days of its commencement,
  - (2) work diligently to terminate or work around the Force Majeure, and
  - (3) keep the other party informed of action taken to terminate or work around the Force Majeure.

#### **19. NOTICE**

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

#### **20. ATTORNEYS FEES AND COSTS**

If any legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and costs incurred in such action or proceeding.

#### **21. COOPERATIVE PURCHASING**

The Washington State Inter-local Cooperation Act RCW 39.34 provides that other governmental agencies may purchase goods and services based on this Contract in accordance with the terms and prices indicated herein if all parties are agreeable. Each public agency shall formulate a separate contract with the Contractor, incorporating the terms and conditions of this Contract with TRANSIT. TRANSIT shall incur no liability in connection with such contracts or purchases by other public agencies thereunder. It will be the Contractor's responsibility to inform such public agencies of this Contract. Contractor shall invoice such public agencies as separate entities.

#### **22. JURISDICTION**

A. This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that

this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Thurston County, Washington.

### **23. SEVERABILITY**

A. It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement is held by the courts to be illegal, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

### **24. BUY AMERICA**

Buy America - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products 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 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A proposer or offeror must submit to the FTA recipient the appropriate Buy America certification with all proposals or offers on FTA-funded contracts, except those subject to a general waiver. Proposals or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

### **25. 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.

### **26. CLEAN WATER REQUIREMENTS**

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

## **27. LOBBYING**

Clause and specific language therein are mandated by 49 CFR Part 19.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

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.

## **28. FEDERAL CHANGES**

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between 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.

## **29. CLEAN AIR**

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the

Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

### **30. RECYCLED PRODUCTS**

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

### **31. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

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

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

### **32. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS**

(1) 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 to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) 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. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) 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.

### **33. DEBARMENT AND SUSPENSION**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its proposal, the proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Transit. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to Transit, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **34. CIVIL RIGHTS REQUIREMENTS**

(1) 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.

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

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. 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.

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

(c) 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.

(3) 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.

### **35. BREACHES AND DISPUTE RESOLUTION**

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

Performance During Dispute - Unless otherwise directed by Transit, 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 therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between Transit and the 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 State in which Transit is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Transit 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.

**36. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

a. 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%. A separate contract goal has not been established for this procurement.

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

c. Offerors 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 prior to award:

1. The names and addresses of DBE firms that will participate in this contract;
2. A description of the work each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written documentation of the offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts to do so.

Proposers must present the information required above prior to contract award (see 49 CFR 26.53(3)).

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

d. 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 Transit

e. The contractor must promptly notify Transit 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 Transit.



**37. INCORPORATION OF FEDERAL TRANSIT (FTA) TERMS**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, 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 (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

**38. REPRESENTATIVES**

<b>CONTRACTOR</b>	<b>Intercity Transit</b>
<b>Primary Point of Contact:</b>	<b>Primary Point of Contact:</b>
Phone Number:	Phone Number:
Email:	Email:
<b>Secondary Contact:</b>	<b>Secondary Contact:</b>
Phone Number:	Phone Number:
Email:	Email:

Contractor Billing Information:

Contact:

Phone:

Email:

Billing Address:

Transit acknowledges that the firm's personnel are not authorized to sign any type of document to gain access to Transit's site(s). Transit further acknowledges that any terms and conditions pertaining to access to Transit's site are addressed in this Agreement and Schedule.

**39. ENTIRE CONTRACT**

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

TRANSIT:

CONTRACTOR:

INTERCITY TRANSIT  
526 Pattison SE  
Olympia, WA 98501

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

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

## **PART III – SCOPE AND SPECIFICATIONS**

### **1. OVERVIEW OF PROCUREMENT**

Intercity Transit (Transit) is the public transportation provider in Thurston County, Washington. Operating within a Public Transportation Benefit Area (PTBA), the agency provides a mix of transportation and related services including: fixed route; Dial-A-Lift paratransit; vanpool; workforce development vans (Village Vans); local and regional express; and travel training.

Transit currently has 945 stops throughout its service area. Shelters are installed at 279 of these stops. The current number of stops with solar lighting is 70. Not all locations are candidates for solar as they are directly under street lights or heavy tree coverage prohibiting enough sunlight to charge the batteries. The units must also be secured and constructed to reasonably withstand the abuse of vandalism.

Transit anticipates purchasing ten (10) shelter solar units and ten (10) pole mounted units initially with varying quantities averaging twenty (20) units annually throughout the term of the contract.

Anticipated purchases by other governmental entities who have expressed interest in using this contract are reflected below.

- Athens Transit (GA): 20 shelter and 30 pole.
- City of Visalia Transit (CA): 10 shelter and 10 pole.
- TriMet (OR): 25 shelter and no pole.
- Lane Transit District (OR) 20 shelter and 20 pole.
- City of Porterville (CA): 5-10 shelter and unknown pole.

Transit and governmental entities identified herein do not guarantee minimum or maximum purchases. For budgetary purposes only, the total estimated purchases over the initial three (3) year term are projected to be \$900,000 and could be substantially more should other government entities elect to use the resulting contract.

### **2. PERIOD OF PERFORMANCE**

The term of this Agreement and the performance called for herein shall begin on date of final execution from the parties. Intercity Transit reserves the right to terminate the contract at any time, should it be in the best interest of Intercity Transit. The initial Contract term shall be three (3) years, with two one (1) year extension options. The total contract term will not exceed five (5) years from date of execution unless unusual circumstances arise.

### **3. SCOPE AND TECHNICAL SPECIFICATIONS**

Transit anticipates the majority of the purchases under the awarded contract will be for shelter and pole mounted solar units. Other proposed solar options related to the scope of this RFP and is included in company catalogs may also be purchased under the awarded contract, such as solar ad lighting. It is expected that the form, fit, function, and quality of all contracted units meet or exceed the specifications provided herein.

Responses to this procurement shall clearly articulate how the products proposed will meet the minimum specification requirements listed herein. Use of photos, detailed descriptions, and other supporting documentation is encouraged.

**A1. General Shelter Mounted Specifications:**

Contractor will provide shelter solar units that meet or exceed the following:

- Unit shall have the ability to provide illumination from dusk to dawn. Unit shall also be programmable (by user) so they can be turned off and on based on a specific time.
- Unit, and associated hardware, shall be low profile, aesthetically pleasing, and vandal resistant.
- L.E.D technology shall be used and provide a minimum of 50,000 hours of operation
- Units shall carry a UL (or equivalent) certification.
- Battery back-up (autonomy) shall be a minimum of five days in any environment.
- Unit controller shall be a “smart controller” and possess a self-test feature.
- All components of the solar unit shall carry a minimum five (5) year warranty. Batteries shall carry a minimum three (3) year warranty.
- All metal components outside the shelter shall be powder coated black as a standard. Optional colors or branding requests may be negotiated at time of order.
- All metal components inside the shelter shall be powder coated using Cardinal Industrial Finishes #C006-GN03, green, or approved equal green as a standard for Transit. Optional colors or branding requests may be negotiated at time of order.
- Installation of units is not a requirement of this procurement. Agencies may elect to negotiate directly with the awarded contractor or acquire installation from other sources. Contractor will provide detailed installation instructions for Transit staff to install.

**A2. Specific Shelter Mounted Specifications:**

- a) Solar units are to have brackets and adapters capable of mounting seamlessly with any shelter design.
- b) Solar units and all associated hardware are to be resistant to vandalism. All fasteners used shall resist tampering.
- c) Illumination is intended for the interior of the shelter area. An approximately 40 square foot area within the shelter shall be illuminated.
- d) Agency staff must be able to service the solar units with minimal effort.
- e) LED fixture is to be high intensity, cool white (5500-6000 Kelvin) color temperature and produce a minimum of 800 lumens, in any weather conditions.
- f) Solar unit is to have a power source of 24VDC. A 12VDC option should be available upon request and may be negotiated at time of order.
- g) Solar controller unit shall be delivered with the capability to automatically adjust light level output to seasonal changes or weather conditions.
- h) Solar controller unit shall also contain a factory set real time clock for on/off transition accuracy and possess a self-test feature which is functional during the day without use of specialty tools. A unit that adjusts automatically to daylight savings time is preferred.

- i) Solar controller unit shall minimize false transitions by not to relying on module voltages or photocell to transition between on and off.
- j) Solar unit must be designed so that independent components can be replaced, including LED light bar, batteries, control module. Such replacement items are to be identified in a parts catalog.

**B1. General Pole Mounted Specifications:**

- Pole units must be capable of mounting to various pole sizes and shapes.
- Pole units and all associated hardware are to be resistant to vandalism. All fasteners used shall resist tampering.
- Units shall carry a UL (or equivalent) certification.
- Light activation shall operate via an ADA compliant push button.
- L.E.D technology shall be used with minimum of 50,000 hours of operation
- Battery back-up (autonomy) shall be a minimum of three (3) days in any environment.
- Unit controller shall be a “smart controller” and possess a self-test feature.
- All metal components shall be powder coated white as a standard. Optional colors or branding requests may be negotiated at time of order.
- All components, including the battery, of the solar unit shall carry a minimum three (3) year warranty.
- Installation of units is not a requirement of this procurement. Agencies may elect to negotiate directly with the awarded contractor or look to other resources for installation. Contractor will provide detailed installation instructions for Transit staff to install.

**B2. Specific Pole Mounted Specifications:**

- a) Pole mounted solar options must meet installed location wind load requirements. Proposers are to describe what is required to meet or exceed wind load expectations. The successful contractor may be asked to provide design calculations verifying wind load specifications from a certified engineer.
- b) The illumination area is to be an approximate six (6) foot radius directly around the pole.
- c) Solar units and all associated hardware are to be resistant to vandalism. All fasteners used shall resist tampering.
- d) Units must have the option to include a bus signaling light.
- e) In-house staff must be able to service the solar units with minimal effort.
- f) LED fixture is to be high intensity, cool white (5500-6000 Kelvin) color temperature and produce a minimum of 800 lumens, in any weather conditions.
- g) Solar unit is to have a power source of 12VDC.
- h) Solar controller unit shall be delivered with the capability to automatically adjust light level output to seasonal changes or weather conditions.
- i) Solar controller unit shall is to also contain a factory set real time clock for on/off transition accuracy and possess a self-test feature which is functional during the day without use of specialty tools. A unit that adjusts automatically to daylight savings time is preferred.
- j) Solar controller unit shall minimize false transitions by not to relying on module voltages or photocell to transition between on and off.

- k) Solar unit must be designed so that independent components can be replaced, including LED light bar, batteries, control module. Such replacement items are to be identified in a parts catalog.
- l) The photovoltaic (PV) panel must be able to be turned in any direction without affecting the direction of the pole mounted LED light and possible bus signaling light.

#### **4. WARRANTY**

Warranty period required under the specifications begins upon acceptance of the solar unit by the agency. Replacement parts are to be provided from the original equipment manufacturer (OEM) and are to be provided within four weeks from time of order. Proposers shall provide a copy of the proposed solar units standard warranty information with the proposal.

## **PART IV – PROPOSAL SUBMITTALS**

### **1. REQUIRED SUBMITTALS**

In order to comply with this Request for Proposals, the Proposer must submit the following items as part of their proposal. The proposer may, however, include additional explanation, product information, certifications or other written information if the proposer believes it will support their proposal.

- Cover Letter
- Compliance with Specifications
- Pricing Information
- Proposal Submittal and Acknowledgement Form
- References
- Company Information
- Non-Collusion Affidavit
- Certificate of Compliance – Buy America
- Certification Regarding Lobbying
- Certification Regarding Debarment (prior to contract execution)

### **2. COVER LETTER**

Submit a cover letter introducing the company for Project 1622, “SOLAR LIGHTING FOR BUS STOPS” for Intercity Transit. An individual capable of committing the resources of the proposing firm must sign the letter.

### **3. COMPLIANCE WITH SPECIFICATIONS**

Submit documentation that clearly articulates the products proposed meets or exceeds the scope and specifications provided herein. Appropriate documentation may include product literature, company history, independent quality reviews, photos, testimonials, or any other information that supports the products proposed. Proprietary or confidential information offered in any specific example should not be included as to protect the client.

Explain why Transit can be assured that your firm will provide timely delivery and quality products.

Provide a brief description of the products proposed, including the longevity of the batteries, solar panels, and supporting electronics. Describe how these products could be installed on multiple surface areas.

Describe replacement and warranty commitments and process for all products offered.

### **4. EVALUATED PRICE STRUCTURE**

Transit is seeking a firm fixed price agreement.

The proposed pricing shall include everything necessary to provide the products. The rates shall include all delivery charges (FOB Destination), all premiums on bonds, labor, insurance, material costs, patent royalties, and all other overhead charges of every kind and nature.

Proposers shall offer the following price structure for evaluation purposes only. Evaluated cost is determined by the Total Evaluated Price. Award will be based on the following price structure. Failure to submit the price structure shall render the proposal non-responsive. Actual orders will be placed in accordance with the Order Placement Price Structure, noted below in Section 4.1.

Item	Item Description	Estimated Annual Quantity	Price Each	Total Cost
1	Shelter mounted solar lighting unit as specified	95	\$	\$
2	Pole Mounted solar lighting unit as specified	70	\$	\$
<b>Total Evaluated Price:</b>				\$

Estimated annual quantity is based off combined anticipated purchase volumes of each government organization who expressed interest participating in this procurement.

State and local taxes are not to be included in the pricing. These shall be noted as a separate line item on the invoice. Contractor shall be responsible for the collection and appropriate distribution of all taxes. Tax rates for the State of Washington are destination based.

**4.1. Order Placement Price Structure:**

The following price matrix shall be used when placing an order for solar units throughout the term.

Proposers shall include the quantity range and cost per unit. It is understood that orders may be of multiple combination.

Solar Option	Quantity Range	To	To	To	To
Shelter mounted solar lighting unit as specified	Cost Per Unit	\$	\$	\$	\$
Pole mounted solar lighting unit as specified	Cost Per Unit	\$	\$	\$	\$
Estimated number of calendar days for delivery from place of order:					

One-time fee for engineered certified drawings and wind load calculations that may be required.\$\_\_\_\_\_



**4.2. Optional (not evaluated) Shelter Solar Accessories:**

Optional pricing for solar options, consistent with the scope of this procurement, such as advertisement kiosks, pole lighting options, and different LED focusing lenses. Does not include the shelters, trash compactors, or non-solar shelter accessories, your company may offer.

Intercity Transit may elect to purchase from the catalog/price list or from other sources, whichever is in the best interest of Intercity Transit. This procurement does not guarantee minimum orders.

**Provide:**

Percentage off of nationally published catalog price: \_\_\_\_\_%

Catalog reference number \_\_\_\_\_ Catalog year \_\_\_\_\_

It is the responsibility of the firm to provide the latest produced catalog as the term progresses. Upon the request of the purchaser, the Contractor shall provide supporting documentation to validate contract pricing up to date has been accurately calculated.

OR

Provide a price list with proposal of all items proposed to be available under this contract. New product lines may be added during the contract term through mutual agreement.



**6. REFERENCES**

Provide three references in which similar work was performed in the last two years. Transit reserves the right contact any firm, referenced or not, to verify if proposer is responsible.

<b>Reference 1</b>	
Company: Point of Contact:	Phone Number: Email:
Types of solar items ordered:	
Value of contract:	
Number of units sold and number of years in service:	
Description of the environment solar units placed in:	
<b>Reference 2</b>	
Company: Point of Contact:	Phone Number: Email:
Types of solar items ordered:	
Value of contract:	
Number of units sold and number of years in service:	
Description of the environment solar units placed in:	
<b>Reference 3</b>	
Company: Point of Contact:	Phone Number: Email:
Types of solar items ordered:	
Value of contract:	
Number of units sold and number of years in service:	
Description of the environment solar units placed in:	

**7. COMPANY INFORMATION**

Company Name	Address
Proposal Representative	
Phone Number (    )	UBI No.:
Email Address:	Federal Tax Identification Number:

**8. OPTIONAL SURVEY**

Intercity Transit is seeking input regarding how our procurements are advertised. We would appreciate knowing how you received notice of this procurement. Please check the box that best describes how you received notice:

WEBS <input type="checkbox"/>	Olympian <input type="checkbox"/>	DJC <input type="checkbox"/>	Intercity Website <input type="checkbox"/>	OMWBE <input type="checkbox"/>	Other: <input type="text"/>
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Your participation on this survey is optional and does not impact the evaluation of this procurement. Thank you!



**10. CERTIFICATE OF COMPLINCE – BUY AMERICA**

**Certification requirement for procurement of steel, iron, or manufactured products.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(1)*

The offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 C.F.R. Part 661.5.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)*

The offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

**11. 49 CFR Part 20 – CERTIFICATION REGARDING LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, 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.

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

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

**12. CERTIFICATION REGARDING DEBARMENT SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

**The following form will need to be submitted by the apparent successful proposer. Not a form required upon submission of proposal:**

The Contractor, \_\_\_\_\_, (insert name of company) certifies to the best of its knowledge and belief, that it and its principals:

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

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

THE CONTRACTOR, \_\_\_\_\_, 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.

\_\_\_\_\_  
Signature and title of Authorized Official

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

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