

METRA LETTERS OF INTEREST AND QUALIFICATIONS (LIQ) NO. 97294OPENING DATE

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LETTERS OF INTEREST AND QUALIFICATIONS (LIQ) NO. 97294



CREATE P2 RIGHT-OF-WAY NEEDS ASSESSMENT SERVICES FOR SWS/RID FLYOVER CONNECTION

LIQ No. 97294

Pre-Proposal Date: May 5, 2022 @ 2:00 p.m. (LPT)

Question Due Date: May 9, 2022 @ 2:00 p.m. (LPT)

LIQ Due Date: June 8, 2022 @ 4:00 p.m. (LPT)

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NORTHEAST ILLINOIS REGIONAL COMMUTER RAILROAD CORPORATION D/B/A METRA
PROFESSIONAL SERVICES/CONTRACTS
547 WEST JACKSON BOULEVARD
CHICAGO, IL 60661

PROFESSIONAL SERVICES AGREEMENT
NORTHEAST ILLINOIS REGIONAL COMMUTER RAILROAD CORPORATION
D/B/A METRA
547 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60661

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AGREEMENT

FOR PROFESSIONAL SERVICES

This Agreement is entered into this _____ day of _____, 2022 in Chicago, Illinois, by and between the Northeast Illinois Regional Commuter Railroad Corporation d/b/a Metra ("**Metra**"), a public corporation under Illinois law, and _____ ("**Consultant**"), having offices located at _____. Consultant and Metra are sometimes collectively referred to as "**Parties.**" In consideration of the promises and agreements set forth, the Parties agree:

1. SCOPE AND DESCRIPTION OF SERVICES.

Consultant will perform the following services ("**Work**"): **CREATE P2 Right-of-Way Assessment Services for SWS/RID Flyover Connection** as set forth in the Exhibits attached hereto.

2. COMPENSATION.

This is a Not-to-Exceed Task Order Contract. When work is required, Metra will issue a Firm Fixed Price Task Order request. Authorized Firm Fixed Price Task Orders will be paid for in accordance with the negotiated milestone payments defined in each Task, for work completed and accepted by Metra. Pricing for tasks shall be based on the rates identified in **Exhibit 2, Direct Labor Wage Rates** and the firm's audited or provisional rate as applicable. Metra agrees to pay, and Consultant agrees to accept as full payment, for the actual services performed under this Agreement as negotiated and herein specified. Further, the Not to Exceed amount specified below cannot be exceeded without prior written approval by Metra's Senior Division Director of Procurement Services or designee. A salary rate cap schedule for each position is set forth in **Exhibit 2**. Any changes to the schedule must be approved in writing by Metra's Senior Division Director of Procurement Services or designee, before becoming applicable to this Agreement. The Consultant shall complete the Services in **Exhibit 1-A, Scope of Services** as described and in accordance with the scope of work, milestones and firm fixed price of each authorized task. Any changes to a previously authorized firm fixed price must be approved in writing and authorized by Metra's Senior Division Director of Procurement Services or designee. Any amounts paid to any employee above the Metra approved labor rate or hours shall be the sole responsibility of the Consultant and shall not be billed to Metra through an increase or by any other manner.

Adjustments to individual salary rates and company salary ranges shall only be allowed once per twelve (12) month period. Salary increases shall be capped at five percent (5%) unless the Consultant provides documentation to support the reasonableness of the rate of increase and obtains Metra's written approval. Also, Metra shall not pay more than \$125.00 per hour for any individual unless the Consultant provides documentation to support the reasonableness for all reimbursable individuals whose salary exceeds \$125.00 per hour and obtains written approval

from Metra's Senior Division Director of Procurement Services or designee. The approved rates listed in **Exhibit 2** shall be in effect as provisional rates for the first twelve (12) months of the Agreement term.

The Fixed Fee shall be negotiated for each individual scope of work/task order based on the complexity and risk of the work, and once negotiated, shall be firm for the duration of the agreed upon scope of work/task order. A portion of the Fixed Fee shall be paid as work progresses and distributed over the duration of the task order in accordance with the fee payment schedule specified in each individual Task Order. In the event that the duration of the task order is extended, any remaining Fixed Fee shall be reallocated over the remaining term of the task order as it has been extended. Further, in the event that a task is not completed by the Consultant through no fault of Metra, the Consultant shall be entitled to only the fee paid for the portion of work completed.

Provisional overhead rates and burden rates shall initially be used for billing purposes. All provisional overhead and burden rates shall be replaced with audited rates in accordance with Federal Cost Principles (FAR Part 31) through audits performed by a cognizant Federal or State governmental agency or a certified independent accountant as arranged and paid for by the firm being audited. Audited rates shall be submitted annually during the Agreement term to Metra's Senior Division Director of Procurement Services or his designee. In accordance with FTA Circular 4220.1F, indirect cost burden and overhead rates established by a cognizant Federal or State governmental agency that are not under dispute will apply for one (1) year to applicable accounting periods. The Consultant will provide such rates to Metra and will require its subcontractors to provide such rates to Metra if they have been established. The Consultant will submit their annual audited rates within six (6) months of the end of each firm's current fiscal year. These audited rates, upon written approval of Metra's Senior Division Director of Procurement Services or designee, will be used to adjust overhead and burden for the services performed during the Consultant's and subcontractor's fiscal year upon which the overhead and burden rate is based. This rate will then be used as the provisional rate going forward until the next year's audited overhead and burden rate is approved by Metra. For the final year of the Agreement, the overhead and burden rate will be based on the previous year's approved rate.

Metra reserves the right to withhold overhead and burden payments from any Consultant which fails to provide an acceptable audited rate of other documents required until such time that the required audited rate and/or other required documentation is received and approved by Metra. The contract value may be adjusted in accordance with the approved direct labor and overhead and burden rates. The Consultant shall be paid only for the actual services performed at the prescribed rates during the preceding billing period, not-to-exceed the percentage of the work completed as of the end of the billing period.

The full payment for the work under this contract regardless of whether such work is Firm Fixed Price or Time and Materials, shall not exceed \$ **TBD** ("**Total Price**"). The Total Price also includes the cost of all applicable taxes (where Metra is not exempt), bonds, if required, and other charges of every kind and nature. The Total Price shall not include, and Metra shall not pay, taxes or fees from which Metra is exempt. Metra is exempt from various federal taxes, all state and unit of local government taxes, and registration and license fees. Consultant shall promptly notify Metra and afford it the opportunity before payment of any

taxes, to contest said claims in the manner and to the extent it may elect, and to settle or satisfy such claims. Consultant shall submit all invoices along with all appropriate support documents, for all amounts to be paid by Metra under this Agreement. Metra will pay complete and accurate invoices within thirty (30) days of receipt. If Consultant fails to follow the instructions under this paragraph, or any instructions subsequently issued for its invoices, Metra may, at its sole discretion, reject Consultant's invoices for that billing period, and withhold payment of those invoices until such billing period as Consultant has complied with the requirements of this paragraph. An incomplete or inaccurate invoice will be deemed received only when completed and corrected to Metra's satisfaction. However, if the omission or inaccuracy is, in Metra's sole judgment, minor and inconsequential, Metra will use reasonable efforts to ascertain and pay the complete and accurate portion of the invoice. Payments are subject to audit and inspection as set forth in Section 9.B of this Agreement.

3. PERFORMANCE OF THE WORK.

The period of performance is ten (10) months from date of Notice to Proceed issued by the Professional Services Procurement Department.

A. NOTICE TO PROCEED. Consultant will, within thirty (30) calendar days after Metra's issuance of a notice of award letter informing Consultant of its execution of this Agreement ("Notice of Award"), submit to Metra: (1) certificates of insurance from insurance carriers satisfactory to Metra, and in form, substance, and detail satisfactory to Metra; (2) if applicable, the signed subcontracts with DBE sub-consultants; (3) a schedule for the project with submittal milestones; and (4) any other document stated elsewhere in this Agreement that is required prior to Metra's notification to Consultant to start the Work ("Notice to Proceed").

B. SCHEDULE.

1. **Submission of Schedule.** Time is of the essence and delays may have a direct and indirect cost to Metra's operations. As a condition to issuing the Notice to Proceed, Consultant shall submit a schedule, acceptable to Metra, showing submittal milestones for the Work. Consultant must adhere to and complete all Work by the time stated in the schedule approved by Metra. Consultant shall commence the Work promptly after receiving a Notice to Proceed from Metra.

2. **Monthly Progress Reports.** Consultant's schedule shall be updated and submitted to Metra in writing no less than monthly. Such report shall state whether or not the Work is progressing within schedule. If Consultant determines that the Work and milestones are not progressing within schedule, Consultant shall notify Metra of the reasons for the delay and identify each delayed activity (including duration and interrelationships between activities). In addition to any other remedy afforded to Metra, failure to submit monthly reports will be a default of this Agreement and is grounds for Metra to withhold payments until such reports are submitted.

3. Contents of Reports. Consultant shall not make any changes to the approved schedule, including the milestones, when reporting its progress in the monthly reports. The report information shall include the approved schedule dates and milestones and the following additional information:

- a. Actual start dates;
- b. Actual finish dates;
- c. Activity percent completion;
- d. Remaining duration of activities in progress;
- e. Identified or highlighted critical activities and problem areas;
- f. Summary of Work accomplished during the past update period;
- g. Analysis of time lost/gained during the update period; and
- h. Recommended solutions to current problems.

4. Recovery Schedule. In the event Consultant, in the reasonable judgment of Metra, is failing to meet the approved schedule, including milestones, Consultant shall submit a recovery schedule within seven (7) calendar days of such notice from Metra. The recovery schedule shall set forth a plan to eliminate the schedule slippage. The plan must be specific to show the methods to achieve the recovery of time, i.e. increasing manpower, overtime, weekend work, employing multiple shifts. All costs associated with implementing the recovery schedule shall be borne by the Consultant, unless otherwise agreed to by Metra in writing. Metra will review the recovery schedule within 14 calendar days of receipt. If the recovery schedule is rejected, Consultant must submit a revised schedule within 7 calendar days of rejection. In the event Consultant fails to submit an acceptable revised schedule, Metra reserves the right to terminate this Agreement for default or convenience.

5. Revised Schedule. Subject to equitable adjustments, Metra may require Consultant to revise the schedule for the following:

- a. Changes in the Work;
- b. Re-phasing of a project or any phase;
- c. A change in the duration of the project, phase, or funding; and
- d. Acceleration of the project or phase.

C. DELAY.

1. Excusable. If Consultant is delayed in the performance of the Work, Consultant must immediately, upon receiving knowledge of such delay, give written notice to Metra and request an extension of time for performance or completion of the Work. Metra shall examine the request and determine if Consultant is entitled to an extension of time because of an excusable delay. Excusable delays include wide labor disputes, acts of God or a public enemy, acts of Metra or a funding agency not resulting from Consultant's unacceptable services, fire, strikes, flood, and the like. No claim for damages shall be made by

either party for excusable delays. Metra shall notify Consultant of Metra's decision in writing and that decision shall be final and binding.

2. Inexcusable. Delays that are not beyond Consultant's reasonable control are a material breach of this Agreement. Such delays may also affect Consultant's status as a responsible proposer or Metra's evaluation of Consultant's performance for future work for Metra. In any event, Consultant shall continue to perform the Work to the extent possible under the circumstances, and resume normal performance as soon as possible, whether or not an extension is granted. Metra shall not be obligated to grant extensions, whether or not excused.

D. LIQUIDATED DAMAGES. RESERVED

E. RESPONSIBILITY FOR AGENTS AND EMPLOYEES. Consultant represents that it shall utilize the services of individuals skilled in the profession for which they are performing services for this Agreement. In the event that Metra determines, in its sole discretion, that any individual performing services for Consultant under this Agreement is not providing such skilled services, it shall notify Consultant and Consultant shall promptly replace that individual.

F. LICENSES AND PERMITS.

1. Consultant, or its employees who would perform services requiring a license, shall have and maintain any required license. With the prior written consent of Metra, Consultant may meet the license requirement through use of a subconsultant.
2. To the fullest extent possible under applicable law/codes, Consultant shall apply for and obtain all permits for the project being designed. In those instances where the Consultant is prohibited by applicable laws or codes from obtaining such permits, Consultant shall perform all preliminary work for permit applications to assist Metra, its consultant(s), or others (on behalf of Metra) to obtain the permit in the shortest period of time. Consultant shall cooperate with and assist Metra's contractor (awarded to construct the project) in reviewing and submitting permit applications, and obtaining permits.

G. PERSONNEL, SUBCONTRACTORS, AND OUTSIDE ASSOCIATES OR CONSULTANTS. In connection with this contract, any in-house personnel, subcontractors, and outside associates or consultants will be limited to individuals or firms that were specifically identified in the Contractor's accepted proposal. The Contractor shall obtain the Contracting Agent's written consent before making any substitution for these designated in-house personnel, subcontractors, associates, or consultants. If the Consultant proposes a substitution, it shall submit the same type of information that was submitted in the accepted proposal to the Contracting Agent for evaluation and approval. The level of qualifications and experience submitted in the accepted proposal or that was required by the Solicitation, whichever is greater, is the minimum standard for any substitution.

H. PAYMENT OF SUBCONSULTANTS. Consultant agrees to pay each sub-consultant under this Agreement, in proportion to the work completed by each one, no later than 15 calendar days from the receipt of each payment Consultant receives from Metra. Consultant further agrees to return retainage payments to each sub-consultant within 15 calendar days after the sub-consultant's work is completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval from Metra. Consultant must resolve all payment disputes with its sub-consultants expeditiously. If Consultant fails to pay its sub-consultants in a timely manner or fails to expeditiously resolve any payment disputes with its sub-consultants, such failure may constitute a material breach of this Agreement.

I. ASSIGNMENT. Assignment or delegation of this Agreement by Consultant without the prior written approval of Metra is a material breach of this Agreement. This Agreement shall be binding on, and inure to the benefit of, the respective successors, assigns, heirs, and personal representatives of Metra and Consultant. Any successor to Consultant under this Agreement must be approved in writing by Metra, which approval Metra may grant or deny in its sole discretion. Any successor must agree to perform all terms, conditions, and requirements of this Agreement as a condition precedent to such succession.

4. DOCUMENTS FORMING THIS AGREEMENT.

All written information which Consultant has furnished to Metra in connection with Metra's request for proposals forms a part of this Agreement and the basis on which Metra has decided to award this Agreement to Consultant. Consultant hereby represents to Metra that all facts, plans, or promises contained therein, other than such as may be contradicted by or expressly superseded by Consultant's offer or last offer, are true, and Consultant acknowledges that Metra is entitled to rely thereon. This Agreement constitutes the entire Agreement between the Parties. All amendments to this Agreement must be in writing and executed by the authorized officers of each party. The Parties further agree that this Agreement consists of the following:

Exhibit 1: Scope of Services & General Contract Conditions

Exhibit 2: Professional Architectural and Engineering Direct Labor Wage Rates and Cost and Profit Detail (Form 4400)

Exhibit 3: Consultant's Technical Proposal (inserted upon contract award)

5. TERMINATION.

Metra may terminate this Agreement at any time, with or without cause, by giving written notice to Consultant at the address specified above. Termination shall be effective upon receipt of such notice by Consultant through actual delivery in person, fax, or regular or certified mail.

A. CONVENIENCE. If Metra terminates this Agreement other than for breach by Consultant, Metra agrees to pay Consultant, and Consultant agrees to stop Work as stated in the notice and accept as its sole remedy, Consultant's unpaid costs expended to date of termination. After receipt of a notice of termination and except as otherwise directed by Metra, Consultant shall: (1) stop Work under this Agreement on the date and to the extent specified in the notice of termination; (2) place no further orders or subcontracts for

materials, services, or facilities, except as may be necessary for completion of such portion of the Work under this Agreement as is not terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by such notice; (4) account for any property in its possession belonging to Metra, and dispose or return of such property as directed by Metra; and (5) generally act in such manner as is necessary to mitigate and minimize the amounts payable by Metra hereunder.

B. BREACH. Unless Consultant cures defaults within seven (7) calendar days after receipt of written notification of such default, Consultant shall be in total breach of this Agreement. If Metra terminates this Agreement for breach by Consultant, Consultant shall be liable for and reimburse Metra on demand for all damages incurred by Metra, including but not limited to, incidental and consequential damages, and Metra's cost for having the Work completed by another Consultant or with Metra's own employees. In addition, Metra expressly reserves all of its rights and remedies under law and equity for Consultant's breach.

6. INSURANCE.

Consultant shall obtain and continuously maintain the professional liability insurance specified in the insurance exhibit to the Request for Proposals covering all claims whenever made, arising out of this Agreement and/or performance of the Work. Certificates of this insurance and an additional insured endorsement shall be furnished from time to time to Metra upon its request. Metra is not obligated to issue a Notice to Proceed under Section 3.A until Metra has determined that the requirements of this Section have been satisfied.

7. ETHICS.

A. NON-COLLUSION. Consultant warrants that it has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of Metra, or to any other Consultant, for the purpose of obtaining this Agreement.

B. PROHIBITED INTERESTS.

1. No board member, officer, or employee of Metra shall have any interest, direct or indirect, in this Agreement or its proceeds during his/her tenure.

2. No member or delegate to the Illinois General Assembly or the Congress of the United States shall be admitted to any share or part of this Agreement, or to any benefit arising from it.

C. AFFIDAVIT/CERTIFICATIONS. Consultant reaffirms the information contained in the Affidavit/Certification exhibit and, to the best of Consultant's knowledge, the exhibit is still accurate. If Consultant becomes aware, at any point throughout the duration of this Agreement, that any statement or information provided by the Affidavit/Certification exhibit is inaccurate or is no longer true, Consultant shall immediately notify Metra and identify the inaccurate or false statement or information.

D. STATE OF ILLINOIS GIFT BAN ACT. Consultant shall comply with the applicable provisions of the State of Illinois Gift Ban Act, 5 ILCS 430 (Article 10) et seq., and refrain from providing gifts to Metra's employees in violation of Metra's Gift Ban Policy, which is incorporated herein by reference.

E. CONFLICTS OF INTEREST. Consultant agrees that it and its subconsultants are under a continuing obligation to disclose any real, potential, or apparent personal or organizational conflict of interest to Metra. Metra employees are prohibited from participating in the selection, award, or administration of a contract or subcontract supported by Metra, federal, or other grant funds if a real or apparent conflict of interest would be involved. In addition, unless approved in writing by Metra and/or any applicable Funding Agencies (as defined below), no contract or subcontract for the construction of a project or the acquisition of additional services or products related to this Agreement shall be awarded to any firm that would create, as determined by Metra in its sole discretion, any real, potential, or apparent personal or organizational conflict of interest. An organizational conflict of interest exists when the nature of the work to be performed under a proposed contract or subcontract may, without some restriction, result in an unfair competitive advantage or impair the objectivity of Consultant in performing the contract work. This clause shall survive the termination of this Agreement.

8. EMPLOYMENT AND CIVIL RIGHTS.

A. ILLINOIS EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS. In the event of Consultant's non-compliance with the provisions of this equal employment opportunity clause, the Illinois Human Rights Act ("**Act**"), or the rules and regulations of the Illinois Department of Human Rights ("**Department**"), Consultant may be declared ineligible for future contracts or subcontracts with the State of Illinois, or any of its political subdivisions, or municipal corporations; and this Agreement may be canceled or voided in whole or in part; and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this Agreement, Consultant agrees as follows:

1. That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate action to rectify such underutilization;
2. That, if it hires additional employees in order to perform this Agreement or any portion thereof, it will determine the availability (in accordance with the Department's rules and regulations) of minorities and women in the area(s) from which it may reasonably recruit, and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized;
3. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status,

national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service;

4. That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of Consultant's obligations under the Act and the Department's rules and regulations. If any such labor organization or representative fails or refuses to cooperate with Consultant in its efforts to comply with such Act and rules and regulations, Consultant will promptly so notify the Department and Metra, and will recruit employees from other sources when necessary to fulfill its obligations thereunder;

5. That it will submit reports as required by the Department's rules and regulations, furnish all relevant information as may from time to time be requested by the Department or Metra, and in all respects comply with the Act and the Department's rules and regulations;

6. That it will permit access to all relevant books, records, accounts, and work sites by personnel of Metra and the Department for purposes of investigation to ascertain compliance with the Act and the Department's rules and regulations;

7. That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such sub-consultant in the same manner as with other provisions of this Agreement. Consultant will be liable for compliance with applicable provisions of this clause by such sub-consultants, and further it will promptly notify Metra and the Department in the event any sub-consultant fails or refuses to comply therewith. In addition, Consultant will not utilize any sub-consultant declared by the Department to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations; and

8. That Consultant will have written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under state law; (iii) a description of sexual harassment, utilizing examples; (iv) Consultant's internal complaint process including penalties; (v) the legal recourse, investigative, and complaint process available through the Department and the Human Rights Commission ("Commission"); (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of the Act. A copy of the policies shall be provided to the Department upon request.

B. FEDERAL CIVIL RIGHTS REQUIREMENTS. The requirements of this Section flow down to Consultant and its sub-consultant at every tier.

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, 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, 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, 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 activities undertaken in the course of the project. 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, Contractor agrees to comply with any implementing requirements FTA may issue.
- b. Age - In accordance with 29 U.S.C. § § 621 et seq., 42 U.S.C. §§ 6101 et seq., and Federal transit law at 49 U.S.C. § 5332, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, 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, 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, Contractor agrees to comply with any implementing requirements FTA may issue.

3. Consultant agrees to comply with all applicable requirements of any other nondiscrimination statute(s) that may apply to the project, and Consultant 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.

C. DISADVANTAGED BUSINESS ENTERPRISE. In connection with the performance of the Work, Consultant will cooperate with Metra in meeting its commitments and goals with regard to the maximum utilization of disadvantaged business enterprises, and will use its best efforts to ensure that disadvantaged business enterprises shall have the maximum practicable opportunity to compete for any subcontract work under this Agreement.

D. INDEPENDENT CONTRACTOR. Consultant shall be an independent contractor. Services performed pursuant to this Agreement are not rendered as an employee of Metra. Amounts paid pursuant to this Agreement do not constitute compensation paid to an employee.

E. REVOLVING DOOR PROHIBITION. Consultant has reviewed the Affidavit/Certification exhibit and has no knowledge of any former employee or board member being involved in this solicitation process in violation of Section 4.05 of Metra's Bidding Regulations. All former Metra board members and certain employees are expressly prohibited, for a period of one (1) year after leaving Metra's employ, from engaging in any procurement activity with Metra.

F. CONFIDENTIALITY. Any documents or information obtained by Consultant from Metra or created by or on behalf of Consultant in connection with this Agreement shall be kept confidential and shall not be provided to any third party unless disclosure is approved in writing by Metra or is required by court order or court rule. Consultant shall require its sub-consultants, if any, to maintain the confidentiality of Metra's information and documents.

9. RECORDS.

A. RETENTION. Consultant shall maintain records, including those records required under the Compensation Section above, to show its time and costs, and shall submit monthly progress reports describing the portion of the Work already performed and anticipated during the next time period. On 15 calendar days notice from Metra, all time sheets, billings, and other documentation used in preparing said progress reports shall be made available for inspection, copying, and auditing by Metra at any time during normal business hours, at 547 West Jackson Boulevard, Chicago, Illinois 60661. Consultant shall maintain, for a minimum of five (5) years after the completion of this Agreement, adequate books, records, and supporting documents to verify the amounts, recipients, and uses of all disbursements of funds passing in conjunction with this Agreement. Failure to maintain the books, records, and supporting documents required by this Section shall establish a presumption in favor of Metra for the recovery of any funds paid by Metra under this Agreement for which adequate books, records, and supporting documentation are not available to support their purported disbursement.

B. AUDIT AND INSPECTION.

1. Consultant agrees to permit, and shall contractually require all of its sub-consultants at all tiers to permit, the authorized representatives of Metra or the Funding Agencies (as defined below), if applicable, to inspect and audit all work sites, work materials, payrolls, books, accounts, records, supporting documents, and any other documents involving this Agreement.

2. All costs and rates charged by Consultant shall be supported by properly executed payrolls, time records, invoices, vouchers, orders, contracts, or other documents evidencing in detail the nature and propriety of the charges.

3. Costs incurred by Consultant shall be eligible for reimbursement under this Agreement if and to the extent they meet all of the requirements set forth below. They must:

- a. be in conformity with all laws, regulations, and guidelines prescribed by the Funding Agencies (as defined below);
- b. be made in conformance with the scope and provisions of this Agreement;
- c. be necessary in order to accomplish the Work;
- d. be in conformance with the cost principles for allowable direct and indirect costs and rates used by Metra for the professional services specific to this Agreement. Metra may, in its sole discretion, accept and use the cost principles established by any applicable Funding Agency;
- e. be documented to the satisfaction of Metra; and
- f. be treated uniformly and consistently under accounting principles and procedures approved or prescribed by Metra.

4. Metra's payment of any costs and rates pursuant to this Agreement shall not constitute a final determination by Metra of the allowability of such costs and rates until an audit under the provisions of this Agreement has been certified as completed or waived by Metra. In addition, such payments made prior to audit or waiver thereof shall not constitute a waiver of the breach of any terms of this Agreement by Consultant.

5. The close out of this Agreement does not alter in any way the reporting and retention requirements stipulated herein and does not alter Consultant's obligation to return any monies due under this Agreement on the basis of any later audit or other review.

6. If Metra determines after an audit that Consultant's direct or indirect costs or rates submitted hereunder are expressly unallowable under the express provisions of this Agreement, Consultant shall refund to Metra the amount of the disallowed costs and rates.

C. OWNERSHIP. Metra shall retain ownership of all plans, specifications, related documents, computer disks, software, and all other work product (collectively referred to as "**Work Product**"), including, but not limited to, those mentioned above, prepared by or purchased by Consultant in connection with the Work and this Agreement. Metra and the Funding Agencies (as defined below) shall exercise such rights to the Work Product without further restriction or limitation and without further compensation to Consultant. Upon request, Consultant shall, at its sole cost, arrange, index, and deliver all Work

Product to Metra. However, the ideas, concepts, methodologies, processes, inventions, and tools (including hardware and software where applicable) (collectively referred to as "**Tools**") that Consultant previously developed and brings to Metra in furtherance of performance of the Work, shall remain the property of Consultant and shall not be defined as Work Product. Consultant, however, grants to Metra a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use (or permit Metra's agents to use on Metra's behalf) such Tools, but solely for the benefit of Metra when using the Work Product.

D. COPYRIGHT AND RIGHTS IN DATA. This Agreement adopts the United States Department of Transportation, Federal Transit Administration ("**FTA**") policy on Patent Rights and rights in data and copyrights as set forth in Part II of the standard FTA grant agreement enforceable between Metra and the FTA.

E. FOIA REQUIREMENTS. Metra is subject to the Illinois Freedom of Information Act (5 ILCS 140/1 et seq., "**FOIA**"), and pursuant to the FOIA, this Agreement is subject to disclosure. In addition, from time to time, Metra may be required to produce certain "public records," as defined in Section 2 of the FOIA, that are in the possession of or under the control of [Company]. Upon Metra's notification to [Company] of a request pursuant to the FOIA, [Company] will, within two (2) business days of Metra's notice, either (i) produce the public records, (ii) notify Metra, in writing, that additional time is required to produce the public records, or (iii) notify Metra, in writing, that the public records do not exist or have been destroyed. In the event that [Company] requires additional time to produce the public records, the written notification under (ii), above, will provide an explanation for the delay and the date when the public records will be received from [Company] by Metra. [Company] agrees that in no event shall a delay to produce public records exceed five (5) business days.

If any failure by [Company] to timely comply with a request for public records results in any adverse consequences to Metra, including, but not limited to, fines or penalties being imposed on Metra, said failure by [Company] shall be deemed a material breach of this Agreement.

10. INDEMNIFICATION AND WAIVER.

A. To the fullest extent permitted by law, Consultant agrees to indemnify, defend, and save harmless Metra, the Commuter Rail Division of the Regional Transportation Authority, and their respective directors, officers, agents, and employees (cumulatively referred to as the "**Indemnified Parties**") from and against all loss, claims, liability, cost, and expense (including attorney's fees and other reasonable expenses of litigation or arbitration) which any of them may incur, sustain, or be subject to on account of: (i) all third party claims, including those brought against Metra, which Metra may bring against Consultant, for bodily injury to person or death or damage to property, suffered by any of them which result from or arise out of Consultant's negligent performance of this Agreement or Consultant's negligent failure to perform under this Agreement; and (ii) where applicable to the scope and description of services performed by Consultant, bodily injury to any person or death or property damage arising out of: (a) any defect or alleged defect of design, regardless of whether the relevant work or design was made by Consultant or a sub-consultant, and regardless of the extent to which Metra may have

approved or participated in any design work; or (b) any negligence in Consultant's oversight or contract administration. Consultant, however, shall not assume the risk of injury to person (including death) and damage to property and shall not assume the risk of injury to person (including death) and damage to property and shall not indemnify and save harmless the Indemnified Parties from and against any loss, liability, cost, and expense (including costs of litigation and attorney's fees) to the extent such injury (including death), damage, loss, liability, cost, or expense is caused by the negligence or willful misconduct of the Indemnified Parties, unless Consultant is aware of or should have been aware of said negligent activity.

B. Consultant hereby binds itself, its successors, and assigns, to indemnify, defend, and hold harmless the Indemnified Parties from all claims, loss, damages, or expenses (including attorney's fees) for alleged infringement of patent, trademark, or copyright laws and rights, arising from any material or design specified in, or supplied pursuant to, this Agreement. Consultant, however, shall not assume the risk of alleged infringement of patent, trademark, or copyright laws and rights and shall not indemnify and save harmless the Indemnified Parties from and against any loss, liability, cost and expense (including attorney's fees) to the extent such material or design was provided by the Indemnified Parties, unless Consultant was aware of or should have been aware of said infringement activity.

C. Consultant agrees that the above indemnification includes the Illinois Department of Transportation ("**IDOT**"), FTA, and the Regional Transportation Authority ("**RTA**") (collectively, "**Funding Agency**" or "**Funding Agencies**") if those Funding Agencies participate in the funding of this Agreement.

D. To the fullest extent permitted by law and except to the extent caused by the Indemnified Parties' gross negligence or willful misconduct, Consultant waives all claims for damage to property or person (including death) sustained by Consultant as a result of Consultant's performance of the Work. The obligations, rights, and remedies of this Section 10 shall survive the termination of this Agreement and the completion of the Work.

E. In the event any dispute or claim, related to this Agreement, should arise between the Parties, each party agrees to exercise good faith efforts to resolve the matter fairly, amicably, and in a timely manner.

F. Nothing in this Section 10 is intended to violate the provisions of the Construction Contract Indemnification for Negligence Act, 740 ILCS 35/0.01 et seq., and this section is not intended to be an indemnification of Metra's or its employees' own negligence to the extent such indemnification would be in violation of such provisions.

11. ACCURACY OF WORK.

A. REVISIONS REQUIRED. Metra will be relying upon Consultant's expertise to provide accurate work. Thus, Consultant shall be responsible for the accuracy and conformity of the Work with applicable state, federal, and local laws, codes, and permit requirements. Consultant shall promptly make necessary revisions or corrections

resulting from its errors, omissions, or negligent acts, and shall do so without additional compensation. Consultant shall be governed by that degree of care, skill, and diligence that the other reputable members of his or her profession would ordinarily exercise under similar circumstances within the State of Illinois. In addition to any other rights and remedies Metra may have, Consultant shall be responsible for any damages incurred as a result of errors, omissions, and/or negligent acts, and for any losses or cost of repair or remedy arising out of such errors, omissions, and/or negligent acts caused by Consultant, its employees, and subconsultants. Metra's review, approval, payment, nor acceptance of the Work required under this Agreement shall constitute or operate as a waiver relieving Consultant of the professional responsibility for subsequent correction of errors and omissions and/or of any rights under this Agreement. Consultant shall be liable for all damages to Metra caused by Consultant's negligent performance of any services and for subsequent correction of any such errors or omissions, or for clarification of any ambiguities. The obligations, rights, and remedies of this Section 11 shall survive the termination of this Agreement and the completion of the Work.

B. NOTIFICATION OF ERROR. Metra will notify Consultant of any error or omission believed by Metra to be caused by the negligence of Consultant as soon as practicable after discovery. Notification may be given by the most practical means deemed suitable by Metra. Consultant will designate and keep current the name of an individual with proper address and telephone number for purposes of notification hereunder. The notification will advise Consultant of the nature of the matter, the action sought from Consultant, and the time constraints required for response. In the event it is later determined that Consultant was not negligent, Consultant will be compensated for additional services performed in accordance with the compensation provisions of this Agreement.

C. PROJECT MANAGEMENT PLAN/QUALITY MANAGEMENT PLAN. If applicable, Consultant shall conduct all Work according to Metra's latest Project Management Plan and Quality Management Plan.

12. FUNDING.

A. SUBJECT TO APPROPRIATIONS. If this Agreement is for a period of longer than one year, it is subject to the appropriation of funds by Metra's Board of Directors for each year beyond the first year of this Agreement.

B. SUBJECT TO FINANCIAL ASSISTANCE. Payments to Consultant under this Agreement might be funded in part by financial assistance from one or more of the Funding Agencies. If any Funding Agency fails to approve this Agreement or to provide financial assistance in the amounts required to fully fund payments to Consultant, Metra reserves the right to terminate this Agreement. This Agreement is subject to the provisions of the financial assistance agreements between Metra and the Funding Agencies, and in the event of conflict between such Funding Agency agreements and this Agreement, the Funding Agency agreements shall control. Consultant acknowledges that it has had the opportunity to review and copy the Funding Agency agreements before executing this Agreement. Pursuant to the applicable provisions of Metra's Master Agreement with the FTA, Metra gives notice to Consultant that Federal requirements may change, and the changed requirements will apply to this Agreement as required.

C. NO LIABILITY. The Funding Agencies shall not be subject to any obligations or liabilities to Consultant or its sub-consultants or any other person not a party to this Agreement.

D. DESIGN WITHIN FUNDING LIMITS.

1. If this Agreement is for design services, Consultant shall accomplish the design services required under this Agreement so as to permit the award of a contract, using standard Metra procurement procedures for the acquisition, construction, or manufacture of any real or personal property designed at a price that does not exceed the estimated construction or manufacturing contract price as set forth by Metra. The contract estimate for the procurement or construction contract shall be established as part of the Notice to Proceed or communicated to Consultant in writing at a later date. When bids or proposals for the construction or procurement contract are received that exceed the estimated price, Consultant shall perform such redesign and other services as are necessary to permit contract award within the established construction or procurement contract price. These additional services shall be performed at no increase in the price of this Agreement. However, Consultant shall not be required to perform at no increase in the price of this Agreement if Metra determines that the unfavorable bids or proposals are the result of one of the following: (a) events beyond Consultant's reasonable control; (b) an increase in material cost which could not have been anticipated by reasonable Consultants within the industry; or (c) an undue delay by Metra in issuing the construction or procurement solicitation.

2. Consultant will promptly advise the Contracting Officer if Consultant finds, at any time during the Work, that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design the real or personal property within these limitations. Upon receipt of such information, Metra will review Consultant's revised estimate of construction cost. If Metra determines that Metra's estimated construction or procurement contract price is so low that award of a construction or procurement contract (not in excess of such estimate) is improbable, Metra may either: a) authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction or procurement contract price, or b) adjust its estimated contract price. Consultant's continued performance shall mean acceptance of the above changes or adjustments by Metra. If Metra determines Consultant's cost estimates are reasonable, but does not accept them, Metra may either terminate this Agreement for convenience or release Consultant from the requirements of this Section.

13. CONTRACT CHANGES.

Any change, modification, change order, or amendment (hereinafter "**Contract Change**") to this Agreement must be in writing and approved and signed by Metra's Executive Director or his designee, where authorized. Contract Changes can include, but are not limited to, changes to scope, time extensions, cost, contract terms, or any combination thereof. Consultant shall be

liable for satisfactorily correcting, and/or all costs resulting from, any change not ordered in writing and signed by the Executive Director or his authorized designee. Disagreements that cannot be resolved with negotiations shall be resolved in accordance with the Disputes clause.

A. CHANGE ORDERS. By written order, at any time, and without notice to the surety, the Executive Director may, subject to all appropriate adjustments, make changes to the general scope of this Agreement ("**Change Order**").

B. CHANGE ORDER PROCEDURES.

1. Either Metra or Consultant may initiate a Change Order.
2. Metra shall prepare and when appropriate, issue the written Change Order in conformance with Metra's applicable administrative procedures for Change Orders. Consultant shall supply all requested information, proposals, and any supporting back-up documentation.
3. Consultant Initiated Change Orders
 - a. Within fifteen (15) business days of when Consultant knows or should have known a cause for a Change Order, Consultant shall send Metra a notification that it intends to submit a Change Order request ("**Change Order Notification**" or "**NCO**").
 - b. The NCO shall provide Metra with sufficient explanation to understand:
 1. the nature of the prospective Change Order request; and
 2. the rationale or cause.
 - c. The purpose of the NCO is not to approve or disapprove a Change Order, but to provide Metra with additional time to research the issues and thus expedite the Change Order process.
 - d. Within seven (7) business days of receipt of the NCO, Metra shall inform Consultant whether it believes the potential Change Order request merits further discussion.
 - e. Metra's response to the NCO shall not be relied upon as approval of a yet to be submitted Change Order, including any terms, scope, prices, or negotiated hours.
 - f. Unless waived by Metra in writing, a Change Order request will not be processed without the prerequisite NCO submittal.
4. After receiving a NCO response from Metra Consultant shall send, if appropriate, the Change Order request complete with all pertinent drawings, prospectus, schedule breakdown, and cost data to Metra's project manager.

C. INELIGIBLE CHANGE ORDER COSTS.

1. The Parties acknowledge that costs incurred by Consultant in response to Metra's comments or changes to NCO submitted for Metra's review are not

eligible for a Change Order, and such costs are already incorporated into Consultant's fees.

2. Notwithstanding the above, Consultant must submit a NCO within five (5) business days if it believes that Metra's comments or changes are beyond the work bargained for by the Parties and eligible for a Change Order. Prior to incorporating any Metra comments or changes that Consultant believes are entitled to a Change Order, Consultant must wait for Metra's response to the NCO.

D. CONSULTANT TO CONTINUE WORK.

Notwithstanding the above, Metra may require Consultant to proceed with any Contract Change. Accordingly, pursuant to the Disputes Clause requiring continued performance of the Work, Consultant shall perform work as set forth in Metra's Contract Change. Failure of the Parties to agree to an adjustment in price or time shall not excuse Consultant from proceeding with the Work as changed. By proceeding with the work as directed by Metra, Consultant shall not be deemed to have prejudiced any claim for additional compensation or an extension of time for completion.

E. CONTRACT CHANGE EFFECTIVE DATE.

Consultant will first analyze any proposed Contract Change request to determine the latest calendar date wherein the change incorporation must commence to minimize (preferably eliminate) any contract time extension. Consultant will immediately notify Metra of this "**Effective Date**" and the prospective schedule impact to permit timely review by Metra staff of overall impact.

14. DISPUTES.

A. DISPUTE RESOLUTION. All claims, disputes and other matters in question between Consultant, Metra, and sub-consultants arising out of, or relating to, this Agreement or the breach thereof, shall be decided by arbitration in accordance with the Arbitration Rules of the American Arbitration Association then existing, as modified herein, unless the Parties mutually agree otherwise.

B. JOINDER. Metra, Consultant (or any other architect, engineer, or construction manager), sub-consultants, contractors, surety, subcontractors, or any material suppliers who have an interest in the dispute shall be joined as parties to the arbitration. Metra will endeavor to require any appropriate third party to be subject to joinder. Consultant's contracts with its sub-consultants shall also require such joinder.

C. AUTHORITY OF THE ARBITRATOR. The arbitrator(s) shall have authority to decide all issues between the Parties including, but not limited to, claims for extras, delay and liquidated damages, matters involving defects in the Work, rights to payment, and whether the necessary procedures for arbitration have been followed. The Parties expressly agree that the arbitrator(s)' authority is limited to interpretation and application of the specific terms of the Agreement between the Parties and the applicable laws of the State of Illinois and to deviate

from same constitutes a manifest disregard of the law. The arbitrator(s) shall have no authority to add to, take from, or modify any of the provisions of the contract between the Parties.

D. FINAL BINDING DECISION. The foregoing agreement to arbitrate and any other agreement to arbitrate with an additional person or persons duly consented to by the parties to this Agreement, shall be specifically enforceable under the prevailing arbitration law. Subject to a Funding Agency's consent required below, the award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

E. DEMAND FOR ARBITRATION. The written demand for arbitration shall be served upon the other party to the arbitration and with the American Arbitration Association ("AAA") within ten (10) business days after receiving written notice of Metra's final decision with which it disagrees. If the Parties mutually agree, they may extend the time to file a written demand for arbitration in order to engage in additional negotiations.

F. WORK SHALL CONTINUE. Unless otherwise agreed in writing by Metra, all parties shall diligently and in good faith carry on the work and timely perform their duties during any negotiation or arbitration proceedings, and Metra shall continue to make payments of any uncontested invoices as required by the Agreement.

G. JURISDICTIONAL CHALLENGE. If any proceeding is brought to contest the right to arbitrate and it is determined that such right exists, the losing party shall pay all costs and attorneys' fees incurred by the prevailing party.

H. ADDITIONAL RULES. In addition to the Construction Industry Arbitration Rules of the American Arbitration Association applicable to any arbitration hereunder, the following shall apply:

1. Pleading. Promptly upon the filing of the arbitration, each party shall be required to set forth in writing and to serve upon each other party a detailed statement of its contentions of fact and law.
2. Discovery. All parties to the arbitration shall be entitled to the discovery procedures and to the scope of discovery applicable to civil actions under Illinois law, including the provisions of the Code of Civil Procedure and Illinois Supreme Court rules applicable to discovery. Such discovery shall be noticed, sought, and governed by those provisions of Illinois law.
3. The arbitration shall be commenced and conducted as expeditiously as possible consistent with affording reasonable discovery as provided herein.
4. These additional rules shall be implemented and applied by the arbitrator(s).

I. FEES AND EXPENSES. The fees and expenses of the arbitration proceedings, i.e. judge's fees, reporter fees, and other AAA's fees, shall be divided equally between Metra and each party to the arbitration. Each party shall pay its own personally incurred fees and expenses, including its own attorney and witness fees.

J. CONSENT BY FUNDING AGENCIES. The Parties agree that upon the submittal of a claim for arbitration, Metra shall promptly notify the appropriate Funding Agency, if any. If in the event the agreement between the Funding Agency and Metra prohibits the use of arbitration as a dispute resolution process, Metra shall promptly notify the parties, and all arbitration activities shall cease. Pursuant to Funding Agency grant conditions, any settlement or decision must be reviewed and approved by the Funding Agency before it is binding on Metra. The Parties may then pursue any claim in a court of law.

15. SAFETY REQUIREMENTS

A. COMPLIANCE. Before entering Metra property or property owned by other railroads that is relevant to this Agreement, Consultant and its sub-consultants at any tier who meet the definition of a Roadway Worker below shall cause their employees to comply with Metra's Safety Rules and General Procedures (or the applicable safety rules of the railroad where the Work is being conducted). If Consultant or its sub-consultants perform Work on Metra trackage or trackage of another railroad as part of this Agreement (or within 25 feet of Union Pacific & BNSF trackage), Consultant, sub-consultants at any tier, and their respective employees must complete Metra's Contractors Orientation Safety Program located at "contractororientation.com" or the safety orientation of the railroad where Work is being conducted. The web-master will charge a \$20.00 fee for each of Consultant's and its sub-consultants' employees, and will furnish a contractor orientation course completion card which must be carried at all times by the employee while on railroad trackage where Work is being conducted.

B. DEFINITION. A Roadway Worker is defined as: Any employee of the railroad, or of a contractor to the railroad, whose duties include and who is engaged in the inspection, construction, maintenance, or repair of railroad track, bridges, roadway, signal and communication systems, roadway facilities, or electric traction systems, or in the operation of roadway maintenance machinery on or near track, with the potential of fouling a track.

C. NOTICE. Consultant and its subconsultant are not permitted to work on or near Metra trackage (or within 25 feet of Union Pacific & BNSF trackage) until the Metra employee-in-charge or the other appropriate railroad's employee is present at the job site and the extended job briefing has been conducted.

D. EMERGENCY. CALL METRA POLICE (312) 322-2800

16. MISCELLANEOUS.

A. COMPLIANCE WITH LAWS. Consultant hereby agrees to comply with all applicable statutes, ordinances, building codes, and regulations of the United States, the State of Illinois, Metra, and units of local government. Any contract executed in violation of the terms and conditions of law may be null and void as to Metra.

B. GOVERNING LAWS. To the extent not preempted by federal law, this Agreement is made in and shall be interpreted under the laws of the State of Illinois, and Consultant agrees and consents that only the courts of Cook County, State of Illinois, the United States District Court for the Northern District of Illinois, and 7th Circuit shall have jurisdiction over controversies arising out of this Agreement. The parties to this Agreement irrevocably

consent to jurisdiction of such courts and waive any objection based on venue or forum nonconveniens.

C. NOTICES. All notices, demands, elections, and other instruments required or permitted to be given or made by either party upon the other under the terms of this Agreement or any statute shall be in writing. Such communications shall be deemed to have been sufficiently served if sent by certified or registered mail with proper postage prepaid, hand delivered, or sent by facsimile transmission, with proof of successful transmission sent by regular mail as either party may from time to time furnish to the other in writing. All notices to Metra shall be sent to the Department Head of Professional Services Procurement.

D. HEADINGS. The section headings of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement.

E. SET-OFF RIGHTS. Metra may, but shall not be obligated to, withhold from and set-off against any payment otherwise due and payable by Metra under this Agreement, any amount payable by Consultant to Metra under or in connection with this Agreement.

F. SEVERABILITY. If any provision of this Agreement, or any paragraph, sentence, clause, phrase, or word or the application thereof is held invalid, the remainder of this Agreement shall be construed as if such invalid part were never included and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law provided that the Agreement, in its entirety as so reconstituted, does not represent a material change to the rights or obligations of the Parties.

G. WAIVER. No waiver of any right of a party under this Agreement shall be effective unless made in writing by the party whose rights are thereby waived, stating explicitly that a waiver of a right under this Agreement is intended, and executed by an officer who has authority generally to execute contracts for the waiving party.

H. CONSTRUCTION. Consultant is represented by legal counsel of its choice and is fully aware of the terms of this Agreement. Consultant agrees that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement.

I. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (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 4220.1F (or the most recent Circular), 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 Consultant shall not perform any act, fail to perform any act, or refuse to comply with any Metra requests which would cause Metra to be in violation of the FTA terms and conditions

J. INVOICING. Mail invoices to the Accounts Payable Department at Metra, 547 W. Jackson Blvd, Chicago, IL 60661 or email your invoices directly to MetraVendorInvoices@metrarr.com. If your contract has a DBE component, continue also to send a copy of the invoice to Metra's Office of Diversity & Civil Rights.

Complete invoices must include:

- The Purchase Order (PO) or Purchase Agreement (PA) Number provided by Metra.
- The Item Number, as it corresponds to the PO/PA.
- The Product Part Number.
- A description of each Product or Service, as stated in the PO/PA.
- Itemized Quantity, Unit Price, and Invoiced Amount, as stated in the PO/PA.
- The Hours and Rates used, when applicable.
- The Time Period covered by the invoice.
- The Total Invoiced Amount for the invoice.
- The Remit-To-Address.

Invoices must be billed according to the Pricing Exhibits, including any supporting documentation as required by the Terms and Conditions of the PO/PA. Any invoice which is not in compliance with these requirements will be returned by Metra. The due date for such an invoice will start from the date the corrected invoice is received by Accounts Payable.

Addendum Acknowledgment: The respondent hereby acknowledges receipt of the following Addenda that are incorporated herein by reference. (If there were No Addenda, write “NONE”) _____. **Failure to acknowledge all Addenda may be cause for the LIQ submittal to be considered non-responsive.**

Addendum Numbers: _____

**IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS
AGREEMENT ON THE DATES RECITED BELOW:**

**NORTHEAST ILLINOIS REGIONAL
COMMUTER RAILROAD
CORPORATION D/B/A METRA**

CONSULTANT

Signature

Signature

Jim Derwinski

Name

Printed/Typed Name

CEO/Executive Director

Title

Title

Date

Date

Company Name

Street Address

City, State & Zip Code

Telephone

Email Address

EXHIBIT 1

SCOPE OF SERVICES AND GENERAL CONTRACT PROVISIONS



**TITLE: CREATE P2 RIGHT-OF-WAY NEEDS ASSESSMENT SERVICES
 FOR SWS/RID FLYOVER CONNECTION**

LIQ NO.: 97294

**CREATE P2 DESIGN SERVICES FOR SWS/RID FLYOVER CONNECTION
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**LETTERS OF INTEREST AND QUALIFICATIONS (LIQ) NO. 97294
CREATE P2 RIGHT-OF-WAY NEEDS ASSESSMENT SERVICES
FOR SWS/RID FLYOVER CONNECTION
SCOPE OF WORK**

I. INTRODUCTION

Northeast Illinois Regional Commuter Railroad Corporation (NIRCRC) D/B/A Metra is the public corporation (unit of local government) responsible for commuter rail transportation in Cook, DuPage, Kane, Lake, McHenry, and Will Counties of Northeastern Illinois. Metra is an operational entity, providing approximately 82 million passenger trips annually, averaging over 317,000 trips each weekday. Metra's existence resulted from legislation enacted by the Illinois General Assembly in November 1983, which reorganized the Regional Transportation Authority (RTA). The RTA, formerly responsible for all levels of public transportation policy in the region, was reorganized as a planning and oversight agency. Legislation then established the Commuter Rail Division (Metra), along with the Suburban Bus Division of the Regional Transportation Authority (Pace) and the Chicago Transit Authority (CTA) as the direct operating subsidiaries of the RTA. Under this arrangement, each of the service boards is entrusted with responsibility for policy-making with respect to actual day-to-day operations, capital investments, fair levels, and the planning service and facilities for their respective systems.

Metra is one of the largest commuter rail systems in the nation. The commuter rail system consists of nearly 500 route miles and over 1,150 track miles serving 242 stations, of which 184 are Americans with Disabilities Act (ADA) accessible. There are four major terminals in downtown Chicago with five storage and maintenance facilities located near these terminals. Metra employs approximately 4,400 employees, including the staff of our contract carriers, the Union Pacific (UP), and the Burlington Northern Santa Fe (BNSF). These three operators provide service on eleven separate lines radiating north, south and west of the Chicago Central Business District.

II. BACKGROUND

The overall goals of the Chicago Region Environmental and Transportation Efficiency (CREATE) Program are to improve freight and passenger rail operations, and to improve highway operations in the Chicago metropolitan area while reducing the environmental impacts of rail operations on the general public. The CREATE Program includes the development of four freight and passenger rail transportation corridors in the Chicago metropolitan area, and also includes rail-highway grade separation projects (over- or under-passes to grade-separate railroads and highways) on existing rail lines outside the four corridors.

Chicago area freight and passenger rail traffic suffers from congestion, low operating speeds and delays due to traffic demands that exceed the capacity of the Chicago Rail System. The development of the four rail corridors includes the upgrading of existing track structure, the double-tracking or triple-tracking of certain lines, the construction of rail-highway grade separations and rail-rail flyovers, the installation of new or improved signaling, and various other additions and improvements. These improvements will significantly improve freight and passenger rail operations.

In addition, the CREATE Program proposes re-routing existing Metra service in order to assist Metra in increasing their capacity and ability to adequately serve the region. Many stations do not have the capacity to handle additional trains which limits the ability for Metra to expand their services. Other stations, conversely, are underutilized and represent a potential solution. The CREATE Program includes the installation of connections that will shift service to the under-utilized stations thereby enabling Metra to expand their system. The Program also benefits some Amtrak intercity trains.

Finally, there are many rail-highway at-grade intersections throughout the Chicago metropolitan area that cause vehicular delays and congestion and contribute to air pollution in the region. The construction of the rail-highway grade separations will improve traffic operations and air quality in the Chicago metropolitan area.

The proposed project is for professional services for a right-of-way needs assessment related to the CREATE 75th Street Corridor Improvement Project (CIP), which is the largest CREATE project and is located in the City of Chicago, Cook County, Illinois.

III. OBJECTIVE

Metra is seeking Letters of Interest and Qualifications (LIQs) for CREATE P2 Right-of-Way Needs Assessment Services for the SWS/RID Flyover Connection.

The 75th Street CIP corridor consists of 4 proposed improvements, one of which is Metra's P2 project. This proposed flyover will connect the Southwest Service (SWS) line with the Rock Island District (RID) line. This new structure will require extensive ROW assessment, as it is proposed in an area that is currently residential.

Due to their proximity and operational concerns, the P2 project will be closely tied with EW2, another project in the corridor that focuses on freight rail improvements, primarily for Norfolk Southern (NS). Portions of EW2 will need to be completed prior to P2 for construction staging to be possible and for Metra to realize the benefits of the P2 project. NS is currently developing their Phase II Design for EW2, and their track design team has identified the ROW needs that must be packaged with the P2 ROW services to ensure that both projects are completed efficiently.

The selected ROW consultant will be responsible for the duties outlined in this LIQ for the entirety of Metra's P2 project, and the portion of EW2 ROW identified in the project area, all of which is shown in Exhibits A and B at the end of this section.

IV. CONTRACT REQUIREMENTS

The Consultant shall perform work in accordance with the following:

DBE Requirements

This Contract has a 15% Disadvantaged Business Enterprise (DBE) participation goal.

Quality Management

The Federal Transit Administration requires grantees (including Metra) undertaking capital projects to prepare a Quality Management Plan (QMP). Metra's current QMP addresses what documentation Metra expects from its Consultants and their sub-consultants to ensure such documentation meets the current FTA Quality Management System Guidelines.

Metra has developed the Third Party Contracts Quality Management Plan (TPCQMP) which is consistent with the Metra Corporate Quality Management Plan and the Federal Transit Administration (FTA) Quality Management System Guidelines FTA-PA-27-5194-12.1. The TPCQMP incorporates the applicable elements of a quality program as required by the FTA document.

The Third Party Contracts Quality Management Plan addresses the documentation Metra expects from its Third Party Contractors and their subcontractors to ensure that the FTA Quality Management System

Guidelines are met. It is the responsibility of the Third Party Contractors and their subcontractors to implement the elements of the TPCQMP. Additional documentation may be required for some projects. The Third Party Contractors and their subcontractors shall provide such documentation, as, and when requested.

All Third Party Contractor work activities associated with capital projects are subject to quality assurance audits by Metra. Metra quality assurance audits are performed to verify the implementation of, and to assess the overall effectiveness of the TPCQMP. If a deficiency or nonconforming activity is identified and noted during the course of the project, the Third Party Contractor must take suitable action, at no expense to Metra, to implement the appropriate corrective action within the scheduled time allotted. Noncompliance with the quality requirements and/or non-completion of the corrective action within the scheduled time may be considered a breach of contract.

The current version of the Metra TPCQMP is available at <https://metra.com/engineering>, under “Quality.” All work performed shall be in accordance with Metra’s QMP and TPCQMP.

Right-of-Way

The CREATE 75th Street CIP Phase I Report, completed in 2015, identified ROW acquisition needs based on the preliminary track alignments. According to the report, the alignment for the proposed flyover requires the acquisition of 23 residentially zoned parcels (2.6 acres of land). These parcels consist of a total of 16 residential structures (15 occupied; 1 vacant) with 27 dwelling units (26 occupied; 1 vacant), 1 church property (0.1 acres), and 6 vacant parcels (0.8 acres). Of the 2.6 acres of residential land that would be acquired, over half (54 percent, 1.4 acres) could potentially be used for other purposes in the future. During Phase II Design, these needs have been revisited. Two additional vacant parcels have been identified as potential needs, and two of the parcels originally identified (a single family home and a 2-unit multi-family home) may not be required for the project. All parcels, both originally and newly identified, are shown in Exhibits A and B at the end of this section, and all will need to be assessed.

The Phase I Report also identified several locations where easements, construction permits, or vacations will be needed. These have also been revisited during Phase II Design, and can also be found in Exhibits A and B at the end of this section.

No property from Hamilton Park will be taken, though a construction permit will be required for a small (0.02 acre) section of the park.

Union Avenue will be closed at the 75th Street rail embankment and cul-de-sacs will be constructed on either side.

V. SCOPE OF WORK

The Consultant shall provide all expertise, labor and deliverables to complete the work required. The elements listed in this Section are considered the major scope elements. The Consultant shall identify and include all other work requirements necessary to successfully complete the work as required, even those work items not specifically listed.

A. Type of Work

The following items are required:

1. Work shall include licensed land surveying, title work, appraisals, preparation of plats and legal descriptions, negotiations, settlements, and project management.

2. All drawings and calculations shall be performed in U.S. customary units.
3. CADD, word processor or calculation files of all contract work including drawings, reports, documents, and renderings will be furnished to Metra at the end of the project on CD or DVD.

B. Project Details

ROW Needs Assessment Services shall include:

1. Confirm and provide relevant and applicable ROW information for parcels to be acquired.
2. Verify final acquisition fee simple and easement and vacated parcels required for the project.
3. Assess street closure(s) requirements and processes. Provide support to CDOT with street closure identification and ordinance for the closure.
4. Provide description and securing any temporary and permanent easements required for the P2 and EW2 projects as outlined in exhibits A and B.
5. Develop and provide draft plans of remnant parcels; coordinate with IDOT and the City of Chicago to verify remnant parcels.
6. Perform title search, legal surveys/plats, legal descriptions, appraisals, and negotiations per the Uniform Act, 42 USC 4601, et seq. and Illinois Land Acquisition Policies and Procedures.
7. Upon completion of the ROW services in items 1-6, assist the railroad in preparing the necessary documentations for parcel acquisition(s) in accordance with the Uniform Act, 42 USC 4601, et seq. and Illinois Land Acquisition Policies and Procedures.
8. Coordinate with other designers, railroads, and agencies on the CREATE team.
9. Develop and provide final plans and legal descriptions of remnant parcels; coordinate with IDOT and the City of Chicago to verify remnant parcels.
10. Coordinate with attorneys assigned to condemnation litigation, including regular communication; site visits; providing documents and affidavits for use in litigation; and provide testimony in court proceedings.
11. Track and monitor progress of the work and provide reporting on all aspects of the scope of services. Monthly updates of estimate cost of acquisition, easement/street closure, relocation, and mortgage assistance if required for the project.
12. If condemnation is required for any of the parcels, the lead railroad will be responsible for coordinating that work.
13. Coordination with applicable IDOT departments, CDOT, CREATE partners and other entities involved with P2 and EW2 projects.
14. Draft ROW Needs Assessment Report, including the IDOT District 1 Land Acquisition package certification.
15. Final ROW Needs Assessment Report, including the IDOT District 1 Land Acquisition package certification.
16. All other additional services required to complete the project and/or perform the work.

VI. SOLICITATION SCHEDULE

Date	Time	Activity
4/28/22	-	Request for LIQ issued
5/5/22	2:00 p.m.	Pre-proposal Conference
5/9/22	2:00 p.m.	Questions Due
5/25/22	-	Addendum issued
6/8/22	4:00 p.m.	Proposals Due

*All times are LPT (Local Prevailing Time)

VII. PRE-PROPOSAL VIRTUAL CONFERENCE

A virtual pre-proposal conference will be conducted at the above-stated date and time. Attendance is encouraged but not mandatory. All participants are required to submit an email to the Sr. Contract Agent confirming their intent to participate in the virtual pre-proposal conference. Attendees shall notify Toyla Rice, Sr. Contract Agent at trice@metrarr.com. Participants may not be able to access the meeting if pre-registration is not completed. Attendees will receive an email with a link to register for the pre-proposal conference. Registration must be completed no later than 1 hour prior to the start of the pre-proposal conference. To attend the video conference, WebEx may be required to be installed.

Potential offerors shall attempt to provide as many questions as possible to the Contracting Agent before the pre-proposal conference. Metra will not respond to oral questions except those made at the pre-proposal conference. Responses made by or on behalf of Metra at the pre-proposal conference shall be unofficial responses. Any oral response which is not confirmed by an addendum shall not be official or binding on Metra. Any responses to written requests shall be provided by Metra in the form of addenda only.

VIII. COMMUNICATIONS

Questions regarding this LIQ shall be submitted via email to Toyla Rice, Sr. Contracting Agent, at trice@metrarr.com, prior to the time and date indicated in Section VI. Solicitation Schedule, above. Questions submitted after this date and time will not be accepted.

Prospective offerors and their representatives shall not make any contact with or communicate with any members of Metra, or its employees and consultants, other than the Contracting Agent regarding any aspect of this solicitation.

If it should appear to a prospective offeror that the performance of the work under the contract, or any of the matters relating thereto, is not sufficiently described or explained in the solicitation or contract documents, or that any conflict or discrepancy exists between different parts thereof or with any federal, state, or local law, or any Metra ordinance, rule, regulation, or other standard or requirement, then the prospective offeror shall submit a written request for clarification to Metra within the time specified above.

IX. ADDENDA

Metra reserves the right to amend the LIQ at any time. Any amendments to or interpretations of the LIQ will

be described in written addenda. Failure of any prospective offeror to receive the notification of addenda shall not relieve the offeror from any obligation under the LIQ as clarified, interpreted, or modified. All addenda issued shall become part of the LIQ. Failure to acknowledge receipt of addenda may, at Metra's sole discretion, disqualify the submittal. All clarifications and LIQ revisions will be documented in addenda and published on Metra's website at www.metra.com.

X. PERIOD OF PERFORMANCE

The period of performance is ten (10) months from the Notice to Proceed date of this Contract. Necessary variations from Metra's schedule should be noted in the firm's LIQ submittal.

If awarded a contract, the Consultant is required to issue an updated project schedule in Gantt chart format showing the required tasks and deliverables, on the first day of every month or within five (5) days of any schedule delay, indicating how the Project will be completed within the agreed upon Project Schedule.

XI. CONSULTANT COMPENSATION

Any request for payment by the Consultant shall be on the Consultant Application for Payment Form. This form is available at on the following File Transfer Protocol (FTP) Site: <ftp://ftp.metrarr.com>. To login, use the following credentials after copying the FTP link into the address line of a web browser:

Username: metragrants
Password: M3tr@u9r3

The Consultant will be paid on a monthly basis for services rendered. The Metra Project Manager must approve a draft or pencil copy of the invoice prior to the Consultant submitting the invoice to Metra Accounts Payable.

When requested by Metra, the Level of Effort, Professional Architectural and Engineering Direct Labor Wage Rates and Cost and Profit Detail (Form 4400) will be submitted and negotiated prior to award of a contract. **These items shall not be included in the initial response to this LIQ.**

XII. EVALUATION METHODOLOGY

This is a qualifications-based procurement for Architectural Engineering and Related Services and shall be made in accordance with the Brooks Act and Federal Transportation Administration (FTA) requirements. The selection of the consultant is based on its qualifications; price is excluded as an evaluation factor.

The Evaluation Criteria are listed in descending order of importance:

1. Project Approach and Understanding
2. Qualifications and Experience of Key Personnel
3. Qualifications and Experience of the Firm/Subcontractor(s)
4. Project Schedule
5. Availability of coverage in the Chicago area

All responsive technical submittals will be evaluated and scored in accordance with these evaluation criteria. Metra may conduct discussions, request clarifications, and/or request revised submittals. Metra may establish a competitive range and elect to only conduct interviews with those offerors determined to be in the competitive range. If interviews are conducted, Metra may conduct additional scoring of those offerors in order to determine the final ranking. Failure of an offeror to attend an interview will be cause for removing the submittal from further consideration provided that Metra has given adequate notice to the offeror to prepare

for the interview. The determination of what constitutes adequate notice shall be made solely by Metra. Metra reserves the right to award a contract based on the initial submittal only, without providing any offeror the opportunity for interview, discussion or negotiation. Metra will enter into price negotiations with only the highest ranked offeror. Failing agreement on price, negotiations will be formally terminated, and price negotiations will commence with the next highest ranked offeror. As part of the negotiation process, upon request by Metra, the offeror (including sub-consultants) will be required to submit a multi-year employee position salary schedule and its audited or provisional overhead rate. These items shall not be included in the initial response to this LIQ.

XIII. LIQ CONTENT AND SUBMISSION REQUIREMENTS

Submittals shall include firm name; business address; and the name, title, and business address of the responsible individual(s) with their telephone, e-mail, and address, who may be contacted during the proposal evaluation period. The proposer shall submit with its proposal a copy of any joint venture agreements. Proposals shall be signed by an official authorized to bind the proposer.

All Exhibits should be completed, dated, signed, and/or notarized (when applicable). The contract and exhibits submitted shall be the originals provided with the solicitation package and shall not be altered or modified. If the proposal does not include all executed and required documents or if a Proposer has failed to acknowledge any Addenda, Metra may deem the proposal as non-responsive.

Metra, at its discretion, may require a Proposer to provide additional supporting documentation, clarify requested information, or revise submittals; however, failure to conform in all material aspects as instructed or failure to submit required documentation may cause a Proposer to be deemed (at Metra's sole discretion) non-responsive or may adversely affect the evaluation.

A. Submittal Instructions

Metra is no longer accepting sealed hardcopy submittals at its office located at 547 W. Jackson Blvd., Chicago, IL 60661. In lieu of hardcopy submittals, an electronic version of all documents (signed agreement, exhibits, technical submittal, etc.) shall be received via email only.

Submittals shall be packaged into separate files as outlined below and submitted electronically in a single email to the Contracting Agent at or before 4:00 p.m. local prevailing time by the date listed below. Emails time stamped after this time will be rejected. Other electronic means of submission are not acceptable (e.g. file sharing sites). Modifications to the submittal will not be accepted after the due date and time has passed. All references in the solicitation to receipt of "sealed" submittals shall mean that Metra will not view/open until after the due date and time, and submittals are not subject to public opening requirements. It is highly recommended that offerors submit in advance of the due date and time to ensure email receipt. Metra will not accept late submittals due to technical difficulties, including firewall issues with large file sizes. Metra is not aware of any limitations on its receipt of emails with large files.

Metra shall not be liable for any expense incurred in the preparation of submittals. Metra shall be under no obligation to return any responses to this LIQ or other materials submitted as a result of this LIQ. Submittals are expected to be formatted in a logical manner and include specific information required for each exhibit. Any proposed exceptions shall be clearly stated in the submittal for Metra's acceptance, rejection, or negotiation.

Complete submittals are due no later than June 8, 2022 at 4:00 P.M. (LPT) via email to Toyla Rice, Sr. Contracting Agent at trice@metrarr.com.

Submittals shall be comprised of two (2) separate files and submitted as follows:

1. Eligibility and Certification Requirements Package

- a. Signature on Page 26 of 26 of the Agreement for Professional Services and acknowledgement of addenda.
- b. Completed, notarized and signed Exhibit 1-B – Affidavits/Certifications
- c. Completed and signed Schedule A & C(s) from Exhibit 1-L – DBE Compliance Requirements.
- d. Any exceptions to Metra’s contract terms and conditions should be included in this package marked “Exceptions to Metra’s Terms & Conditions”, and shall reference each exception by document name and corresponding line, section, number, etc.
- e. Interested firms shall include compliance with FHWA 1273, per Exhibit 1-F.
- f. Firms shall be absent from the Illinois Delinquency Debt list.
- g. Interested firms will be required to comply with State, Federal conditions, policies and procedures.

2. Technical Proposal Package

Technical proposal submittal shall include:

- a. A cover letter summarizing the proposal
- b. One (1) PDF copy of the technical proposal

B. Technical Proposal Format

1. Cover letter - The cover letter should summarize key points of the proposal and should not exceed two pages in length and an INDEX of all documents submitted. The cover letter should also identify the LIQ title and proposal number, name of proposing organization, address and telephone number of proposing organizations, and name and contact information of project manager or contact representative. The cover letter shall also include the statement of offer, provide the name, title, address and telephone number of the individual authorized to negotiate and contractually bind the company during the period of the proposal evaluation, and provide a statement that the proposal is valid for a minimum of two hundred seventy (270) calendar days from the proposal due date.
2. Key personnel qualification and experience - Submit an organization chart. Resumes, including technical qualifications, of all full-time personnel (including sub-consultants) who will be assigned to perform the requested services. The sub-consultants must include DBE firm(s) to meet the 15% requirement in accordance with Exhibit 1-L.
3. Offeror’s (and sub-consultants’, if applicable) qualification and experience
4. Resumes, including technical qualifications, of all full-time engineering and technical personnel (including sub-consultants, if applicable) who will be assigned to perform the requested services

The offeror’s experience providing services similar to those described in this contract. The offeror shall identify comparable services and projects performed during the last five (5) years, provide owners’ contact information (for verification purposes), and indicate whether projects were completed on schedule and within budget.

5. Project Approach and Understanding - Statement of understanding of what would constitute a successfully completed project, including project approach, schedule, rollout order, risks, assumptions, constraints, anticipated problems and resolutions, etc.
6. Qualification and Experience of Personnel - Submit an organization chart. Resumes, including technical qualifications, of all full-time personnel (including sub-consultants) who will be assigned to perform the requested services. The sub-consultants must include DBE firm(s) to meet the 15% requirement in accordance with Exhibit 1-L.
 - a. Qualifications and Experience of Key Personnel:
 - Project manager and project staff of the Consulting firm (including the sub-consulting firm), must have individually or as a team successfully completed the type of projects requiring the work experience listed in the above V, *Scope of Work*. These projects have to be completed and in operation within the last five (5) years.
 - Include Licensed Surveyor as key personnel.
 - b. Qualifications and Experience of the Firm/Subcontractor(s):

The offeror's experience providing services similar to those described in this contract. The offeror shall identify comparable services and projects performed during the last five (5) years, provide owners' contact information (for verification purposes), and indicate whether projects were completed on schedule and within budget.

 - Firm experience in railroad real estate transactions – Minimum of ten (10) years of working experience in the administration of railroad right-of-way transactions.
 - Firm experience with IDOT's Land Acquisition Policies and Procedures – Ten (10) years experience with land acquisition with federal funds following the IDOT Division of Highways Land Acquisition Policies and Procedures Manual and ROW acquisition assistance within the City of Chicago.
 - Firm experience – Firm (including the sub-consultants) shall have experience coordinating with IDOT, CDOT, and CREATE.
7. Schedule - Submit a schedule that follows the offeror's proposed project approach and understanding and the project deliverables outlined in the scope of work. The proposed schedule will be evaluated on the offeror's demonstrated ability to meet or improve upon the 10 month delivery time period.

XIV. STATEMENT OF OFFER

By submitting your proposal you are stating that the proposal is valid for 270 days after the proposal due date.

XV. MODIFICATION OR WITHDRAWAL OF PROPOSALS

A modification of a proposal already received will be accepted by Metra only if the modification is received prior to the proposal due date, is specifically requested by Metra, or is made with a requested BAFO. All modifications shall be made in writing and executed and submitted in the same form and manner as the original proposal.

A Proposer may withdraw a proposal already received prior to the proposal due date by submitting to Metra, in the same manner as the original proposal, a written request for withdrawal executed by the proposer's authorized representative. The withdrawal of a proposal does not prejudice the right of a proposer to submit

another proposal within the time set for receipt of proposals.

XVI. NEGOTIATION DELAY

If a written Contract cannot be negotiated within thirty days of notification of the successful Proposer, Metra at its sole discretion at any time thereafter, terminate negotiations with that Proposer and either negotiate a Contract with the next qualified Proposer or choose to terminate the LIQ process and not enter into a Contract with any of the Proposers.

XVII. RESERVATIONS

You must read and understand the solicitation and tailor your submittal to ensure compliance. Metra reserves the right to: (i) amend the solicitation; and (ii) reject any or all LIQs submitted. Metra is not responsible for and will not pay any costs associated with the preparation and submission of your LIQ. No firm shall have any rights against Metra arising at any state of the solicitation from any negotiations that take place, or from the fact that Metra does not select a firm for negotiation, or because Metra chooses another firm with whom to contract. If your firm is selected, you shall not commence, and will not be paid for any work performed prior to the date all parties execute the contract.

XVIII. CONTRACT AWARD AND EXECUTION

A Proposer's participation in this LIQ is at its own risk. Whether or not Metra chooses to make an award, or take any other permitted action under this LIQ, Proposer will have no cause of action for failure to receive award.

XIX. COST OR PRICE ANALYSIS

Metra may make a cost or price analysis in conjunction with this LIQ. If Metra cannot perform the needed analysis, Metra may obtain the services of a qualified firm to perform the analysis.

By submitting its proposal, the Proposer agrees to furnish, upon request from Metra, all information (including a list of subcontractors and suppliers and their prices) reasonably necessary for such analysis. Furthermore, Metra may request that the Proposer show, in detail, the kinds, quantities, and prices of direct material and direct labor used to develop prices/costs submitted in the proposal.

In addition, Metra reserves the right to request and receive information explaining any estimating process, including the factors, methods, and assumptions used to project from known data, and the contingencies used. Metra may require the Proposer to show how it computes and applies indirect costs and to show trend and budgetary data.

XX. GOVERNING LAW AND FORUM

This Request for Proposal and any resulting contract therefrom shall be governed by the laws of the State of Illinois, and venue for any disputes that may arise shall be either the Circuit Court of Cook County Illinois or the United States District Court for the Northern District of Illinois.

XXI. FOIA REQUIREMENTS

Metra is subject to the Illinois Freedom of Information Act (5 ILCS 140/1 et seq., "FOIA"), and pursuant to FOIA, your proposal and any subsequent agreement is subject to disclosure. In addition, from time to time, Metra may be required to produce certain "public records" as defined in Section 2 of the FOIA, that are in the possession of or under the control of proposer/operator. Upon Metra's notification to proposer/operator of a request pursuant to the FOIA, proposer/operator will, within two (2) business days of Metra's notice, either (i) produce the public records, (ii) notify Metra, in writing, that additional time is required to produce the public records, or (iii) notify Metra, in writing, that the public records do not exist or have been destroyed. In the

event that proposer/operator requires additional time to produce the public records, the written notification under (ii), above, will provide an explanation for the delay and the date when the public records will be received from proposer/operator by Metra. Proposer/operator agrees that in no event shall a delay to produce records exceed five (5) business days.

XXII. METRA'S PROPOSAL PROTEST PROCEDURES

Metra will use, if necessary, the applicable provisions of its Bid Protest Procedures (Procedures) for this LIQ. References under the Procedures to bid, bidders, and the lowest bidder shall mean LIQ submittals, firms submitting LIQs, and highest ranked LIQ, respectively. Any firms submitting a LIQ has the right to protest against the LIQ. There are important time limits set forth in the Procedures which are summarized here, but this paragraph is not meant to be a substitute for the Procedures. For a complete copy of Metra's Procedures and instructions on the applicable terms and provisions, contact the Contracting Officer. Any discrepancies between this paragraph and the Procedures shall be decided by applying the Procedures, except that deadlines stated below are specifically for the LIQ. If you wish to protest this solicitation, the protest must be filed with Metra no later than (5) days before the Due Date. If you wish to protest the LIQ evaluation, the protest must be filed with Metra no later than five (5) days after you have been notified that your LIQ was rejected as non-responsive. If you wish to protest award of the Contract, the protest must be filed with Metra, in writing, no later than five (5) days after Metra notifies firms submitting LIQs, in writing or orally, of its intent to award the Contract.

XXIII. CONFLICTS OF INTEREST

Consultant agrees that the Consultant is prohibited from performing any work or services for Metra which conflicts with the role of the Consultant in any other contract between the Consultant and Metra. This paragraph is also applicable to all sub-consultants which are proposed to be used by the Consultant for the proposed services. The Consultant has sole responsibility for compliance with this provision.

The Consultant is prohibited from performing any work or services for Metra which would result in an organizational conflict of interest (OCI). An OCI occurs when, because of other activities or relationships with other persons, (1) a person is unable or potentially unable to render impartial assistance or advice to Metra or the person's objectivity in performing services to Metra is or might otherwise be impaired, or (2) a person has an unfair competitive advantage (the term "person" includes companies and other contracting entities). OCIs generally fall into three categories: (a) a person has access to non-public information a part of its performance of services to Metra that might provide that person with a competitive advantage in a future procurement; (b) a person, as a part of its performance of contract responsibilities to Metra, has set the ground rules for the performance of a future contract (e.g. defining the specifications); and (c) a person's work under one contract with Metra could entail evaluating its own work or that of a competitor, either through an assessment of performance under another contractor through an evaluation of proposals.

Consultants have sole responsibility for compliance with this provision and in the event of an OCI, Consultant shall provide Metra with recommendations to avoid, neutralize, or mitigate the OCI. The Sr. Div. Director, General Administration in consultation with General Counsel shall make the final determination as to whether an OCI exists and whether the Consultant's recommendations to avoid, naturalize, or mitigate the OCI are sufficient. If awarded a Contract, any violation of this provision will constitute a material breach of the Contract, which is cause for termination of the Contract.

A prime design consultant, as well as any sub-consultant, will not be eligible to provide Construction Management services for that project or any other related project or program oversight.

CREATE P2
Property Acquisition List
Exhibit A

Ref. No.	Address	PIN	Land Use	Lot Area (Acres)	Identified in Phase 1	Verified for Phase 2	Notes
*1	7500 Emerald	20-28-300-016	Multi-family (3-units)	0.10	yes	yes	
*2	7501 Emerald	20-28-301-035-6002	Vacant Land (Private)	0.10	yes	yes	
*3	7500 S Union	20-28-301-018	Single Family Home	0.10	yes	yes	
4	7500 S Parnell	20-28-303-003	Church	0.09	yes	yes	
5	7506 S Parnell	20-28-303-004	Vacant Land (Private)	0.09	yes	yes	
6	7457 S Parnell	20-28-123-015	Vacant Land (Private)	0.15	yes	yes	
7	7455 S Parnell	20-28-123-014	Vacant Land (Private)	0.15	yes	yes	
8	7453 S Parnell	20-28-123-013	Vacant Land (Public)	0.15	no	suggested	need an easement or agreement with City
9	510 W 75th St	20-28-123-030	Multi-Family (4 Units)	0.07	yes	yes	
10	7458 S Normal	20-28-123-031	Single Family Home	0.08	yes	yes	
11	7454 S Normal	20-28-123-029	Single Family Home - Abandoned	0.15	yes	yes	
12	7448-50 S Normal	20-28-123-028	Multi-Family (3 Units)	0.15	yes	yes	
13	7444 S Normal	20-28-123-027	Single Family Home	0.15	yes	yes	
14	7440 S Normal	20-28-123-026	Vacant Land (Private)	0.15	yes	yes	
15	7436 S Normal	20-28-123-025	Single Family Home	0.15	yes	yes	
16	7449 S Parnell	20-28-123-013	Vacant Land (Public)	0.19	no	suggested	need an easement or agreement with City
17	7429 S Normal	20-28-124-009	Single Family Home	0.07	yes	yes	
18	7425 S Normal	20-28-124-008	Single Family Home	0.08	yes	yes	
19	7421 S Normal	20-28-124-007	Multi-Family (2 Units)	0.09	yes	yes	
20	7419 S Normal	20-28-124-006	Single Family Home	0.10	yes	yes	
21	7413 S Normal	20-28-124-005	Vacant Land (Private)	0.11	yes	yes	
22	7409 S Normal	20-28-124-004	Multi-Family (2 Units)	0.12	yes	yes	
23	7405 S Normal	20-28-124-002	Single Family Home	0.09	yes	maybe	acquisition could be avoided
24	7401 S Normal	20-28-124-001	Multi-Family (2 Units)	0.09	yes	maybe	acquisition could be avoided
25	447 W 74th St	20-28-124-003	Multi-Family (2 Units)	0.10	yes	yes	

 indicates potential change from Phase 1

* Properties to be coordinated with EW2 Project

CREATE P2
Easement, Permit, and Vacation List
Exhibit A

Ref. No.	Address or Location	PIN	Land Use	Lot Area (Acres)	Identified in Phase 1	Verified for Phase 2	Notes
*A	Halsted St at 75th St	N/A	Public ROW - Street	0.05	Permanent Easement/Air Rights		
*B	Alley south of RR, Halsted to Union	N/A	Public ROW - Alley and Embankment	0.48	Vacation	yes	
*C	Alley north of RR, Halsted to Union	N/A	Public ROW - Alley and Embankment	0.31	Permanent Easement	yes	
*D	Union Ave at 75th St	N/A	Public ROW - Street	0.27	Vacation or Permanent Easement		recommend vacation, pending accessibility discussion
*E	7435 S Union Ave	20-28-120-018	Industrial	0.03	Temporary Easement	yes	
*F	Leland Giants Park	20-28-302-034	Public Park	0.11	Construction Permit	yes	
G	7501 S Parnell Ave	20-28-304-001	Private	0.15	N/A	suggested	recommend easement
H	Hamilton Park	20-28-112-001	Public Park	0.02	Construction Permit	yes	Chicago Park District

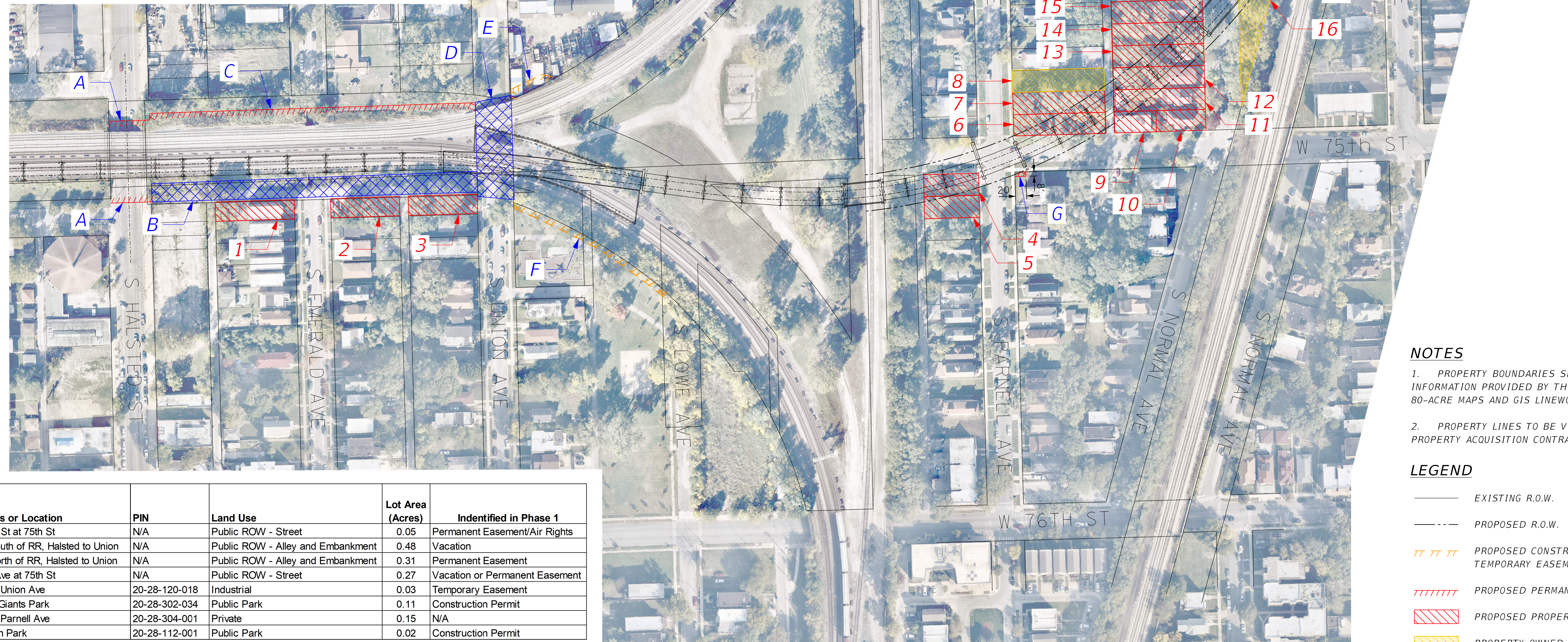
G indicates potential change from Phase 1

*Properties to be coordinated with EW2 Project

Exhibit B: ROW Acquisition

Ref. No.	Address	PIN	Land Use	Lot Area (Acres)
*1	7500 Emerald	20-28-300-016	Multi-family (3-units)	0.10
*2	7501 Emerald	20-28-301-035-6002	Vacant Land (Private)	0.10
*3	7500 S Union	20-28-301-018	Single Family Home	0.10
4	7500 S Parnell	20-28-303-003	Church	0.09
5	7506 S Parnell	20-28-303-004	Vacant Land (Private)	0.09
6	7457 S Parnell	20-28-123-015	Vacant Land (Private)	0.15
7	7455 S Parnell	20-28-123-014	Vacant Land (Private)	0.15
**8	7453 S Parnell	20-28-123-013	Vacant Land (Public)	0.15
9	510 W 75th St	20-28-123-030	Multi-Family (4 Units)	0.07
10	7458 S Normal	20-28-123-031	Single Family Home	0.08
11	7454 S Normal	20-28-123-029	Single Family Home - Abandoned	0.15
12	7448-50 S Normal	20-28-123-028	Multi-Family (3 Units)	0.15
13	7444 S Normal	20-28-123-027	Single Family Home	0.15
14	7440 S Normal	20-28-123-026	Vacant Land (Private)	0.15
15	7436 S Normal	20-28-123-025	Single Family Home	0.15
**16	7449 S Parnell	20-28-123-013	Vacant Land (Public)	0.19
17	7429 S Normal	20-28-124-009	Single Family Home	0.07
18	7425 S Normal	20-28-124-008	Single Family Home	0.08
19	7421 S Normal	20-28-124-007	Multi-Family (2 Units)	0.09
20	7419 S Normal	20-28-124-006	Single Family Home	0.10
21	7413 S Normal	20-28-124-005	Vacant Land (Private)	0.11
22	7409 S Normal	20-28-124-004	Multi-Family (2 Units)	0.12
**23	7405 S Normal	20-28-124-002	Single Family Home	0.09
**24	7401 S Normal	20-28-124-001	Multi-Family (2 Units)	0.09
25	447 W 74th St	20-28-124-003	Multi-Family (2 Units)	0.10








* PROPERTIES TO BE COORDINATED WITH EW2 PROJECT.
 ** INDICATES POTENTIAL CHANGE FROM PHASE 1.



NOTES

1. PROPERTY BOUNDARIES SHOWN ARE ESTIMATED USING INFORMATION PROVIDED BY THE CITY OF CHICAGO, INCLUDING 80-ACRE MAPS AND GIS LINEWORK.
2. PROPERTY LINES TO BE VERIFIED BY SURVEYOR UNDER PROPERTY ACQUISITION CONTRACT.

LEGEND

- | | |
|---|---|
|  | EXISTING R.O.W. |
|  | PROPOSED R.O.W. |
|  | PROPOSED CONSTRUCTION PERMIT OR
TEMPORARY EASEMENT |
|  | PROPOSED PERMANENT EASEMENT |
|  | PROPOSED PROPERTY ACQUISITION |
|  | PROPERTY OWNED BY CITY |
|  | PROPOSED CITY OF CHICAGO PROPERTY
VACATION |

Ref. No.	Address or Location	PIN	Land Use	Lot Area (Acres)	Identified in Phase 1
*A	Halsted St at 75th St	N/A	Public ROW - Street	0.05	Permanent Easement/Air Rights
*B	Alley south of RR, Halsted to Union	N/A	Public ROW - Alley and Embankment	0.48	Vacation
*C	Alley north of RR, Halsted to Union	N/A	Public ROW - Alley and Embankment	0.31	Permanent Easement
*D	Union Ave at 75th St	N/A	Public ROW - Street	0.27	Vacation or Permanent Easement
*E	7435 S Union Ave	20-28-120-018	Industrial	0.03	Temporary Easement
*F	Leland Giants Park	20-28-302-034	Public Park	0.11	Construction Permit
**G	7501 S Parnell Ave	20-28-304-001	Private	0.15	N/A
H	Hamilton Park	20-28-112-001	Public Park	0.02	Construction Permit

* PROPERTIES TO BE COORDINATED WITH EW2 PROJECT.
** INDICATES POTENTIAL CHANGE FROM PHASE 1.

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AFFIDAVITS/CERTIFICATIONS FOR CONTRACTORS

FILL IN THE BLANKS AND SUBMIT THIS FORM WITH PROPOSAL. HAVE APPLICABLE SIGNATURES NOTARIZED ON PAGES 5 AND 6.

STATE OF _____

COUNTY OF _____

The Undersigned represents that s/he is _____ (“Undersigned”) the
(Print Name)

_____ of _____
(Print President or Other Proper Title) (Print name of Entity)

(“Company” or “Undersigned”) and is authorized to attest on behalf of himself/herself and

_____, and states as follows:
(Print Name of Company)

A. PROHIBITED INTERESTS AND CONFLICTS OF INTEREST.**1. PUBLIC OFFICER PROHIBITED ACTIVITIES ACT AFFIDAVIT**

The Company is the proposer submitting this proposal and that the proposer is in compliance with provisions set forth in the Public Officer Prohibited Activities Act, 50 ILCS 105/0.01, et seq., and to the best of its knowledge and belief, no person holding office, either by election or appointment under the laws or constitution of this State, is in any manner interested, either directly or indirectly, in his/her own name or in the name of any other person, association, trust, or corporation, in this contract or the performance of any work/services under this contract which such officer has been or may be called upon to act or vote.

2. METRA'S CONFLICTS OF INTEREST ORDINANCE

Pursuant to 4.03 of Metra's Bidding Regulations:

Members of the Board, officers, and employees of Metra, their spouses, their children, their parents, their brothers and sisters and their children, are prohibited from having or acquiring any contract or any direct pecuniary interest in any contract which will be wholly or partially performed by the payment of funds or the transfer of property of the Metra. Any firm, partnership, association, or corporation from which any member of the Board, officer, or employee of the Metra is entitled to receive more than seven and one half percent (7-1/2%) of the total distributable income, is prohibited from having or acquiring any contract or direct pecuniary interest in any contract which will be performed in whole or in part by payment of funds or the transfer of property of Metra.

EXHIBIT 1-B

Any firm, partnership, association, or corporation from which members of the Board, officers, employees of Metra, their spouses, their children, their parents, their brothers and sisters and their children, are entitled to receive in the aggregate more than fifteen percent (15%) of the total distributable income, is prohibited from having or acquiring any contract or direct pecuniary interest in any contract which will be performed in whole or in part by the payment of funds or the transfer of property of Metra.

Board members and employees are prohibited from participating in the selection, award, or administration of a contract supported by Metra funds, federal funds, or any other grant funds if a real conflict of interest or to his or her knowledge, an apparent conflict of interest would be involved. A real or apparent conflict of interest would arise when any of the following has an interest in the entity selected for award: (a) an employee, officer, board member, or agent; (b) any member of his or her immediate family (as listed above in the first paragraph); (c) his or her business partner; or (d) an organization that employs; or intends to employ, any of the above. "Apparent" is defined under this paragraph as being one in which a person is an officer or director of an entity, or has an interest in the ownership or profits of an entity, and such interest appears substantial to a reasonable person. "Interest" is defined under this paragraph as a direct or indirect entitlement to receive any of the entity's profits.

In addition, Undersigned states that no officer of Metra has represented, either as an agent or otherwise, the proposer with respect to this application or bid for contract. Finally, Undersigned states that to best of its knowledge and belief, no officer of Metra has received or been offered from any person on behalf of the proposer, either directly or indirectly, any money or other thing of value as a gift, bribe, or means of influencing any vote or action in any official's capacity. Furthermore, Undersigned certifies that, to the best of its knowledge, it is in compliance with Metra's Bidding Regulations and is unaware of any of the foregoing persons having an interest prohibited by Section 4.03 of the Bidding Regulations.

B. NON-COLLUSION AFFIDAVIT

The Company is the proposer submitting this proposal and that such proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, organization or corporation; that such proposal is genuine and not collusive or a sham and that said proposer has not been a party to any agreement or collusion among bidders/proposers or prospective bidders/proposers in restraint of freedom of competition by agreement to bid a fixed price or other-wise, or to refrain from proposing, and has not, directly or indirectly, by agreement, communication, or conference with anyone, attempted to induce action prejudicial to the interest of Metra, or of any proposer or anyone else interested in the proposed contract.

C. CERTIFICATE FOR PROPOSAL

As a part of its offer to contract for services to Metra, the Undersigned hereby certifies that neither the Company nor any of its principals are barred from proposing on the aforementioned contract as a result of a violation of either Section 33E-3 or 33E-4 of 720 ILCS 5/33E.

D. CERTIFICATE OF DEBARMENT

As the potential contractor for a primary contract or subcontractor to a primary contractor for subcontracts over \$25,000.00, the Undersigned certifies to the best of its knowledge and belief, the Company and its principals:

1. Are not included on the U.S. Comptroller General's Consolidated List of Persons or Firms Debarred from federal contracts for violations of various public contracts incorporating labor standard provisions;
2. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal, state, or local government entity;
3.
 - a. Have not been convicted under the laws of Illinois or any other state of bribery or attempting to bribe any government officer or employee or have made an admission of guilt of that conduct that is a matter of record but has not been prosecuted for that conduct. No business shall be barred from contracting with Metra as a result of a conviction under this Section of any employee or agent of the business if the employee or agent is no longer employed by the business and: i) the business has been finally adjudicated not guilty; or ii) the business demonstrates to Metra, and Metra finds that the commission of the offense was not authorized, requested, commanded, or performed by a director, officer, or high managerial agent on behalf of the business as provided in paragraph (2) of subsection (a) of Section 5-4 of the Criminal Code of 1961. For purposes of this Subsection (a), when an official, agent, or employee of a business committed the bribery or attempted bribery on behalf of the business and in accordance with the direction or authorization of a responsible official of the business, the business shall be chargeable with the conduct. Contractor hereby certifies that the contractor and its subcontractors are not barred from being awarded a contract or subcontract under this Section.
 - b. Are not convicted of a felony. No person or business shall do business with Metra from the date of conviction until 5 years after the date of completion of the sentence for that felony, unless no person held responsible by a prosecutorial office for the facts upon which the conviction was based continues to have any involvement with the business. Contractor hereby certifies the Contractor is not barred from being awarded a contract under this Section.
4. Are not presently indicted for, or otherwise criminally or civilly charged by a government entity (federal, state or local) for any reason; or
5. Have not, within a three-year period preceding this proposal, had one or more public transactions (federal, state or local) terminated for cause or default.

(If the Undersigned is unable to certify to any of the statements in this certification, the Undersigned shall attach an explanation).

THE UNDERSIGNED CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF THE FEDERAL FALSE CLAIMS ACT ARE APPLICABLE THERETO.

E. CERTIFICATION OF RESTRICTIONS ON LOBBYING

This certification is required to be completed with the solicitation if the proposal exceeds \$100,000.00. Failure to return this certification with the solicitation may result in a determination that the offer is non-responsive or non-responsible.

The Undersigned certifies to the best of its knowledge or 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 any 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 an 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 influencing or attempting to influence an officer or employee or any 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 federal contract, grant, loan, or cooperative agreement, the Undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The Undersigned shall require that the language of this certification be included in the award document 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.

F. REVOLVING DOOR PROHIBITION

The Undersigned has reviewed its list of employees (and subcontractors) involved in this procurement and it has no knowledge of any former Metra employee being involved in the solicitation process in violation of Section 4.05 of Metra's Bidding Regulations.

Section 4.05 states that all Metra Board members and non-contract personnel in specified positions are expressly prohibited, for a period of one (1) year after terminating employment with Metra, from engaging in any procurement activity with Metra. A "specified position" is one that is non-contract, is held for a period of six (6) months preceding such termination, is at a Grade P12 or above (including M Grades), and is not merely clerical or ministerial in nature. The prohibition includes, but is not limited to: lobbying the procurement process; specifying; bidding; or proposing bid, proposal, or contract documents on the part of the former employee or Board member, or in association with the former employee or Board member by or on behalf of any firm, partnership, association, or corporation affiliated with the former employee or Board member. The Undersigned certifies that the award and/or execution of a contract would not cause any violation of Section 4.05.

G. CONTINUING OBLIGATION TO INFORM METRA

If Company acquires information after executing this certification that there may be an actual or apparent violation of any of the above Company shall promptly bring such information to the attention of Metra's Procurement Officer. Company shall thereafter cooperate with Metra's review and investigation of such information, and comply with any instruction it receives from Metra in regard to remedying the situation.

H. PENALTIES

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 the Contract pursuant to Metra's regulations and 31 U.S.C. 1352. A Company who makes a false statement, materials to the certification, is subject to termination for cause. The undersigned certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Company understands and agrees that the provisions of 31 U.S.C. 3801, et seq., apply to this certification and disclosure.

(Print) Name of Company

By: _____
Signature of Person Making Affidavit (Undersigned listed above)

Date: _____

(Print) Title of Person Making Affidavit

NOTARIZE HERE

Subscribed and sworn to before me

This _____ day of _____ 20__.

Notary Public

CERTAIN SUBCONTRACTOR SIGNATURES REQUIRED ON NEXT PAGE

SUBCONTRACTOR
DEBARMENT CERTIFICATION

NOTE: PRIMARY CONTRACTOR IS RESPONSIBLE FOR THIS FORM BEING SUBMITTED PRIOR TO AWARD. SUBCONTRACTOR(S) WITH SUBCONTRACTS OVER \$25,000.00 MUST ALSO COMPLETE AND SIGN THE FOLLOWING:

STATE OF _____

COUNTY OF _____

The Undersigned represents that s/he is _____ (“Undersigned Subcontractor”) the
(Print Name)

_____ of _____
(Print “President” or Other Proper Title) (Print name of Subcontractor Entity)

(“Subcontractor” or “Undersigned Subcontractor”) and is authorized to attest on behalf of himself/herself and Subcontractor Entity by stating as follows:

1. As a subcontractor to a primary contractor for subcontracts over \$25,000.00, the undersigned Subcontractor certified to the best of its knowledge and belief that the debarment statements in Section D above are truthful and accurate.
2. If Undersigned Subcontractor acquires information after executing this certification that there may be an actual or apparent violation of any of the above, Subcontractor shall promptly bring such information to the attention of Metra’s Procurement Officer.
3. The provisions of Section 1 above are applicable.

(Print) Name of Subcontractor Entity

By: _____
Signature of Person Making Affidavit (Undersigned listed above)

Date: _____

(Print) Title of Person Making Affidavit

NOTARIZE HERE

Subscribed and sworn to before me
This _____ day of _____ 20__.

Notary Public

EXHIBIT 1-C

OMITTED BY METRA

EXHIBIT 1-D



CONSULTANT INSURANCE REQUIREMENTS

REQUISITION NUMBER

PR0097294

EVENT

(ROW Needs)
Assessment Services
for CREATE P2

Effective concurrently with the commencement of the work, the contractor/vendor shall obtain and maintain throughout the life of the work, the insurance coverage as noted below. Coverage must meet the requirement on the following pages of this Exhibit. With the exception of Professional Liability, all coverage needs to be written on an occurrence form and with an insurer carrying an AM Best rating of A-/VII or better.

TYPE OF COVERAGE	AMOUNT REQUIRED
1. WORKERS' COMPENSATION: Coverage A - Statutory Coverage B - \$ 1,000,000	\$ 1,000,000 Limits of Liability
2. COMPREHENSIVE GENERAL LIABILITY (BROAD FORM): Bodily Injury Liability & Property Damage Liability (combined)	\$ 1,000,000 Each Occurrence
	\$ 2,000,000 Aggregate
3. EXCESS COMPREHENSIVE GENERAL LIABILITY-EXCESS OF PRIMARY LIMITS (1), (2) and (4) Bodily Injury Liability & Property Damage Liability (combined)	\$ 2,000,000 Each Occurrence
	\$ 2,000,000 Aggregate
4. AUTOMOBILE LIABILITY: Bodily Injury Liability & Property Damage Liability (combined)	\$ 1,000,000 Combined Single Limit
5. PROFESSIONAL LIABILITY:	\$ 1,000,000 Each Occurrence
	\$ 1,000,000 Aggregate

Additional Insureds shall be as follows: The Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation, and its affiliated separate public corporation known as the Northeast Illinois Regional Commuter Railroad Corporation, both operating under the service mark Metra as now exists or may hereafter be constituted or acquired, and the Regional Transportation Authority, an Illinois municipal corporation.

METRA'S INSURANCE REQUIREMENTS APPLICABLE TO ALL POLICIES:

-Include a waiver of subrogation, thereby waiving your rights of subrogation against Metra and any additional insureds.

-Include the Additional Insured Endorsement for all coverages including products and completed operations.

-Be primary and non-contributory on all coverages.

-All deductibles applicable to the insurance coverage shall be borne by the contractor/vendor. The certificate of insurance shall clearly state how defense costs (also known as "allocated loss adjustment expenses") shall apply in terms of the deductible and the insurance limits. (SIR programs are prohibited, unless approved by Metra's Risk Management Department.)

-All subcontractors retained or hired for the work shall be required to maintain limits and term equivalent to those required of the prime contractor.

-Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Contractor/Vendor will immediately notify Metra of the cancellation, non-renewal, material change or reduction in coverage of any required insurance policy. Such notice shall be sent certified mail to Metra, care of Director of Risk Management, 547 W. Jackson, Suite 1500, Chicago, IL 60661.

-In no event, shall the failure by Metra to receive certificates of insurance required hereunder, or to receive them by the date(s) required hereunder, be construed as a waiver of the contractor/vendor's obligation to obtain the required insurance coverages. Failure by Metra to demand any certificate of insurance or other evidence of full compliance with the insurance requirements set forth herein, or failure by Metra to identify a deficiency in the evidence provided, shall not be construed as a waiver of the obligation to procure or maintain the insurance required hereunder. The acceptance of delivery by Metra of any certificate of insurance does not constitute approval or agreement that the insurance requirements have been met or that the insurance policies identified in the certificates of insurance are in compliance with such requirements.

METRA'S INSURANCE REQUIREMENTS – SPECIFIC CONDITIONS

Commercial General Liability Insurance

The CGL policy shall include the following coverage limits when limits are indicated:

\$1,000,000 per occurrence \$2,000,000 aggregate
\$2,000,000 aggregate for completed operations & products liability

Automobile Liability Insurance

The Automobile policy shall include the following additional coverage limits:

Include “any” auto (i.e. all autos owned by the contractor/vendor as well as hired and non-owned autos used by the contractor/vendor and autos used by the contractor/vendors’ employees while on Metra property).

\$1,000,000 for Property Damage (if not combined in single limit)

Workers Compensation and Employers Liability Insurance

Workers Compensation Insurance coverage should be at statutory limits.

As a minimum, the Employers Liability policy shall include coverage limits of:

\$1,000,000 for bodily injury by accident
\$1,000,000 for bodily injury by disease, each employee
\$1,000,000 aggregate liability

Additional Insured shall be as follows: The Commuter Rail Division of the Regional Transportation Authority, a division of an Illinois municipal corporation and its affiliated separate public corporation known as the Northeast Illinois Regional Commuter Railroad Corporation, both operating under the service mark Metra as now exists or may hereafter be constituted or acquired, and The Regional Transportation Authority, an Illinois municipal corporation.

CERTIFICATES OF INSURANCE SHALL BE SENT TO JULIE A. DAILY, METRA RISK MANAGEMENT DEPARTMENT. She can be reached either by phone (312-322-6542) or by email jdaily@metrarr.com.

CIVIL RIGHTS REQUIREMENTS (TITLE VI ASSURANCE):

The Contractor agrees to comply with and assures compliance by its sub-contractors at any tier with the following Civil Rights Requirements. The Contractor agrees to insure these requirements must be included within all contracts to its sub-contractors at any tier. Failure to implement or follow the provisions set forth in this Exhibit may result in the Contractor being placed in breach of the Contract terms and may result in Contract termination.

(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 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; rate 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.

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant 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 participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(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.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal 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.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal 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.

2. 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. 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.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

OMITTED BY METRA

**METRA
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
COMPLIANCE REQUIREMENTS**

The Northeast Illinois Regional Commuter Railroad Corporation, d/b/a Metra, is required to take all necessary and reasonable steps to ensure non-discrimination in the award and administration of contracts. Therefore, the federal regulatory provisions of 49 CFR Part 26 apply to this Contract.

I. CONTRACT GOAL

Metra has established a contract DBE goal of ____%.

NOTE:

For bid/proposal responsiveness purposes only, DBE credit toward the contract DBE goal is measured solely against the base bid, initial proposal, bid total or grand total, not on allowance, alternative bid amounts or master purchase agreement total dollar limitation.

II. BID/PROPOSAL RESPONSIVENESS REQUIREMENTS

In order to be responsive, a bidder/proposer must make good faith efforts to meet the contract goal for Disadvantaged Business Enterprise (DBE) participation in this contract. A bidder can accomplish this in either of two ways:

- A. First, the bidder/proposer can commit to meet the goal with enough participation by DBEs that are certified, at the time of bid, by the Illinois Unified Certification Program (IL UCP), providing properly completed and signed Schedules of this Exhibit - Schedule A or Schedule D (if a joint venture) as well as Schedule C(s), written confirmation from the DBE(s) participating in the contract as provided in Schedule A. Schedule A or D must list the name, description of DBE work scope, the North American Industry Classification System (NAICS) Code and dollar amount of participation of each, and only each, DBE that will participate in this Contract. (If the bidder/proposer is itself a DBE, the DBE bidder/proposer must indicate on Schedule A what scope of work its forces will actually perform outside of the work of any subcontractor, and the dollar amount of that work. If this amount does not satisfy the DBE goal, the DBE bidder/proposer must list the additional DBE subcontractor(s) that will satisfy the DBE goal, along with their work scope and agreed price).

Bidders/Proposers/Contractors shall utilize the specific DBE participant(s) listed on the Schedule A or D to perform the work and supply the materials for which each is listed unless prior written approval is obtained from Metra's Director.

The Bidder/Proposer/Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE; **or**

- B. Second, if the bidder/proposer cannot meet the goal with enough participation by DBEs, the bidder/proposer must provide properly completed and signed Schedule A or D and Schedule C(s) to the extent it will utilize DBE participation, and submit detailed and corroborating documentation evidencing its good faith efforts to achieve the contract goal.

The bidder/proposer must comply with A or B of Section II and submit all documentation prior to or with submittal of the bid/proposal. If the bidder/proposer fails to do so, its bid/proposal will be deemed non-responsive. **Any DBE(s) listed on Schedule A and/or D must be certified by the IL UCP at the time of the bid/proposal due date.**

LOCATING DBE FIRMS

To view the IL UCP DBE Directory, visit Metra's Website, www.metrarail.com and select the ODBE Resource link under the Office of Diversity & Business Enterprise department. Or, a directory can be provided upon request by calling Metra's Office of Diversity & Business Enterprise at (312) 322-6323.

III. GOOD FAITH EFFORTS

Metra's Director is responsible for determining whether a bidder/proposer met the DBE Responsiveness Requirements. Metra's Director determines whether a bidder/proposer has properly committed to meet the contract goal and whether a bidder/proposer who has not committed to meeting the goal has documented good faith efforts in order to be responsive. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract. Metra must be satisfied that all information is complete and accurate, and adequately documents the bidder's/proposer's good faith efforts before Metra commits to the performance of the contract by the successful bidder/proposer.

A bidder's/proposer's documented good faith efforts to meet the contract goal must demonstrate that the bidder/proposer took *all necessary and reasonable steps* which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain enough DBE participation, even if the bidder/proposer was not fully successful. Metra will make a fair and reasonable judgment whether a bidder/proposer that did not meet the goal made adequate good faith efforts. Metra will consider the quality, quantity, and intensity of the different kinds of efforts that the bidder/proposer made. The efforts employed by the bidder/proposer should be those that one would reasonably expect a bidder/proposer to take if the bidder/proposer were actively and aggressively trying to obtain DBE participation enough to meet the DBE contract goal. Mere *pro forma* efforts are not good faith efforts to meet the DBE contract requirements.

Metra will also consider the performance of other bidders/proposers in meeting the contract goal. For example, when the apparent successful bidder/proposer fails to commit to the contract goal, but others commit to the goal, Metra will raise the question of whether, with additional reasonable efforts, the apparent successful bidder/proposer could have committed to the goal.

If the apparent successful bidder/proposer fails to commit to the goal but meets or exceeds the average DBE participation obtained by other bidders/proposers, Metra may view this, in conjunction with other factors, as evidence that the apparent successful bidder/proposer made good faith efforts.

The following is a list of types of actions that Metra will consider as part of the evaluation of the bidder's/proposer's good faith efforts to obtain DBE participation. It is not intended to be a mandatory check list, or to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases:

- A. Soliciting through all reasonable and available means (e.g., attendance at pre-bid/pre-proposal meetings, if applicable, advertising, and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder/proposer must solicit this interest within enough time to allow the DBEs to respond to the solicitation. The bidder/proposer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the bidder/proposer might otherwise prefer to perform these work items with its own forces.
- C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - 1. Negotiating in good faith with interested DBEs. It is the bidder's/proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
 - 2. A bidder/proposer using good business judgment would consider several factors in negotiating with subcontractors, including DBE subcontractors, and would take into consideration a firm's price and capabilities, as well as contract goals. The fact that there may be some additional costs involved in finding and using DBEs, however, is not in itself enough reason for a bidder's/proposer's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a bidder/proposer to perform the work of a contract with its own organization does not relieve the bidder/proposer of the responsibility to make good faith efforts. Bidders/Proposers are not, however, required to accept high quotes from DBEs if the price difference is excessive or unreasonable.
- D. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's/proposer's standing within the industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids/proposals in the bidder's/proposer's efforts to meet the project goal.
- E. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by Metra or the bidder/proposer.

- F. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- G. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

IV. COUNTING DBE PARTICIPATION

Schedules A or D and C are reviewed to evaluate and determine DBE credit for proposed DBE participation. The Schedules must be completely filled out and the Description of Work clearly defined, in detail to establish that the identified DBE participant(s) would be providing a commercially useful function as per USDOT Regulation 49 CFR 26.55 (c). Description(s) of Work and associated Amount(s) provided on Schedules A or D and C must agree.

Metra will only count credit for:

- Participation by DBEs Certified by the Illinois Unified Certification Program (IL UCP) at the time of the bid/proposal due date;
- Participation by DBEs directly related to this procurement.

As per 49 CFR. Part 26, Metra counts DBE participation toward overall and contract goals as follows:

- A. When a DBE participates in a contract, Metra counts only the value of the work performed by the DBE toward the DBE goal. Participation will only be credited in the DBE's area of specialization. Credit for work in other areas requires additional support documentation for each of those areas.
- B. Metra counts the entire amount of that portion of a contract that is performed by the DBE's own forces. This includes the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).
- C. Metra counts the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided Metra determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- D. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

- E. When a DBE performs as a participant in a joint venture, Metra counts a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.
- F. Metra counts expenditures to a DBE toward DBE goals only if the DBE is performing a commercially useful function on this Contract.
 - 1. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, Metra must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is performing, and the DBE credit claimed for its performance of work, and other relevant factors.
 - 2. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, Metra must examine similar transactions, particularly those in which DBEs do not participate.
 - 3. If a DBE firm acting as a prime contractor and/or as a subcontractor under this Contract does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, Metra must presume that it is not performing a commercially useful function.
 - 4. Metra uses the following factors in determining whether a DBE trucking company is performing a commercially useful function:
 - a. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals;
 - b. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract;
 - c. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs;
 - d. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract;
 - e. The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE lessees receives credit only for the fee or

commission it receives as a result of the lease arrangement.

Example to paragraph (d)(5): DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

- f. The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
 - g. For purposes of this subparagraph (d), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE; and
 - h. If DBE credit is to be counted for this contract, the contractor must submit to Metra's Director a Monthly DBE Trucking Report (*see attached pgs. 15 & 16*) of trucks used on the project that are owned and/or leased by the DBE participants as described above.
5. If a DBE is presumed not to be performing a commercially useful function as provided in these requirements, the DBE may present evidence to rebut this presumption. Metra may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.
 6. Metra's decisions on commercially useful function matters are subject to review by the Federal Transit Administration but are not administratively appealable to the United States Department of Transportation.
 7. **Metra counts** expenditures with DBEs for **materials or supplies** toward DBE goals as provided in the following:
 - a. If the materials or supplies are obtained from a DBE **manufacturer**, Metra counts one hundred percent (**100%**) of the cost of the materials or supplies toward DBE goals.
 - b. For purposes of these requirements, a manufacturer is a **firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.**
 - c. If materials or supplies are purchased from a DBE **regular dealer**, Metra counts sixty percent (**60%**) of the cost of the materials or supplies toward DBE goals.
 - d. For purposes of these requirements, a regular dealer is a **firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.**

- (1) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.
 - (2) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph if the persons both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.
 - (3) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph.
 - (4) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, Metra counts the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided Metra determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar service. Metra will not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.
8. Metra will not count toward its overall goal the dollar value of work performed under a contract by a firm after it has ceased to be certified.
 9. Metra will not count the participation of a DBE subcontractor toward the prime contractor's DBE achievements or Metra's overall goal until the amount being counted toward the goal has been paid to the DBE.

V. RECONSIDERATION

If Metra determines that a bidder/proposer is not responsive because it has not committed to meeting the contract goal or documented enough good faith efforts, the bidder/proposer has five (5) days to request administrative reconsideration. The bidder/proposer must make this request in writing to:

CEO/Executive Director Metra
547 West Jackson Boulevard
Chicago, Illinois 60661

The Reconsideration Official, or designee, will not have played any role in the original determination that the bidder/proposer did not document enough good faith efforts.

As part of this Reconsideration, the bidder/proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it committed to meeting the contract goal or made adequate good faith efforts to do so. The bidder/proposer will have the opportunity to meet in person with Metra's Reconsideration Official, or designee, to discuss these issues. Metra will send the bidder/proposer a written decision after its reconsideration, explaining Metra's basis for finding that the bidder/proposer did or did not meet the goal or made adequate good faith efforts to do so. The result of this reconsideration process is not administratively appealable to the United States Department of Transportation.

VI. RESPONSIBILITY REQUIREMENTS

A. Joint Ventures

If the bidder/proposer is a DBE joint venture, a signed joint venture agreement and Metra's DBE joint venture application must be submitted to Metra for approval at the time of bid/proposal due date. The DBE joint venture application can be obtained from the Procurement Agent listed on the solicitation document. This agreement must address the administrative, financial, and field responsibilities of each partner. The DBE participation must meet the criteria as set forth in the following definition per 49 CFR 26.5:

Joint Venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

B. Substitutions

A bidder/proposer cannot substitute any DBEs listed on Schedule A or D without prior written approval from Metra's Director (See Section VII [F]).

VII. CONTRACT PERFORMANCE

A. Upon award of a Metra contract, a Contractor's good faith efforts to achieve the contract DBE goal and DBE credit are monitored, evaluated and measured against the entire awarded contract value, including alternates, allowance work, amendments change orders, and options.

1. *If the award includes an alternate bid*, Metra expects any DBE listed on the Schedule A or D to perform the same or similar subcontractor work contained in the alternate bid. Revised Schedules A or D and C will be required to document additional DBE commitment.
2. *If the award is a negotiated amount*, Metra expects any DBE listed on the Schedule A or D to perform the same or similar subcontractor work contained in the initial bid or proposal. Revised Schedules A or D and C will be required to document the negotiated amount DBE commitment.
3. In addition, Metra expects any DBE listed on the Schedule A or D to perform the same or similar subcontractor work *authorized under the allowance or under release by a master purchase agreement* as necessary to meet the established contract DBE goal.
4. The Contractor is required to notify Metra's Director immediately to address a revised "Commitment to DBE Participation" in a situation where the DBE's work scope has changed as a result of actions taken by Metra.

B. Subcontracts (Prior to Notice to Proceed)

1. A Metra Notice to Proceed will not be issued to the prime Contractor until signed DBE Subcontracts are provided to the Metra's Director. Within thirty (30) calendar days

after the Notice of Award of the contract, the Prime Contractor must provide copies of signed contracts between the prime Contractor and the DBEs to Metra's Director.

2. Failure to provide the DBE subcontracts to Metra's Director within the time required shall constitute a breach of this Contract, and upon such breach, Metra may terminate this Contract and/or exercise other sanctions, penalties or remedies as allowed by law or equity, and as Metra deems appropriate.

C. Contract Invoices/Payments

The Contractor must submit to Metra's Director of the Office of Diversity & Business Enterprise:

1. A copy of contract invoices, including support documentation, at the same time the originals are submitted to Metra's Accounts Payable; and concurrently
2. Copies proof of subcontractor/supplier payment(s) in the form of canceled checks (both sides) or other proof of payment.

D. Prompt Payment

The Contractor agrees to pay each subcontractor for satisfactory performance of its subcontract no later than fifteen (15) calendar days from the receipt of such payment that the Contractor receives from Metra. The Contractor agrees further to return funds it has retained to each subcontractor within fifteen (15) calendar days after the subcontractor's work is satisfactorily completed.

The Contractor agrees to complete the prompt payment log, included in the payment application form (or provided by Metra's Director), documenting dates and amounts of payments made to subcontractors.

Any failure to comply with this Section will be in material breach of this Contract, and Metra reserves all its rights in law and equity for such breach. In addition, such breach will be taken into consideration for the Contractor's responsibility status for future contracts with Metra. This clause applies to both DBE and non-DBE prime contractors and subcontractors.

E. DBE Participation

Metra's office of the Director may make on-site visits from time to time during the course of this Contract to ensure compliance with the requirements set forth herein and may require verification of any commitment represented to us in connection with the Contractor's use of DBE businesses in the performance of this Contract.

Further, if problems should arise with respect to the Contractor's subcontract with any DBEs, please contact Metra's Director immediately so that Metra may be apprised and lend whatever assistance Metra can in solving the problem.

F. Substitution of DBE Firms

The Contractor must obtain prior written approval from Metra in order to substitute any DBE, which Metra has approved for participation in this Contract.

The Contractor cannot terminate for convenience any DBE listed on Schedule A (or an

approved substitute DBE firm), and then perform the work of the terminated subcontract with its own forces or those of an affiliate or substitute firm, without Metra's prior written consent.

The Contractor is required to notify Metra's Director immediately and provide reasonable documentation of any DBE's inability or unwillingness to perform its subcontract.

Before transmitting to Metra a request to terminate and/or substitute any DBE, the Contractor must give notice in writing to the DBE, with a copy to Metra, of its intent to request to terminate and/or substitute, and the reason for the request.

The Contractor must give the DBE five days to respond to the Contractor's notice and advise Metra and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why you should not approve the Contractor's action.

The Contractor is required to make good faith efforts to replace any DBE that is terminated, or whose work scope has changed, or has otherwise failed to complete its work on this Contract with another certified DBE, to the extent needed to meet the Contract goal.

The Contractor must provide a copy of the new subcontract with the substitute DBE, or documentation of good faith efforts to substitute the initial DBE with another DBE.

The Contractor is required to notify Metra's Director immediately to address a revised "Commitment to DBE Participation" in a situation where the DBE's work scope has changed as a result of actions taken by Metra.

G. Records

A record of all activities to demonstrate good faith efforts must be kept by the Contractor and made available to Metra upon request.

H. Contract Assurance

The Contractor makes the following assurance and agrees to include the assurance in each subcontract that the Contractor signs with a subcontractor:

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of federally assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or other such remedy, as Metra deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible.

I. Breach of Contract

Failure to abide by any of the DBE participation requirements in this Contract or any requirements set forth in 49 CFR Part 26 shall constitute a breach of this Contract, and upon such breach, Metra may terminate this Contract and/or exercise other sanctions, penalties, or remedies as allowed by law or equity and as Metra deems appropriate.

VIII. REFERENCES

All references to Metra's Director mean:

Shanta Williams, Director
Metra Office of Diversity & Business Enterprise
547 West Jackson Boulevard
Chicago, Illinois 60661

SCHEDULE A

BIDDER/PROPOSER/CONTRACTOR COMMITMENT TO DBE SUBCONTRACT PARTICIPATION

NAME OF BIDDER/PROPOSER OR

METRA IFB/RFP/CONTRACT (TASK) NO.: _____

CONTRACTOR: _____ NAME OF PROJECT: _____

NOTE:

- Bidder/Proposer/Contractor Must **COMPLETE, SIGN AND RETURN THIS FORM** along with Completed, Signed Schedule C(s) from Each listed DBE.
- If the BIDDER/PROPOSER/CONTRACTOR is itself a DBE, the DBE BIDDER/PROPOSER/CONTRACTOR must indicate the scope of work it will perform with its own forces (independent of the work of any subcontractor) and the dollar amount of that work.
- Any DBE listed on this Schedule A must be certified by the IL UCP at the time of Bid/Proposal submittal.

NAME AND ADDRESS OF DBE FIRM	DBE SCOPE OF WORK (TO BE PERFORMED FOR THIS PROJECT)* AND NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE	AGREED AMOUNT
		\$
		\$
		\$
		\$
*If space is not sufficient provide detail on attached page.		\$
TOTAL DBE COMMITMENT		
<i>For bid/proposal responsiveness purposes only, DBE credit for Total DBE Commitment is measured solely against the base bid, initial proposal, bid total, or grand total, not on allowance, alternative bid amounts or master purchase agreement total dollar limitation. However, in the event Metra awards a contract, Metra expects any DBE listed on the Schedule A to perform the same or similar subcontractor work under the allowance. If the award includes an alternate, Metra expects any DBE listed on the Schedule A to perform the same or similar subcontractor work contained in the alternate. If the award is a negotiated amount, Metra expects any DBE listed on the Schedule A to perform the same or similar subcontractor work contained in the initial bid or proposal. In addition, Metra expects any DBE listed on the Schedule A to perform the same or similar subcontractor work authorized under the allowance or under release by a master purchase agreement as necessary to meet the established contract DBE goal.</i>		
Bidder/Proposer/Contractor cannot substitute any DBE without prior approval of the Director. Bidder/Proposer/Contractor cannot terminate for convenience any DBE listed and then perform the work with its own forces without prior approval of the Director.		

I hereby certify that arrangements have been made for the foregoing work with the listed DBE subcontractor(s). I further understand that any willful falsification, fraudulent statement, or misrepresentation will result in appropriate sanctions, which may include debarment and/or prosecution under applicable State and Federal Laws.

Printed Name and Title of Bidder/Proposer/Contractor Authorized Signee

Signature of Bidder/Proposer/Contractor Authorized Signee

Date

SCHEDULE C
CONFIRMATION OF DBE COMMITMENT

NAME OF BIDDER/PROPOSER OR

METRA IFB/RFP/CONTRACT (TASK) NO.: _____

CONTRACTOR: _____ NAME OF PROJECT: _____

NOTE:

- Bidder/Proposer/Contractor Must SUBMIT THIS FORM from each listed DBE at the time of Bid/Proposal is due along with a Completed, Signed Schedule A.
- If the BIDDER/PROPOSER/CONTRACTOR is itself a DBE, the DBE BIDDER/PROPOSER/CONTRACTOR must indicate the scope of work it will perform with its own forces (independent of the work of any subcontractor) and the dollar amount of that work.
- Any DBE listed on Schedule A and/or D must be certified by the IL UCP at the time of Bid/Proposal submittal.

NAME OF DBE FIRM: _____

ADDRESS OF DBE FIRM: _____

hereby certifies that it is participating in the referenced Metra project in the agreed amount of \$_____ performing

and as shown on Schedule A of _____'s bid/proposal/contract.
Name of Prime Bidder/Proposer/Contractor

PLEASE COMPLETE THE FOLLOWING (<i>Trucking Firms Complete Both Columns</i>):				
			TRUCKING FIRMS ONLY	
The above DBE work will be further subcontracted:			The above DBE work will be supplemented with leased trucks:	
Check One	Yes	No	Check One	Yes No
If Yes , indicate the % of the Schedule A and C Agreed Amount that is to be further subcontracted to a DBE and/or Non-DBE firm. <i>Provide additional Schedule C(s) if further subcontracted to a DBE.</i>			If Yes , indicate the % of the Schedule A and C Agreed Amount that will be expended for the lease of another DBE and/or Non-DBE firm's trucks. <i>Provide additional Schedule C(s) if leased from a DBE.</i>	
_____ % of DBE's work will be further subcontracted to another DBE.			_____ % of DBE's work will be further subcontracted to another DBE.	
_____ % of DBE's work will be further subcontracted to a Non-DBE.			_____ % of DBE's work will be further subcontracted to another DBE.	
If No , enter "0%" on both lines below.			If No , enter "0%" on both lines below.	
_____ % of DBE's work will be further subcontracted to another DBE.			_____ % of DBE's work will be supplemented with leased trucks from another DBE.	
_____ % of DBE's work will be further subcontracted to a Non-DBE.			_____ % of DBE's work will be supplemented with leased trucks from a Non-DBE.	

I further understand that any willful falsification, fraudulent statement, or misrepresentation will result in appropriate sanctions, which may include debarment and/or prosecution under applicable State and Federal Laws.

Printed Name and Title of DBE Firm Authorized Signee

Signature of DBE Firm Authorized Signee

Date

SCHEDULE D
COMMITMENT TO DBE JOINT VENTURE

NAME OF BIDDER/PROPOSER OR

METRA IFB/RFP/CONTRACT (TASK) NO.: _____

CONTRACTOR: _____ NAME OF PROJECT: _____

NOTE:

- A signed Joint Venture Agreement and Metra's DBE Joint Venture Application must be submitted for approval at the time of Bid/Proposal submittal, along with Schedules D and C. The Joint Venture Application can be obtained from the Procurement Agent listed on the solicitation document.
- When a DBE performs as a participant in a joint venture, Metra counts a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward the DBE goal.
- Any DBE listed on Schedule D must be certified by the IL UCP at the time of Bid/Proposal submittal.

NAME AND ADDRESS OF DBE FIRM	DBE SCOPE OF WORK (TO BE PERFORMED FOR THIS PROJECT)* AND NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODE	AGREED AMOUNT
		\$
		\$
		\$
		\$
*If space is not sufficient provide detail on attached page.		TOTAL DBE COMMITMENT
		\$
<i>For bid/proposal responsiveness purposes only, DBE credit for Total DBE Commitment is measured solely against the base bid, initial proposal, bid total or grand total, not on allowance, alternative bid amounts or master purchase agreement total dollar limitation.</i> However, in the event Metra awards a contract, Metra expects any DBE listed on the Schedule A to perform the same or similar subcontractor work under the allowance. <i>If the award includes an alternate</i> , Metra expects any DBE listed on the Schedule A to perform the same or similar subcontractor work contained in the alternate. <i>If the award is a negotiated amount</i> , Metra expects any DBE listed on the Schedule A to perform the same or similar subcontractor work contained in the initial bid or proposal. In addition, Metra expects any DBE listed on the Schedule A to perform the same or similar subcontractor work authorized under the allowance or under release by a master purchase agreement as necessary to meet the established contract DBE goal.		
Bidder/Proposer/Contractor cannot substitute any DBE without prior approval of the Director. Bidder/Proposer/Contractor cannot terminate for convenience any DBE listed and then perform the work with its own forces without prior approval of the Director.		

I hereby certify that arrangements have been made for the foregoing work with the listed DBE subcontractor(s). I further understand that any willful falsification, fraudulent statement, or misrepresentation will result in appropriate sanctions, which may include debarment and/or prosecution under applicable State and Federal Laws.

Printed Name and Title of Joint Venture Authorized Signee

Signature of Joint Venture Authorized Signee

Date

Printed Name and Title of Joint Venture Authorized Signee

Signature of Joint Venture Authorized Signee

Date



Monthly DBE Trucking Report

Month: _____ Year: _____

Contractor Information:

Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Please provide the following information:

Date: _____

Contract Information:

Metra Contract No: _____

Project Name: _____

Location: _____

Name of Trucking Company	DBE (Y/N)	Owner or Operator	License Plate # on Truck	Name on Truck and Truck Number	Date(s) of Trucking Activities	Commission or Paid Amount	Date Paid	Lease Agreement* (if applicable)**
						\$ -		Lease Agreement <input type="checkbox"/> With Non-DBE <input type="checkbox"/> With DBE <input type="checkbox"/>
						\$ -		Lease Agreement <input type="checkbox"/> With Non-DBE <input type="checkbox"/> With DBE <input type="checkbox"/>
						\$ -		Lease Agreement <input type="checkbox"/> With Non-DBE <input type="checkbox"/> With DBE <input type="checkbox"/>
						\$ -		Lease Agreement <input type="checkbox"/> With Non-DBE <input type="checkbox"/> With DBE <input type="checkbox"/>
Total Amount Paid:						\$ -		

*Upon request all Lease Agreements should be made available, in accordance with 49 CFR 26.55(d)(7).

**A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE (49 CFR 26.55(d)(7)).

Prime Contractor Signature (Required)



Monthly DBE Trucking Report

Comments:

Monthly DBE Trucking Report Instructions:

The Contractor must submit the form on a monthly basis to Metra's Office of Diversity & Business Enterprise. The report must show the trucking activity performed for the month and include the total dollar amount paid to the DBE trucking company(s). All columns are required, additional sheets can be utilized.

DBE Trucking Regulations:

The Contractor receives DBE credit for trucking based on the following factors (see 49 CFR 26.55(d)(1-7)):

- 1) 100% for the trucking services provided by the DBE using trucks it owns, insures, and operates using drivers it employs.
- 2) 100% for the trucking services provided by the trucks leased from other DBE firms.
- 3) The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers (49 CFR 26.55(d)(5)). Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement (49 CFR 26.55(d)(5)).

EXHIBIT 2
PROFESSIONAL ARCHITECTURAL AND ENGINEERING
DIRECT LABOR WAGE RATES

This form will only be completed by the selected Proposer



DRAFT

Firm_____

Date_____

INDIVIDUAL DIRECT LABOR RATES

[illegible]

Firm _____

Date_____

MAXIMUM DIRECT LABOR WAGE RATES

[illegible]

COST AND PRICE ANALYSIS - PROFESSIONAL SERVICES CONTRACTS					Task No.	
Prime Consultant						
This form is to be used as provided under Metra procedures. It will be executed and submitted with proposals in response to "Requests for Proposals" and "Letters of Interest and Qualifications " for the procurement of professional or personal services.					REQUEST NO.	
					Project #:	
					Contract #:	
NAME AND ADDRESS OF OFFERER:						
DETAIL DESCRIPTION				TOTAL HOURS	RATE/HOUR	TOTAL COST
1. DIRECT LABOR (specify)						
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
						\$0.00
TOTAL DIRECT LABOR				0		\$0.00
2. BURDEN		BURDEN RATE	X BASE =	BURDEN (\$)		
			\$0.00	\$0.00		
TOTAL BURDEN						\$0.00
3. DIRECT MATERIALS						
TOTAL MATERIAL						\$0.00
4. SPECIAL TESTING						
TOTAL SPECIAL TESTING						\$0.00
5. SPECIAL EQUIPMENT (if direct charge-specify in Exhibit B on reverse)						\$0.00
6. TRAVEL (if direct charge)						
a. TRANSPORTATION						
b. PER DIEM OR SUBSISTENCE						
TOTAL TRAVEL						\$0.00
7. CONSULTANTS (identify-purpose-rate)						
TOTAL CONSULTANTS						\$0.00
8. SUBCONTRACTS (specify in Section A on reverse)						\$0.00
9. OTHER DIRECT COSTS (specify in Section B on reverse-explain royalty costs, if any)						\$0.00
10. TOTAL DIRECT COST AND BURDEN						\$0.00
11. GENERAL AND ADMINISTRATIVE EXPENSE (Rate % of item nos.)						\$0.00
12. TOTAL COST						\$0.00
13. FIXED FEE OR PROFIT (State basis for amount in proposal)						\$0.00
14. TOTAL COST AND FIXED FEE OR PROFIT						\$0.00

OVERHEAD RATE AND GENERAL AND ADMINISTRATIVE RATE INFORMATION			
A. GOVERNMENT AUDIT PERFORMED		DATE OF AUDIT	ACCOUNTING PERIOD
B. NAME AND ADDRESS OF GOVERNMENT AGENCY MAKING AUDIT:		C. DO YOUR CONTRACTS PROVIDE NEGOTIATED OVERHEAD RATES?	
		No <input type="checkbox"/> Yes <input type="checkbox"/>	
		(If yes, name agency negotiating rates)	
15. EXHIBIT A - SUBCONTRACT INFORMATION (if more space is needed, use blank sheets, identifying item number)			
NAME AND ADDRESS OF SUBCONTRACTORS	SUBCONTRACTED WORK	SUBCONTRACT	
		TYPE	AMOUNT
		Total Subs =	\$0.00
16. EXHIBIT B - OTHER DIRECT COSTS (Specify, if more space is needed, use blank sheets, identifying item number)			
Total Other Direct Costs =			
<u>CERTIFICATE:</u>			
<p>The labor rates and overhead costs are current and other estimated costs have been determined by generally accepted accounting principles. Bidder represents: (a) that he has not employed or retained any company or person (other than a full-time bona fide employee working solely for the bidder) to solicit or secure his contract, and (b) that he has not paid or agreed to pay to any company or person (other than a full-time bona fide employee working solely for the bidder) any fee, commissions, percentage or brokerage fee, contingent upon or resulting from the award of this contract, and agrees to furnish information relating to (a) and (b) above, as requested by the Contracting Officer.</p>			
NUMBER OF CONTRACTOR EMPLOYEES		STATE OF INCORPORATION	
<input type="checkbox"/> 500 AND UNDER <input type="checkbox"/> OVER 750	<input type="checkbox"/> OVER 500 <input type="checkbox"/> OVER 1,000		
DATE	SIGNATURE AND TITLE OF AUTHORIZED REPRESENTATIVE OF CONSULTANT		

COST AND PRICE ANALYSIS - PROFESSIONAL SERVICES CONTRACTS Sub Consultant				Task No.
This form is to be used as provided under Metra procedures. It will be executed and submitted with proposals in response to "Requests for Proposals" and "Letters of Interest and Qualifications" for the procurement of professional or personal services.				REQUEST NO. Project #: Contract #:
NAME AND ADDRESS OF OFFERER:				
DETAIL DESCRIPTION		TOTAL HOURS	RATE/HOUR	TOTAL COST
1. DIRECT LABOR (specify)				
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
				\$0.00
TOTAL DIRECT LABOR		0		\$0.00
2. BURDEN	BURDEN RATE	X BASE =	BURDEN (\$)	
		\$0.00	\$0.00	
TOTAL BURDEN				\$0.00
3. DIRECT MATERIAL				
TOTAL MATERIAL				\$0.00
4. SPECIAL TESTING				
TOTAL SPECIAL TESTING				\$0.00
5. SPECIAL EQUIPMENT (if direct charge-specify in Exhibit B on reverse)				\$0.00
6. TRAVEL (if direct charge)				
a. TRANSPORTATION				
b. PER DIEM OR SUBSISTENCE				
TOTAL TRAVEL				\$0.00
7. CONSULTANTS (identify-purpose-rate)				
TOTAL CONSULTANTS				\$0.00
8. OTHER DIRECT COSTS (specify in Section B on reverse-explain royalty costs, if any)				\$0.00
9. TOTAL DIRECT COST AND BURDEN				\$0.00
10. GENERAL AND ADMINISTRATIVE EXPENSE (Rate % of item nos.)				\$0.00
11. TOTAL COST				\$0.00
12. FIXED FEE OR PROFIT (State basis for amount in proposal)				\$0.00
13. TOTAL COST AND FIXED FEE OR PROFIT				\$0.00

EXHIBIT 3

CONSULTANT'S TECHNICAL PROPOSAL



**TITLE: CREATE P2 RIGHT-OF-WAY NEEDS ASSESSMENT SERVICES
 FOR SWS/RID FLYOVER CONNECTION**

LIQ NO.: 97294