



**Request for Proposal
RFP-4238-16-DH**

**Design/Build
Compressed Natural Gas (CNG) Fueling Facility**

RESPONSES DUE:

September 1, 2016 prior to 3:30pm Local

Accepting Electronic Responses Only

Responses Only Submitted Through the Rocky Mountain E-Purchasing System (RMEPS)

<https://www.rockymountainbidsystem.com/default.asp>

(Purchasing Representative does not have access or control of the vendor side of RMEPS. If website or other problems arise during response submission, vendor **MUST** contact RMEPS to resolve issue prior to the response deadline. 800-835-4603)

PURCHASING REPRESENTATIVE:

Duane Hoff Jr., Senior Buyer

duaneh@gjcity.org

970-244-1545

This solicitation has been developed specifically for a Request for Proposal intended to solicit competitive responses for this solicitation, and may not be the same as previous City of Grand Junction/Mesa County solicitations. All offerors are urged to thoroughly review this solicitation prior to submitting. Submittal by **FAX, EMAIL or HARD COPY IS NOT ACCEPTABLE** for this solicitation.

REQUEST FOR PROPOSAL

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REQUEST FOR PROPOSAL

SECTION 1.0: ADMINISTRATIVE INFORMATION & CONDITIONS FOR SUBMITTAL

- 1.1 Issuing Office:** This Request for Proposal (RFP) is issued by the City of Grand Junction, on behalf of Mesa County. All contact regarding this RFP shall be directed to:
RFP Questions:
Duane Hoff Jr., Senior Buyer
duaneh@gjcity.org
- 1.2 Purpose:** The purpose of this RFP is to obtain proposals from qualified and professional design-build firms/contractors specializing in the design, development, and construction of Compressed Natural Gas (CNG) fueling facilities, to provide design services and construction of a new compressed natural gas (CNG) fueling facility to be located at the City's Municipal Campus area at 333 West Avenue, Grand Junction, CO.
- 1.3 The Owner:** The Owner is the Mesa County, Colorado and is referred to throughout this Solicitation. The term Owner means the Owner or his authorized representative.
- 1.4 Recommended Site Visit/Briefing:** A site visit is recommended for all prospective offerors. The purpose of this visit will be to inspect and to clarify the contents of this Request for Proposal (RFP). Meeting location shall be at the City of Grand Junction Fleet Facility located at 333 West Avenue, Building C, Grand Junction, CO on August 11, 2016 at 10:00am. Nothing stated during the Site Visit/Briefing will modify the solicitation. Only information provided in an addendum can modify the solicitation.
- 1.5 Compliance:** All participating Offerors, by their signature hereunder, shall agree to comply with all conditions, requirements, and instructions of this RFP as stated or implied herein. Should the Owner omit anything from this packet which is necessary to the clear understanding of the requirements, or should it appear that various instructions are in conflict, the Offeror(s) shall secure instructions from the Purchasing Division prior to the date and time of the submittal deadline shown in this RFP.
- 1.6 Submission:** Please refer to section 5.0 for what is to be included. ***Each proposal shall be submitted in electronic format only, and only through the Rocky Mountain E-Purchasing website (<https://www.rockymountainbidsystem.com/default.asp>).*** ***This site offers both "free" and "paying" registration options that allow for full access of the Owner's documents and for electronic submission of proposals. (Note: "free" registration may take up to 24 hours to process. Please Plan accordingly.)*** Please view our "Electronic Vendor Registration Guide" at <http://www.gjcity.org/BidOpenings.aspx> for details. For proper comparison and evaluation, the City requests that proposals be formatted as directed in Section 5.0 "Preparation and Submittal of Proposals." Submittals received that fail to follow this format may be ruled non-responsive. (Purchasing Representative does not have access or control of the vendor side of RMEPS. If website or other problems arise during response submission, vendor **MUST** contact RMEPS to resolve issue prior to the response deadline. **800-835-4603**)

- 1.7 Altering Proposals:** Any alterations made prior to opening date and time must be initialed by the signer of the proposal, guaranteeing authenticity. Proposals cannot be altered or amended after submission deadline.
- 1.8 Withdrawal of Proposal:** A proposal must be firm and valid for award and may not be withdrawn or canceled by the Offeror for sixty (60) days following the submittal deadline date, and only prior to award. The Offeror so agrees upon submittal of their proposal. After award this statement is not applicable.
- 1.9 Addenda:** All Questions shall be submitted in writing to the appropriate person as shown in Section 1.1. Any interpretations, corrections and changes to this RFP or extensions to the opening/receipt date shall be made by a written Addendum to the RFP by the Owner. Sole authority to authorize addenda shall be vested in the City of Grand Junction Purchasing Representative. Addenda will be issued electronically through the Rocky Mountain E-Purchasing website at www.rockymountainbidsystem.com. Offerors shall acknowledge receipt of all addenda in their proposal.
- 1.10 Exceptions and Substitutions:** All proposals meeting the intent of this RFP shall be considered for award. Offerors taking exception to the specifications shall do so at their own risk. The Owner reserves the right to accept or reject any or all substitutions or alternatives. When offering substitutions and/or alternatives, Offeror must state these exceptions in the section pertaining to that area. Exception/substitution, if accepted, must meet or exceed the stated intent and/or specifications. The absence of such a list shall indicate that the Offeror has not taken exceptions, and if awarded a contract, shall hold the Offeror responsible to perform in strict accordance with the specifications or scope of work contained herein.
- 1.11 Confidential Material:** All materials submitted in response to this RFP shall ultimately become public record and shall be subject to inspection after contract award. **“Proprietary or Confidential Information”** is defined as any information that is not generally known to competitors and which provides a competitive advantage. Unrestricted disclosure of proprietary information places it in the public domain. Only submittal information clearly identified with the words **“Confidential Disclosure”** and uploaded as a separate document shall establish a confidential, proprietary relationship. Any material to be treated as confidential or proprietary in nature must include a justification for the request. The request shall be reviewed and either approved or denied by the Owner. If denied, the proposer shall have the opportunity to withdraw its entire proposal, or to remove the confidential or proprietary restrictions. Neither cost nor pricing information nor the total proposal shall be considered confidential or proprietary
- 1.12 Response Material Ownership:** All proposals become the property of the Owner upon receipt and shall only be returned to the proposer at the Owner’s option. Selection or rejection of the proposal shall not affect this right. The Owner shall have the right to use all ideas or adaptations of the ideas contained in any proposal received in response to this RFP, subject to limitations outlined in the section titled “Confidential Material”. Disqualification of a proposal does not eliminate this right.

1.13 Minimal Standards for Responsible Prospective Offerors: A prospective Offeror must affirmably demonstrate their responsibility. A prospective Offeror must meet the following requirements:

- Have adequate financial resources, or the ability to obtain such resources as required.
- Be able to comply with the required or proposed completion schedule.
- Have a satisfactory record of performance.
- Have a satisfactory record of integrity and ethics.
- Be otherwise qualified and eligible to receive an award and enter into a contract with the Owner.

1.14 Nonconforming Terms and Conditions: A proposal that includes terms and conditions that do not conform to the terms and conditions of this Request for Proposal is subject to rejection as non-responsive. The Owner reserves the right to permit the Offeror to withdraw nonconforming terms and conditions from its proposal prior to a determination by the Owner of non-responsiveness based on the submission of nonconforming terms and conditions

1.15 Open Records: All proposals shall be open for public inspection after the contract is awarded. Trade secrets and confidential information contained in the proposal so identified by offer as such shall be treated as confidential by the Owner to the extent allowable in the Open Records Act.

1.16 Sales Tax: City of Grand Junction/Mesa County is, by statute, exempt from the State Sales Tax and Federal Excise Tax; therefore, all fees shall not include taxes.

1.17 Public Opening: Proposals shall be opened in the City Hall Auditorium, 250 North 5th Street, Grand Junction, CO 81501, immediately following the proposal deadline. Offerors, their representatives and interested persons may be present. Only the names and locations on the proposing firms will be disclosed.

SECTION 2.0: GENERAL CONTRACT TERMS AND CONDITIONS

2.1. Acceptance of RFP Terms: A proposal submitted in response to this RFP shall constitute a binding offer. Acknowledgment of this condition shall be indicated on the Cover Letter by the Offeror or an officer of the Offeror legally authorized to execute contractual obligations. A submission in response to the RFP acknowledges acceptance by the Offeror of all terms and conditions, as set forth herein. An Offeror shall identify clearly and thoroughly any variations between its proposal and the Owner's RFP requirements. Failure to do so shall be deemed a waiver of any rights to subsequently modify the terms of performance, except as outlined or specified in the RFP.

2.2. Execution, Correlation, Intent, and Interpretations: The Contract Documents shall be signed by the Owner and Contractor. By executing the contract, the Contractor represents that they have familiarized themselves with the local conditions under which the Work is to be performed, and correlated their observations with the requirements of the Contract Documents. The Contract Documents are complementary, and what is required by any one, shall be as binding as if required by all. The intention of the documents is to include all labor, materials, equipment, services and other items necessary for the proper execution

and completion of the scope of work as defined in the technical specifications and drawings contained herein. All drawings, specifications and copies furnished by the Owner are, and shall remain, Owner property. They are not to be used on any other project.

- 2.3. Permits, Fees, & Notices:** The Contractor shall secure and pay for all permits, fees and licenses necessary for the proper execution and completion of the work. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the work. If the Contractor observes that any of the Contract Documents are at variance in any respect, Contractor shall promptly notify the Owner in writing, and any necessary changes shall be adjusted by change order/amendment. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, Contractor shall assume full responsibility and shall bear all costs attributable.
- 2.4. Warranty:** The Contractor warrants to the Owner that all materials and equipment furnished under this contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards may be considered defective. If required by Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. If within ten (10) days after written notice to the Contractor requesting such repairs or replacement, the Contractor should neglect to make or undertake with due diligence to the same, the City may make such repairs or replacements. All indirect and direct costs of such correction or removal or replacement shall be at the Contractor's expense. The Contractor will also bear the expenses of making good all work of others destroyed or damaged by the correction, removal or replacement of his defective work.
- 2.5. Quantities of Work and Unit Price:** Materials or quantities stated as unit price items in the Bid are supplied only to give an indication of the general scope of the Work. The City does not expressly or by implication agree that the actual amount of Work or material will correspond therewith, and reserves the right after award to increase or decrease the quantity of any unit item of the Work without a change in the unit price. The City also reserves the right to make changes in the Work including the right to delete any bid item in its entirety or add additional bid items.
- 2.6. Responsibility for those Performing the Work:** The Contractor shall be responsible to the Owner for the acts and omissions of all their employees and all other persons performing any of the work under a contract with the Contractor.
- 2.7. Use of the Site:** The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents, and shall not unreasonably encumber the site with any materials or equipment.
- 2.8. Cleanup:** The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by their operations. At the completion of work they shall remove all their waste materials and rubbish from and about the project, as well as all their equipment and surplus materials.
- 2.9. Bid Bond:** Each Bid shall as a guaranty of good faith on the part of the Bidder be

accompanied by a Bid Guaranty consisting of: a certified or cashier's check drawn on an approved national bank or trust company in the state of Colorado, and made payable without condition to the County; or a **Bid Bond** written by an approved corporate surety in favor of the County. The amount of the Bid Guaranty shall not be less than 5% of the total Bid amount. Once a Bid is accepted and a Contract is awarded, the apparent successful bidder has ten calendar days to enter into a contract in the form prescribed and to furnish the bonds with a legally responsible and approved surety. Failure to do so will result in forfeiture of the Bid Guaranty to the County as Liquidated Damages. Failure to submit a bid guaranty with offer will result in bid being rejected.

- 2.10. Performance & Payment Bonds (for Construction Phase):** Contractor shall furnish a Performance and a Payment Bond, each in an amount at least equal to that specified for the contract amount as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. These bonds shall remain in effect for the duration of the Warranty Period (as specified in the Special Conditions). Contractor shall also furnish other bonds that may be required by the Special Conditions. All bonds shall be in the forms prescribed by the Contract Documents and be executed by such sureties as (1) are licensed to conduct business in the State of Colorado and (2) are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Accounts, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of the Authority Act. If the surety on any bond furnished by the Contractor is declared bankrupt, or becomes insolvent, or its rights to do business in Colorado are terminated, or it ceases to meet the requirements of clauses (1) and (2) of this section, Contractor shall within five (5) days thereafter substitute another bond and surety, both of which shall be acceptable to the County.
- 2.11. Retention:** The Owner will deduct money from the partial payments in amounts considered necessary to protect the interest of the Owner and will retain this money until after completion of the entire contract. The amount to be retained from partial payments will be five (5) percent of the value of the completed work, and not greater than five (5) percent of the amount of the Contract. When the retainage has reached five (5) percent of the amount of the Contract no further retainage will be made and this amount will be retained until such time as final payment is made.
- 2.12. Payment & Completion:** The Contract Sum is stated in the Contract and is the total amount payable by the Owner to the Contractor for the performance of the work under the Contract Documents. Upon receipt of written notice that the work is ready for final inspection and acceptance and upon receipt of application for payment, the Owner's Project Manager will promptly make such inspection and, when Owner finds the work acceptable under the Contract Documents and the Contract fully performed, the Owner shall make payment in the manner provided in the Contract Documents. Partial payments will be based upon estimates, prepared by the Contractor, of the value of Work performed and materials placed in accordance with the Contract Documents.
- 2.13. Protection of Persons & Property:** The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor

shall erect and maintain, as required by existing safeguards for safety and protection, and all reasonable precautions, including posting danger signs or other warnings against hazards promulgating safety regulations and notifying owners and users of adjacent utilities. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct by the Contractor in the execution of the work, or in consequence of the non-execution thereof by the Contractor, they shall restore, at their own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring as may be directed, or it shall make good such damage or injury in an acceptable manner.

- 2.14. Changes in the Work:** The Owner, without invalidating the contract, may order changes in the work within the general scope of the contract consisting of additions, deletions or other revisions. All such changes in the work shall be authorized by Change Order and shall be executed under the applicable conditions of the contract documents. A Change Order is a written order to the Contractor signed by the Owner issued after the execution of the contract, authorizing a change in the work or an adjustment in the contract sum or the contract time.
- 2.15. Minor Changes in the Work:** The Owner shall have authority to order minor changes in the work not involving an adjustment in the contract sum or an extension of the contract time and not inconsistent with the intent of the contract documents.
- 2.16. Uncovering & Correction of Work:** The Contractor shall promptly correct all work found by the Owner as defective or as failing to conform to the contract documents. The Contractor shall bear all costs of correcting such rejected work, including the cost of the Owner's additional services thereby made necessary. The Owner shall give such notice promptly after discover of condition. All such defective or non-conforming work under the above paragraphs shall be removed from the site where necessary and the work shall be corrected to comply with the contract documents without cost to the Owner.
- 2.17. Acceptance Not Waiver:** The Owner's acceptance or approval of any work furnished hereunder shall not in any way relieve the proposer of their present responsibility to maintain the high quality, integrity and timeliness of his work. The Owner's approval or acceptance of, or payment for, any services shall not be construed as a future waiver of any rights under this Contract, or of any cause of action arising out of performance under this Contract.
- 2.18. Change Order/Amendment:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders/amendments to the contract shall be made in writing by the Owner Purchasing Division.
- 2.19. Assignment:** The Offeror shall not sell, assign, transfer or convey any contract resulting from this RFP, in whole or in part, without the prior written approval from the Owner.
- 2.20. Compliance with Laws:** Proposals must comply with all Federal, State, County and local laws governing or covering this type of service and the fulfillment of all ADA (Americans with Disabilities Act) requirements. Contractor hereby warrants that it is qualified to assume

the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.

- 2.21. Debarment/Suspension:** The Contractor hereby certifies that the Contractor and any subcontractors with bids over \$25,000 is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Governmental department or agency.
- 2.22. Confidentiality:** All information disclosed by the Owner to the Contractor for the purpose of the work to be done or information that comes to the attention of the Contractor during the course of performing such work is to be kept strictly confidential.
- 2.23. Conflict of Interest:** No public official and/or Owner employee shall have interest in any contract resulting from this RFP.
- 2.24. Contract:** This Request for Proposal, submitted documents, and any negotiations, when properly accepted by the Owner, shall constitute a contract equally binding between the Owner and Offeror. The contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral, including the Proposal documents. The contract may be amended or modified with Change Orders, Field Orders, or Amendment.
- 2.25. Project Manager/Administrator:** The Project Manager, on behalf of the Owner, shall render decisions in a timely manner pertaining to the work proposed or performed by the Offeror. The Project Manager shall be responsible for approval and/or acceptance of any related performance of the Scope of Work.
- 2.26. Cancellation of Solicitation:** Any solicitation may be canceled by the Owner or any solicitation response by a vendor may be rejected in whole or in part when it is in the best interest of the Owner.
- 2.27. Contract Termination:** This contract shall remain in effect until any of the following occurs: (1) contract expires; (2) completion of services; (3) acceptance of services or, (4) for convenience terminated by either party with a written *Notice of Cancellation* stating therein the reasons for such cancellation and the effective date of cancellation at least thirty days past notification.
- 2.28. Employment Discrimination:** During the performance of any services per agreement with the Owner, the Offeror, by submitting a Proposal, agrees to the following conditions:
- 2.28.1.** The Offeror shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, disability, citizenship status, marital status, veteran status, sexual orientation, national origin, or any legally protected status except when such condition is a legitimate occupational qualification reasonably necessary for the normal operations of the Offeror. The Offeror agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- 2.28.2.** The Offeror, in all solicitations or advertisements for employees placed by or on behalf of the Offeror, shall state that such Offeror is an Equal Opportunity Employer.
- 2.28.3.** Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- 2.29. Immigration Reform and Control Act of 1986 and Immigration Compliance:** The Offeror certifies that it does not and will not during the performance of the contract employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986 and/or the immigration compliance requirements of State of Colorado C.R.S. § 8-17.5-101, *et.seq.* (House Bill 06-1343).
- 2.30. Ethics:** The Offeror shall not accept or offer gifts or anything of value nor enter into any business arrangement with any employee, official, or agent of the Owner.
- 2.31. Failure to Deliver:** In the event of failure of the Offeror to deliver services in accordance with the contract terms and conditions, the Owner, after due oral or written notice, may procure the services from other sources and hold the Offeror responsible for any costs resulting in additional purchase and administrative services. This remedy shall be in addition to any other remedies that the Owner may have.
- 2.32. Failure to Enforce:** Failure by the Owner at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the Owner to enforce any provision at any time in accordance with its terms.
- 2.33. Force Majeure:** The Offeror shall not be held responsible for failure to perform the duties and responsibilities imposed by the contract due to legal strikes, fires, riots, rebellions, and acts of God beyond the control of the Offeror, unless otherwise specified in the contract.
- 2.34. Indemnification:** Offeror shall defend, indemnify and save harmless the Owner and all its officers, employees, insurers, and self-insurance pool, from and against all liability, suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the Offeror, or of any Offeror's agent, employee, subcontractor or supplier in the execution of, or performance under, any contract which may result from proposal award. Offeror shall pay any judgment with cost which may be obtained against the Owner growing out of such injury or damages.
- 2.35. Independent Firm:** The Offeror shall be legally considered an Independent Firm and neither the Firm nor its employees shall, under any circumstances, be considered servants or agents of the Owner. The Owner shall be at no time legally responsible for any negligence or other wrongdoing by the Firm, its servants, or agents. The Owner shall not withhold from the contract payments to the Firm any federal or state unemployment taxes, federal or state income taxes, Social Security Tax or any other amounts for benefits to the Firm. Further, the Owner shall not provide to the Firm any insurance coverage or other benefits, including Workers' Compensation, normally provided by the Owner for its employees.

- 2.36. Ownership:** All plans, prints, designs, concepts, etc., shall become the property of the Owner.
- 2.37. Oral Statements:** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this document and/or resulting agreement. All modifications to this request and any agreement must be made in writing by the Owner.
- 2.38. Patents/Copyrights:** The Offeror agrees to protect the Owner from any claims involving infringements of patents and/or copyrights. In no event shall the Owner be liable to the Offeror for any/all suits arising on the grounds of patent(s)/copyright(s) infringement. Patent/copyright infringement shall null and void any agreement resulting from response to this RFP.
- 2.39. Remedies:** The Offeror and Owner agree that both parties have all rights, duties, and remedies available as stated in the Uniform Commercial Code.
- 2.40. Venue:** Any agreement as a result of responding to this RFP shall be deemed to have been made in, and shall be construed and interpreted in accordance with, the laws of the City of Grand Junction, Mesa County, Colorado.
- 2.41. Expenses:** Expenses incurred in preparation, submission and presentation of this RFP are the responsibility of the company and can not be charged to the Owner.
- 2.42. Sovereign Immunity:** The Owner specifically reserves its right to sovereign immunity pursuant to Colorado State Law as a defense to any action arising in conjunction to this agreement.
- 2.43. Public Funds/Non-Appropriation of Funds:** Funds for payment have been provided through the Owner's budget approved by the City Council/Board of County Commissioners for the stated fiscal year only. State of Colorado statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Therefore, anticipated orders or other obligations that may arise past the end of the stated Owner's fiscal year shall be subject to budget approval. Any contract will be subject to and must contain a governmental non-appropriation of funds clause.
- 2.44. Collusion Clause:** Each Offeror by submitting a proposal certifies that it is not party to any collusive action or any action that may be in violation of the Sherman Antitrust Act. Any and all proposals shall be rejected if there is evidence or reason for believing that collusion exists among the proposers. The Owner may or may not, at the discretion of the Owner Purchasing Representative, accept future proposals for the same service or commodities for participants in such collusion.
- 2.45. Contingency/Force Account:** Contingency/Force Account work will be authorized by the Owner's Project Manager and is defined as minor expenses to cover miscellaneous or unforeseen expenses related to the project. The expenses are not included in the Drawings, Specifications, or Scope of Work and are necessary to accomplish the scope of this contract. Contingency/Force Account Authorization will be directed by the Owner through an approved form. Contingency/Force Account funds are the property of the Owner and any Contingency/Force Account funds, not required for project completion, shall

remain the property of the Owner. Contractor is not entitled to any Contingency/Force Account funds that are not authorized by Owner.

- 2.46. Gratuities:** The Contractor certifies and agrees that no gratuities or kickbacks were paid in connection with this contract, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this contract. If the Contractor breaches or violates this warranty, the Owner may, at their discretion, terminate this contract without liability to the Owner.
- 2.47. OSHA Standards:** All Offerors agree and warrant that services performed in response to this invitation shall conform to the standards declared by the US Department of Labor under the Occupational Safety and Health Act of 1970 (OSHA). In the event the services do not conform to OSHA Standards, the Owner may require the services to be redone at no additional expense to the Owner.
- 2.48. Performance of the Contract:** The Owner reserves the right to enforce the performance of the contract in any manner prescribed by law or deemed to be in the best interest of the Owner in the event of breach or default of resulting contract award.
- 2.49. Benefit Claims:** The Owner shall not provide to the Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the Owner for its employees.
- 2.50. Default:** The Owner reserves the right to terminate the contract immediately in the event the Contractor fails to meet delivery or completion schedules, or otherwise perform in accordance with the accepted proposal. Breach of contract or default authorizes the Owner to purchase like services elsewhere and charge the full increase in cost to the defaulting Contractor.
- 2.51. Multiple Offers:** Proposers must determine for themselves which product or service to offer. If said proposer chooses to submit more than one offer, THE ALTERNATE OFFER must be clearly marked "Alternate Proposal". The Owner reserves the right to make award in the best interest of the Owner.
- 2.52. Cooperative Purchasing:** Purchases as a result of this solicitation are primarily for the Owner. Other governmental entities may be extended the opportunity to utilize the resultant contract award with the agreement of the successful provider and the participating agencies. All participating entities will be required to abide by the specifications, terms, conditions and pricings established in this Proposal. The quantities furnished in this proposal document are for only the Owner. It does not include quantities for any other jurisdiction. The Owner will be responsible only for the award for our jurisdiction. Other participating entities will place their own awards on their respective Purchase Orders through their purchasing office or use their purchasing card for purchase/payment as authorized or agreed upon between the provider and the individual entity. The Owner accepts no liability for payment of orders placed by other participating jurisdictions that choose to piggy-back on our solicitation. Orders placed by participating jurisdictions under the terms of this solicitation will indicate their specific delivery and invoicing instructions.

2.53. Definitions:

- 2.53.1. “Offeror” and/or “Proposer” refers to the person or persons legally authorized by the Consultant to make an offer and/or submit a response (fee) proposal in response to the Owner’s RFP.
- 2.53.2. The term “Work” includes all labor, materials, equipment, and/or services necessary to produce the requirements of the Contract Documents.
- 2.53.3. “Contractor” is the person, organization, firm or consultant identified as such in the Agreement and is referred to throughout the Contract Documents. The term Contractor means the Contractor or his authorized representative. The Contractor shall carefully study and compare the General Contract Conditions of the Contract, Specification and Drawings, Scope of Work, Addenda and Modifications and shall at once report to the Owner any error, inconsistency or omission he may discover. Contractor shall not be liable to the Owner for any damage resulting from such errors, inconsistencies or omissions. The Contractor shall not commence work without clarifying Drawings, Specifications, or Interpretations.
- 2.53.4. “Sub-Contractor is a person or organization who has a direct contract with the Contractor to perform any of the work at the site. The term sub-contractor is referred to throughout the contract documents and means a sub-contractor or his authorized representative.

2.54. **Public Disclosure Record:** If the Proposer has knowledge of their employee(s) or sub-proposers having an immediate family relationship with an Owner employee or elected official, the proposer must provide the Purchasing Representative with the name(s) of these individuals. These individuals are required to file an acceptable “Public Disclosure Record”, a statement of financial interest, before conducting business with the Owner.

2.55 Disadvantaged Business Enterprise (DBE) Participation: For this solicitation, the County has *not* established a race- or gender- *conscious* DBE participation goal. The overall goal is 1%. The County extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for business. The County uses race- and gender-*neutral* measures to facilitate participation by DBEs. The County *encourages* each Offeror to voluntarily subcontract with DBEs to perform part of the work—a Commercially Useful Function—that Offeror might otherwise perform with its own forces. Each Offeror is *required* conduct outreach efforts and submit documentation of those outreach efforts as described in Section 2.58.5.

2.55.1. **Applicable Federal Regulations.** This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the County must track and report DBE participation that occurs as a result of any subcontract, procurement, Joint Venture (JV), or other arrangement involving a DBE. For this reason, the Successful Offeror shall provide all relevant information to enable the required reporting.

2.55.2. **Counting DBE Participation.** The County will count DBE participation as authorized by federal regulations. A summary of these regulations can be found at <https://www.codot.gov/business/civilrights/dbe>.

2.55.3. DBE Certification. *Only firms (1) certified by CDOT, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from RGN measures on this Contract. This DBE determination affects the County's tracking and reporting obligations to USDOT.*

2.55.4. REQUIRED OUTREACH EFFORTS: The County has implemented outreach requirements for this Contract. Specifically, each Offeror shall: (1) identify DBE participation opportunities, including Commercially Useful Functions; (2) actively solicit proposals from DBEs; (3) evaluate DBE proposals; and (4) communicate selection decisions to DBEs, including each rejection of a proposal. If a Offeror fails to conduct these Outreach Efforts or fails to submit the required documentation of Offeror 's Outreach Efforts as indicated in Section 2.58.5 below, the County may determine that the Offeror's submittal is nonresponsive. A determination of nonresponsiveness disqualifies Offeror from further consideration for the Contract award.

2.55.5 SUBMITTAL REQUIREMENTS: Outreach-Efforts documentation due with initial qualifications-based submittal.

Attachment A. Each Offeror shall complete and submit Attachment A documenting its diligent, good-faith Outreach Efforts. Attachment A must be submitted with the initial qualifications-based submittal. Each Offeror shall list in Attachment A all DBEs contacted by Offeror in preparing its submittal. Each Offeror shall also provide the following minimum information to document its Outreach Efforts. The DBE Liaison Officer will consider this information to determine whether Offeror has demonstrated the required Outreach Efforts:

- 1) Each business's full legal name and contact information;
- 2) Scope of work solicited (brief description, percentage of contract value);
- 3) Solicitation method (personal contact, telephone, fax, e-mail, other);
- 4) Selection process; and
- 5) Communication of selection outcome to each participant.*

* Offeror shall provide supporting documentation that shows Offeror has communicated its final selection decisions and outcomes to all DBEs, including those not chosen to participate in this Contract.

Each Offeror shall complete Attachment A in accordance with the following instructions.

- 1) Each Offeror shall actively contact DBEs for each scope of work or business opportunity selected for Outreach Efforts (Columns A and B).
- 2) Offeror's contacts with DBEs should occur well before the deadline for the initial qualifications-based submittal to afford the firms contacted a reasonable opportunity to prepare a proposal and participate in the Contract.

- 3) Offeror shall ask each firm to indicate the number of its employees (Column A).
- 4) For each DBE's annual gross receipts, Offeror shall ask the firm to indicate the gross-receipts bracket into which it fits (e.g., less than \$500,000; \$500,000 – \$1 million; \$1 – 2 million; \$2 – 5 million; etc.) rather than requesting an exact figure from the firm (Column A).
- 5) If Offeror does not select a DBE to participate in the Contract, Offeror shall explain the reason why (Column D).
- 6) Offeror shall notify each DBE contacted whether or not Offeror selected the firm. Offeror shall notify all firms not selected, and Offeror shall state when (date) and how (method) the selection outcome was communicated to each firm (Column E).

Supporting Documentation. Each Offeror shall complete and submit supporting documentation of its Outreach Efforts related to Attachment A.

- a. Offeror shall submit with Attachment A—on the due date for Attachment A—all supporting documentation of Offeror's contacts with DBEs for each scope of work or business opportunity selected for Outreach Efforts.
- b. This documentation must include (1) descriptions of scopes of work and business opportunities identified for DBE participation, and (2) a copy of the actual solicitation sent to interested DBEs. The solicitation may be in the form of a letter, attachment to an e-mail, advertisements in newspapers and trade papers, or written communications with chambers of commerce.
- c. Offeror shall submit documentation that establishes how Offeror communicated its selection decisions and outcomes to each DBE not selected for this Contract. This documentation may be in the form of a letter, e-mail, or telephone log. The documentation must show the name of the person contacted and the date.
- d. For all of the above documentation, if Offeror uses a blast e-mail or fax format, the documentation submitted must include a copy of the e-mail or fax, and Offeror must disclose all e-mail addresses and fax numbers to which the solicitation or outcome notification was sent and the date and time of transmission. For telephone contacts, Offeror shall document the date and time of the call and the names of the respective persons representing Offeror and the DBE.

2.55.6. Documentation due within seven days after final negotiations:

Attachments B-1 And B-2. Within seven days after final negotiations with the County, the Offeror selected for negotiations shall complete and submit Attachments B-1 and B-2. Offeror must show diligent, good-faith Outreach Efforts and provide information regarding its DBE selection decisions and outcomes for all negotiations with DBEs. Attachment B-1 must contain the

names of all DBEs reported as “selected” on Attachment A, Column D, and all supporting documentation (if applicable).

Instructions for completing Attachments B-1 and B-2:

a. Attachment B-1 Negotiations with DBEs. The Offeror shall provide the following information in Attachment B-1, which the DBE Liaison Officer will evaluate to determine whether Offeror negotiated diligently and in good faith with the DBEs identified in Attachment A, Column D, as potential participants in the Contract’s business opportunities:

- 1) Each business’s full legal name and contact information;
- 2) Scope of work to be performed (brief description, percentage of contract value);
- 3) Type of agreement;
- 4) Agreement amount; and
- 5) Communication of final selection outcomes to participants.*

*The Successful Offeror shall provide supporting documentation that shows Offeror has communicated its final selection decisions and outcomes to all DBEs, including those not chosen to participate in this Contract.

The Successful Offeror shall complete all appropriate boxes in Attachment B-1 and shall indicate the firms with which Offeror has negotiated, including firms that Offeror proposes will participate in and perform part of the Contract. Supporting documentation may include copies of e-mails, letters, faxes, or contact logs stating the name of the firm, date and time of communication, and the identity of the person contacted.

b. Attachment B-2 DBE Utilization Commitment. The Successful Offeror shall sign and submit Attachment B-2, which commits the Successful Offeror to the County Agency as follows:

- 1) The firms indicated as selected in Attachment B-1 will participate in the Contract;
- 2) The Successful Offeror will comply with the Race- and Gender-Neutral post-award requirements as stated in Section 2.58.7 below;
- 3) Any and all changes, substitutions, or termination of a DBE firm must first be authorized by the DBE Liaison Officer before implementation; and
- 4) The proposed total DBE participation percentage is true and correct.

Offeror shall ensure that the percentages proposed for DBE participation on Attachment B-1 equal the total percentage proposed in Attachment B-2.

If the Successful Offeror fails to timely submit a completed copy of Attachment B-1 or Attachment B-2, or fails to provide the required supporting documentation for Attachment B- 1, the County Agency may determine that

Offeror's proposal is nonresponsive. A determination of nonresponsiveness disqualifies Offeror from further consideration for the Contract award.

C. Failure To Meet Outreach Requirements. The DBE Liaison Officer will determine, in writing, whether Offeror has satisfied all outreach requirements. If the DBE Liaison Officer determines that Offeror has failed to satisfy the outreach requirements (specified in Section 2.58.5), then the DBE Liaison Officer may determine that the submittal is nonresponsive. A determination of nonresponsiveness disqualifies Offeror from further consideration for the Contract award. The County Agency shall send written notice to Offeror stating the basis for DBE Liaison Officer's decision.

D. Administrative Reconsideration. If the DBE Liaison Officer determines that Offeror did not properly complete Attachment A or Offeror failed to demonstrate sufficient Outreach Efforts or failed to submit required documentation, then the County will permit Offeror to request for reconsideration on this determination. In its request for reconsideration, Offeror may clarify its submittal. But Offeror may not submit or refer to new or revised documents or information. The County will only reconsider the original submittal as clarified in the request for reconsideration.

If Offeror requests reconsideration of the DBE Liaison Officer's determination of nonresponsiveness based on insufficient Outreach Efforts or insufficient documentation, then Offeror must provide written notice to the County within three business days of the County's notice of disqualification to Offeror. The request for reconsideration should be e-mailed to the Procurement Officer and the DBE Liaison Officer and also mailed to:

Mesa County RTPO
ATTN: DBE Liaison Officer
Dept. 5093, PO Box 20,000
Grand Junction, CO 81502

2.55.7. POST-AWARD COMPLIANCE REQUIREMENTS

A. Subcontracting Commitment. Promptly after Contract award, the Successful Offeror shall submit to the County a list of all subcontractors and copies of all executed contracts, purchase orders, subleases, JV agreements, and other arrangements formalizing agreements between the Successful Offeror and any DBE.

The Successful Offeror shall not terminate any DBE Subcontracts, and the Successful Offeror shall not alter the scope of work or reduce the Subcontract amount, without the DBE Liaison Officer's prior written approval. Any request to alter a DBE Subcontract must be submitted in writing to the DBE Liaison Officer before any change is made. If the Successful Offeror fails to do so, the County may declare Offeror in breach of contract.

B. Relief From Proposed DBE Utilization. After Contract award, the County will not grant relief from the proposed DBE utilization except in extraordinary circumstances. The Successful Offeror's request to modify participation must be in writing to the DBE Liaison Officer. The DBE Liaison Officer has final discretion and authority to determine if the request should be granted.

Offeror's written request must set forth the amount of relief sought, evidence that demonstrates why relief is necessary, and any additional relevant information that the DBE Liaison Officer should consider. The Successful Offeror shall include with the request all documentation of Offeror's attempts to subcontract with the DBE and any other action taken to locate and solicit a replacement DBE.

If an approved DBE allows its DBE certification to expire, or the certification is revoked during the course of the Subcontract, the County will consider all work performed by the DBE under the original contract to count as DBE participation. No increased scope of work negotiated after expiration or revocation of the DBE's certification may be counted. Likewise, any work performed under a Contract extension granted by the County may not be counted as DBE participation.

C. DBE Substitutions. If the DBE was approved by the County, but the firm subsequently loses its DBE status before execution of a contract, the DBE Liaison Officer will consider whether or not the Successful Offeror has exercised diligent and good-faith efforts to find another DBE as a replacement. The Successful Offeror shall notify the DBE Liaison Officer in writing of the necessity to substitute a DBE and provide specific reason(s) for the substitution or replacement. Actual substitution or replacement of a DBE may not occur before the DBE Liaison Officer's written approval has been obtained.

D. Prompt Payment Of Subcontractors. Within seven days of the Successful Offeror's receipt of a County progress payment that includes amounts for the Offeror's Subcontractors, suppliers, or subconsultants, the Offeror shall pay the Subcontractors, suppliers, and subconsultants the respective amounts allowed for satisfactory performance of their work.

If the County reduces the Successful Offeror's retention, the Offeror shall correspondingly reduce the retentions of Subcontractors and suppliers that have performed satisfactory work. Under the prompt-payment provisions of 49 CFR Part 26, the Successful Offeror must ensure prompt and full payment of retentions to Subcontractors and suppliers when their work is complete, the County has accepted the work, and the County has paid the Successful Offeror for the work. The Successful Offeror shall pay each Subcontractor's and supplier's retention no later than 30 days after the County pays Offeror.

If the Successful Offeror diverts any payment received for a DBE's work performed on the Contract or fails to reasonably account for the application or

use of the payment, the County may declare the Successful Offeror in breach of contract. If the Successful Offeror fails to make payments under these provisions, the County may take any one or more of the following actions:

1. Declare the Successful Offeror in breach of contract;
2. Withhold future payments, including retention, until proper payment has been made to all Subcontractors and suppliers;
3. Reject the Successful Offeror's future bids on County contracts for a period not to exceed one year from the substantial-completion date of this Contract; and/or
4. Terminate the Contract.

Nothing in this section prevents the Successful Offeror from enforcing its Subcontract with a Subcontractor or supplier for defective work, late performance, or other claims arising under the Subcontract.

2.55.8. RECORDS & REPORTING REQUIREMENTS

A. Records. During performance of the Contract, the Successful Offeror shall keep all records necessary to document DBE participation. The Successful Offeror shall provide the records to the County within 72 hours of the County's request and at final completion of the Contract. The County will prescribe the form, manner, and content of reports. The required records include:

1. A complete listing of all Subcontractors and suppliers on the project;
2. Each Subcontractor's and supplier's scope of work performed;
3. The dollar value of all subcontracting work, services, and procurement;
4. Copies of all executed Subcontracts, purchase orders, and invoices; and
5. Copies of all payment documentation.

B. Reports. By May 1 (for reporting period October 1- March 31) and November 1 (for reporting period April 1 - September 30) of each year, the Successful Offeror must complete Attachment C, include the following documentation and payment information, and submit this report to the DBE Liaison Officer.

1. The total of all payments received from the County during the previous month.
2. All payments made to DBEs during the previous month.
3. Copies of all Subcontractors' subcontracts executed with DBEs utilized during the previous month.

This information will document DBE participation that occurred during each payment-request period throughout the Contract's duration. Copies of all DBEs' payment requests and invoices must be submitted for each report period.

Before the County processes the Successful Offeror's final payment, the Successful Offeror shall submit to the County a final certification of full and final payment to each Subcontractor in the form prescribed by the County. The form must be completed and certified by the Successful Offeror's and each Subcontractor's duly authorized agents.

SECTION 3.0: INSURANCE REQUIREMENTS

Insurance Requirements: The selected Contractor agrees to procure and maintain, at its own cost, policy(s) of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by the Contractor pursuant to this Section. Such insurance shall be in addition to any other insurance requirements imposed by this Contract or by law. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Section by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. Contractor shall procure and maintain and, if applicable, shall cause any Subcontractor of the Contractor to procure and maintain insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the Owner. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Minimum coverage limits shall be as indicated below unless specified otherwise:

(a) Worker Compensation: Contractor shall comply with all State of Colorado Regulations concerning Workers' Compensation insurance coverage.

(b) General Liability insurance with minimum limits of:

ONE MILLION DOLLARS (\$1,000,000) each occurrence and
ONE MILLION DOLLARS (\$1,000,000) per job aggregate.

The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.

(c) Comprehensive Automobile Liability insurance with minimum limits for bodily injury and property damage of not less than:

ONE MILLION DOLLARS (\$1,000,000) each occurrence and
ONE MILLION DOLLARS (\$1,000,000) aggregate

(d) Professional Liability & Errors and Omissions Insurance policy with a minimum of:

ONE MILLION DOLLARS (\$1,000,000) per claim

This policy shall provide coverage to protect the contractor against liability incurred as a result of the professional services performed as a result of responding to this Solicitation.

With respect to each of Contractors owned, hired, or non-owned vehicles assigned to be used in performance of the Work. The policy shall contain a severability of interests provision. The policies required by paragraph (b) above shall be endorsed to include the Owner, and the Owner's officers and employees as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the Owner, its officers, or its employees, or carried by or provided through any insurance pool of the Owner, shall be excess and not contributory insurance to that provided by Bidder. No additional insured endorsement to any required policy shall contain any exclusion for bodily injury or property damage arising from completed operations. The Bidder shall be solely responsible for any deductible losses under any policy required above.

SECTION 4.0: SPECIFICATIONS/SCOPE OF SERVICES

4.1. General/Background: The City of Grand Junction, on behalf of Mesa County, is soliciting proposals from qualified professional design/build firms/contractors specializing in the design, development, and construction of Compressed Natural Gas (CNG) fueling facilities, for the purposes of providing design services and construction of a new compressed natural gas (CNG) fueling facility to be located at the City's Municipal Campus area at 333 West Avenue, Grand Junction, CO.

This fueling facility will be dedicated to Grand Valley Transit (GVT) buses that are up to 40' long and the design must include appropriate considerations. See the site plan for approximate layout for the new fueling facility. The equipment includes 20 dispensers, or time fill posts, consisting of a pole, hose, nozzle and associated plumbing and safety equipment that will be used exclusively by GVT buses. Additional equipment includes one fast fill post, a compressor with up to 200 horsepower, a storage vessel assembly with 198 Diesel Gallon Equivalent (DGE) capacity, and connectivity to the BioCNG pipeline. The complete equipment list is below.

The existing and proposed equipment, as well as the existing public fast fill post, will be interconnected. While interconnected, this CNG fueling complex will have the option to isolate particular sections to become a stand-alone system, providing redundancy should our existing system go down. The new compressor will function for any isolated part of the fueling complex.

Other Participating Agencies:

The City of Grand Junction will conduct site work to prepare the construction area before the contractor arrives for construction. The City anticipates being responsible for maintenance of the fueling equipment as outlined in the CNG Maintenance Plan. However, the City would also like to receive pricing and maintenance options from the design/build firms, for the possibility of the maintenance being provided by the firm.

New Facility Objectives:

The objective for a CNG fueling facility dedicated to GVT is to increase the stability of fuel cost, support local jobs in the regional CNG extraction industry, reduce dependency on foreign fossil fuels, and lower exhaust emissions, especially particulate matter, to maintain our standing as an Air Quality Attainment Area.

Overall, the existing CNG fueling station combined with the new fueling equipment will boost capacity for both public sector fleets and encompasses the foreseeable expansion of fleet

vehicles. The quantity of fueling posts matches the fueling demand at any given time for both partners: the City of Grand Junction will have 20 time fill posts for their fleet and GVT will have 20 time fill posts for their buses. The proposed fast fill post will be dedicated to the GVT fleet but will be available to City fleet as needed.

Through fuel and post availability for the City and GVT fleet, this equipment setup eliminates public sector fleet consumption from the public fast fill station. By ensuring the public fast fill is primed for individuals when they pull up to the pump, this project will bolster a shift towards CNG in both the private and public sectors, further promoting alternative fuel use for a more livable Mesa County.

Budget:

The total all inclusive budget for this project is \$750,000, excludes option maintenance costs and shall not be exceeded. Reference Section 4.2.1 "Pricing" for details.

Grants:

This project has been funded through grants from the Federal Transit Administration and the Colorado Department of Transportation. The local match comes from the Grand Valley Regional Transportation Committee intergovernmental agreement.

Davis-Bacon Act Requirements:

This project is regulated by the Davis-Bacon Act. If awarded this contract, wage determination documents must be completed and submitted as part of your construction documentation.

The Davis-Bacon Act applies to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works. Davis-Bacon Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal contracts.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek.

New CNG Facility Ownership:

Mesa County RTPO will own the fueling facility. Through a Memorandum of Understanding, the City of Grand Junction will lease the property and maintain the equipment. However, we are also interested in exploring the option of a maintenance contract with the selected firm (See attached minimum maintenance expectations). Please provide information as to your maintenance options, coverage, and pricing (this optional pricing to be provided on your submitted Solicitation Response Form).

4.2. Special Conditions/Provisions:

4.2.1 Pricing: Pricing shall be established as “cost plus a fixed fee with a guaranteed maximum price”, and shall be all inclusive to include but not be limited to: all design, labor, equipment, supplies, materials, freight (F.O.B. Destination – Freight Pre-paid and Allowed to the site), travel, meetings, conference calls, mobilization costs, fuel, set-up and take down costs, and full-time inspection costs, and all other costs related to the successful completion of the project.

The Owner shall not pay nor be liable for any other additional costs including but not limited to: taxes, shipping charges, insurance, interest, penalties, termination payments, attorney fees, liquidated damages, etc.

Add/Optional pricing for maintenance fees shall not be included in the Fixed Fee or Guaranteed Maximum Price.

4.2.2 Contractor must meet all federal, state, and local rules, regulations, and requirements for providing such services.

4.2.3 Licenses and Permits: Contractor is responsible for obtaining all necessary licenses and permits required for Construction, at Contractors expense. See Section 2.3.

4.2.4 Freight/Shipping: All freight/shipping shall be F.O.B. Destination – Freight Pre-Paid and Allowed to each of the project sites.

4.2.5 Equipment/Product/Materials Quantities: Contractor shall be responsible for determining all measurements for correctness, and all quantities/types of equipment/products/materials required for successful project completion. Also see Section 2.5 **Quantities of Work and Unit Price.**

4.2.6 Contractor Staging Area: Awarded Contractor shall coordinate with Owner for proposed project staging area, to include where busses will be stored and GVT staff will park, during the construction phase.

4.2.7 Working Schedule: Seven days per week 7:00am-Dusk.

4.2.8 Contract: A binding contract shall consist of: (1) the RFP and any amendments thereto, (2) the firm’s response (proposal) to the RFP, (3) clarification of the proposal, if any, and (4) the City’s Purchasing Department’s acceptance of the proposal by “Notice of Award”. All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.

A. The contract expresses the complete agreement of the parties and, performance shall be governed solely by the specifications and requirements contained therein.

B. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by

and between the duly authorized representative of the bidder and the City Purchasing Division or by a modified Purchase Order prior to the effective date of such modification. The firm expressly and explicitly understands and agrees that no other method and/or no other document, including acts and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

- 4.3. Specifications/Scope of Services:** Mesa County is seeking the services of a single CNG design/build firm, to design, obtain all permits, construct, manufacture, procure equipment/material, install, and test the vehicle refueling station to support the County's current and future CNG fleet assigned to this new facility.

Minimum CNG Design/Build Firm Requirements:

- At least five years in the industry, with experience directly related to owning and operating facilities similar in size and scope.
- Successfully completed three (3) similar projects in the last five (5) years.
- Each design/build firm must show:
 - (a) complete disclosure of any incidents of default on projects where the Firm or related entity acted as project sponsor and the current status of such incidents;
 - (b) complete disclosure of any liabilities, contingent liabilities, obligations, charges and liens, covenants, off-balance sheet financing arrangements, defaults, legal action pending, or other matters that might prevent the Firm from implementing the Project; and
 - (c) the Firm's or related entity's latest audited financial statements available as at the date of the RFP Submission.
- Must provide a sample/proposed contract to review and a copy of any contracts entered into with any other public bodies.
- Ability to meet the bonding and insurance requirements of the Mesa County. Submit a Bid Bond and COI with this response.
- Architect and engineers retained to construct facility are to be licensed/registered to practice in Colorado.
- Qualified and permitted by law to perform the services provided for this project. All personnel engaged in this work for this project shall likewise be qualified and permitted to perform necessary duties.
- Ensure compliance with all applicable environmental regulations related to the project.
- The ability to develop value engineered solution options, budget and/or cost estimates, plans, drawings, designs, and to obtain and manage permitting, scheduling and any other typical building construction task.
- Project management and supervision.

- Coordination of construction, scheduling of construction meetings and resolving discrepancies or disputes with sub-contractors or other supply or services vendors.
- Preparation of all plans, schematics, drawings, scope, specifications, and all other related documents and requirements associated with the successful completion of this project..
- Providing a time frame for completion of total design development, and each construction phase as well as a schedule for total completion of the project.
- Scheduling inspections and meeting applicable National, State and local building code requirements to achieve approval of work. The selected firm will be responsible for obtaining all building permits and will be responsible for permit related fees.
- The CNG firm may use local, qualified partners in design, engineering, construction and maintenance of the facility.

Summary of Requirements of the selected Design/Build Firm:

- Designing a CNG vehicle fueling station (at a minimum Design shall consist of: architectural and engineering, program management, construction management, feasibility studies (if required), preliminary engineering, design, architectural engineering, surveying, mapping or other related A&E Services;
- Securing all local, state and Federal permits required to construct the Station;
- Determining if utility upgrades are required for operation of the Station and coordinating any required utility upgrades;
- Constructing the Station on a site provided by Owner;
- Completion of all work on the Station (including testing and commissioning) by December 31, 2016;
- Providing training to Owner employees on vehicle fueling and Station operating, safety and emergency procedure, and;
- Owner shall be the sole contracting entity for the equipment and be provided by the selected Contractor.

Additional Requirements: Design/Build Firm shall also comply with the attached Federal Clauses, per Section 8.

See attached site map for proposed facility location.

- 4.4. Recommended Site Visit/Briefing:** A site visit is recommended for all prospective offerors. The purpose of this visit will be to inspect and to clarify the contents of this Request for Proposal (RFP). Meeting location shall be at the City of Grand Junction Fleet Facility located at 333 West Avenue, Building C, Grand Junction, CO on August 11, 2016 at 10:00am. Nothing stated during the Site Visit/Briefing will modify the solicitation. Only information provided in an addendum can modify the solicitation.

4.5. RFP Tentative Time Schedule:

- Request for Proposal available July 29, 2016
- Recommended Site Visit August 11, 2016
- Inquiry deadline, no questions after this date August 18, 2016
- Addendum Posted August 25, 2016
- Submittal deadline for proposals September 1, 2016
- Owner evaluation of proposals September 2 – 9, 2016
- Interviews, if required September 15, 2016
- Final selection September 16, 2016
- Contract execution September 26, 2016
- Work begins no later than September 27, 2016

4.6. Questions Regarding Scope of Services:

Duane Hoff Jr., Senior Buyer
duaneh@qjcity.org

SECTION 5.0: PREPARATION AND SUBMITTAL OF PROPOSALS

Submission: Each proposal shall be submitted in electronic format only, and only through the Rocky Mountain E-Purchasing website (<https://www.rockymountainbidsystem.com/default.asp>). This site offers both “free” and “paying” registration options that allow for full access of the Owner’s documents and for electronic submission of proposals. (Note: “free” registration may take up to 24 hours to process. Please Plan accordingly.) Please view our “**Electronic Vendor Registration Guide**” at <http://www.gjcity.org/BidOpenings.aspx> for details. (Purchasing Representative does not have access or control of the vendor side of RMEPS. If website or other problems arise during response submission, vendor **MUST** contact RMEPS to resolve issue prior to the response deadline; **800-835-4603**). For proper comparison and evaluation, the City requests that proposals be formatted as directed. Offerors are required to indicate their interest in this Project, show their specific experience and address their capability to perform the Scope of Services in the Time Schedule as set forth herein. For proper comparison and evaluation, the Owner requires that proposals be formatted **A to K**.

- A. Cover Letter:** Cover letter shall be provided which explains the Firm’s interest in the project. The letter shall contain the name/address/phone number/email of the person who will serve as the firm's principal contact person with Owner’s Contract Administrator and shall identify individual(s) who will be authorized to make presentations on behalf of the firm. The statement shall bear the signature of the person having proper authority to make formal commitments on behalf of the firm. By submitting a response to this solicitation the Contractor agrees to all requirements herein.
- B. Qualifications/Experience/Credentials:** Proposers shall provide their qualifications for consideration as a contract provider to Mesa County and include prior experience in similar projects.
- C. Strategy and Implementation Plan:** Describe your (the firm’s) interpretation of the Owner’s objectives with regard to this RFP. Describe the proposed strategy and/or plan for achieving the objectives of this RFP. The Firm may utilize a written narrative or any other printed technique to demonstrate their ability to satisfy the Scope of Services. The narrative should describe a logical progression of tasks and efforts starting with the initial steps or tasks to be accomplished and continuing until all proposed tasks are fully described and the RFP objectives are accomplished. Include a **time schedule (for both Design, and Build phases)** for completion of your firm’s implementation plan and an estimate of time commitments from Owner staff.
- D. References:** A minimum of three (3) **references** with name, address, telephone number, and email address that can attest to your experience in projects of similar scope and size.
- E. Bid Bond and Certificate of Insurance:** Proposer shall submit a Bid Bond and Certificate of Insurance, as per the solicitation documents.
- F. Fee Proposal:** Provide your fee proposal, as stated in Section 4.2.1 Pricing, using the Solicitation Response Form found in Section 7.

- G. Buy America Requirements and Certification Form:** Proposer shall submit their completed Buy America Certification Form with their proposal, attached below.
- H. Appendix A – Certification Regarding Lobbying:** Proposer shall submit their completed Certification Regarding Lobbying Form with their proposal, attached below.
- I. Additional Documents:** Proposer shall submit any and all additional documents required by the solicitation documents for consideration in this proposal process.
- J. Financial Statements:** Proposer shall provide an audited financial statement, as prepared by a certified public accountant, for their prior fiscal year, consisting of a balance sheet, profit and loss statement and such other financial statements as may be appropriate, which shall demonstrate that the proposer possesses adequate financial ability and stability to enable the Proposer to fulfill their obligations under the terms of this RFP. If requested by the Proposer, such information shall be treated as confidential by the Owner and shall not be subject to public disclosure. These documents must depict the financial status of that entity, subsidiary, division, or subdivision thereof, which will actually provide services. If the Proposer is a partnership or joint venture, individual financial statements must be submitted for each general partner or joint venture thereof. Consolidated balance sheets and profit/loss statements depicting the financial status of a Parent Corporation or joint venture shall not be considered an acceptable response.
- K. Additional Data (optional):** Provide any additional information that will aid in evaluation of your qualifications with respect to this project.

SECTION 6.0: EVALUATION CRITERIA AND FACTORS

- 6.1 Evaluation:** An evaluation team shall review all responses and select the proposal or proposals that best demonstrate the capability in all aspects to perform the scope of services and possess the integrity and reliability that will ensure good faith performance.
- 6.2 Intent:** Only respondents who meet the qualification criteria will be considered. Therefore, it is imperative that the submitted proposal clearly indicate the firm's ability to provide the services described herein.

Submittal evaluations will be done in accordance with the criteria and procedure defined herein. The Owner reserves the right to reject any and all portions of proposals and take into consideration past performance. The following parameters will be used to evaluate the submittals (in order of most importance):

- 1-Understanding of the project and the objectives
- 2-Experience/Required Skills
- 3-Strategy & Implementation Plan
- 4-Fees
- 5-Necessary resources
- 6-Financial Stability
- 7-References
- 8-Responsiveness of submittal to the RFP

Owner also reserves the right to take into consideration past performance of previous awards/contracts with the Owner of any vendor, contractor, supplier, or service provider in determining final award(s).

The Owner will undertake negotiations with the top rated short listed firms and will not negotiate with lower rated firms unless negotiations with higher rated firms have been unsuccessful and terminated.

- 6.3 Oral Interviews:** The Owner may invite the most qualified rated proposers to participate in oral interviews.
- 6.4 Award:** Firms shall be ranked or disqualified based on the criteria listed in Section 6.2. The Owner reserves the right to consider all of the information submitted and/or oral presentations, if required, in selecting the project Contractor.

SECTION 7.0: SOLICITATION RESPONSE FORM

RFP-4238-16-DH "Design/Build Compressed Natural Gas (CNG) Fueling Facility"

Offeror must submit entire Form completed, dated and signed.

1) Cost plus a Fixed Fee with a Guaranteed Maximum Price:

Fixed Fee \$ _____

WRITTEN: _____ **dollars.**

Guaranteed Maximum Price \$ _____

WRITTEN: _____ **dollars.**

Add/Optional Maintenance Price (per month): _____

WRITTEN: _____ **dollars.**

The Owner reserves the right to accept any portion of the work to be performed at its discretion

The undersigned has thoroughly examined the entire Request for Proposals and therefore submits the proposal and schedule of fees and services attached hereto.

This offer is firm and irrevocable for sixty (60) days after the time and date set for receipt of proposals.

The undersigned Offeror agrees to provide services and products in accordance with the terms and conditions contained in this Request for Proposal and as described in the Offeror's proposal attached hereto; as accepted by the Owner.

Prices in the proposal have not knowingly been disclosed with another provider and will not be prior to award.

- Prices in this proposal have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition.
- No attempt has been made nor will be to induce any other person or firm to submit a proposal for the purpose of restricting competition.
- The individual signing this proposal certifies they are a legal agent of the offeror, authorized to represent the offeror and is legally responsible for the offer with regard to supporting documentation and prices provided.
- Direct purchases by the City of Grand Junction are tax exempt from Colorado Sales or Use Tax. Tax exempt No. 98-903544.
- Direct purchases by Mesa County are tax exempt from Colorado Sales or Use Tax. Tax exempt #98-04241.
- The undersigned certifies that no Federal, State, County or Municipal tax will be added to the above quoted prices.

- Prompt payment discount of _____ percent of the net dollar will be offered to the Owner if the invoice is paid within _____ days after the receipt of the invoice. Payment Terms _____.

RECEIPT OF ADDENDA: the undersigned Contractor acknowledges receipt of Addenda to the Solicitation, Specifications, and other Contract Documents.

State number of Addenda received: _____.

It is the responsibility of the Proposer to ensure all Addenda have been received and acknowledged.

Company Name – (Typed or Printed)

Authorized Agent – (Typed or Printed)

Authorized Agent Signature

Phone Number

Address of Offeror

E-mail Address of Agent

City, State, and Zip Code

Date



General Decision Number: CO160012 05/06/2016 CO12

Superseded General Decision Number: CO20150012

State: Colorado

Construction Type: Heavy

Counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo and Weld Counties in Colorado.

HEAVY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.15 for calendar year 2016 applies to all contracts subject to the Davis-Bacon Act for which the solicitation was issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.15 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/08/2016
1	01/15/2016
2	01/22/2016
3	03/11/2016
4	03/18/2016
5	03/25/2016
6	05/06/2016

ASBE0028-001 10/01/2014

	Rates	Fringes
Asbestos Workers/Insulator (Includes application of all insulating materials, protective coverings, coatings and finishings to all types of mechanical systems).....	\$ 28.83	13.53
<hr style="border-top: 1px dashed black;"/>		

* BRCO0007-004 01/01/2016

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS AND JEFFERSON COUNTIES

	Rates	Fringes
BRICKLAYER.....	\$ 26.01	7.71

 BRCO0007-006 05/01/2015

EL PASO AND PUEBLO COUNTIES

	Rates	Fringes
BRICKLAYER.....	\$ 24.44	8.90

 ELEC0012-004 09/01/2015

PUEBLO COUNTY

	Rates	Fringes
ELECTRICIAN		
Electrical contract over		
\$1,000,000.....	\$ 27.35	11.00+3%
Electrical contract under		
\$1,000,000.....	\$ 24.85	11.00+3%

 ELEC0068-001 06/01/2015

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,
 JEFFERSON, LARIMER, AND WELD COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 33.15	13.46

 ELEC0111-001 01/01/2016

	Rates	Fringes
Line Construction:		
Groundman.....	\$ 18.79	22.25%+\$5.45
Line Equipment Operator.....	\$ 29.40	22.25%+\$5.45
Lineman and Welder.....	\$ 42.14	25.25%+\$5.45

 ELEC0113-002 06/01/2015

EL PASO COUNTY

	Rates	Fringes
ELECTRICIAN.....	\$ 30.00	14.95

 ELEC0969-002 06/01/2015

MESA COUNTY

	Rates	Fringes
ELECTRICIAN.....	\$ 24.00	7.92

 ENGI0009-001 10/23/2013

	Rates	Fringes
--	-------	---------

Power equipment operators:

Blade: Finish.....	\$ 25.04	9.15
Blade: Rough.....	\$ 24.73	9.15
Bulldozer.....	\$ 24.73	9.15
Cranes: 50 tons and under..	\$ 24.88	9.15
Cranes: 51 to 90 tons.....	\$ 25.04	9.15
Cranes: 91 to 140 tons.....	\$ 25.19	9.15
Cranes: 141 tons and over...	\$ 25.97	9.15
Forklift.....	\$ 24.37	9.15
Mechanic.....	\$ 24.88	9.15
Oiler.....	\$ 24.01	9.15
Scraper: Single bowl under 40 cubic yards.....	\$ 24.88	9.15
Scraper: Single bowl, including pups 40 cubic yards and over and tandem bowls.....	\$ 25.04	9.15
Trackhoe.....	\$ 24.88	9.15

IRON0024-003 11/01/2013

	Rates	Fringes
Ironworkers:.....	\$ 24.80	18.77
Structural		

LABO0086-001 05/01/2009

	Rates	Fringes
Laborers:		
Pipelayer.....	\$ 18.68	6.78

PLUM0003-005 07/01/2014

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,
JEFFERSON, LARIMER AND WELD COUNTIES

	Rates	Fringes
PLUMBER.....	\$ 35.18	12.34

PLUM0058-002 07/01/2015

EL PASO COUNTY

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 34.30	14.38

PLUM0058-008 07/01/2015

PUEBLO COUNTY

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 34.30	14.38

PLUM0145-002 07/01/2013

MESA COUNTY

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 32.67	11.55

PLUM0208-004 06/01/2015ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,
JEFFERSON, LARIMER AND WELD COUNTIES

	Rates	Fringes
PIPEFITTER.....	\$ 35.35	13.39

SHEE0009-002 07/01/2015

	Rates	Fringes
Sheet metal worker.....	\$ 32.85	14.63

TEAM0455-002 07/01/2015

	Rates	Fringes
Truck drivers:		
Pickup.....	\$ 19.66	4.02
Tandem/Semi and Water.....	\$ 20.29	4.02

SUCO2001-006 12/20/2001

	Rates	Fringes
BOILERMAKER.....	\$ 17.60	
Carpenters:		
Form Building and Setting....	\$ 16.97	2.74
All Other Work.....	\$ 15.14	3.37
Cement Mason/Concrete Finisher....	\$ 17.31	2.85
IRONWORKER, REINFORCING.....	\$ 18.83	3.90
Laborers:		
Common.....	\$ 11.22	2.92
Flagger.....	\$ 8.91	3.80
Landscape.....	\$ 12.56	3.21
Painters:		
Brush, Roller & Spray.....	\$ 15.81	3.26
Power equipment operators:		
Backhoe.....	\$ 16.36	2.48
Front End Loader.....	\$ 17.24	3.23
Skid Loader.....	\$ 15.37	4.41

WELDERS - Receive rate prescribed for craft performing

operation to which welding is incidental.

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

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

Union Rate Identifiers

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

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

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

Union Average Rate Identifiers

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

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

WAGE DETERMINATION APPEALS PROCESS

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

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

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

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

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

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

Wage and Hour Administrator
U.S. Department of Labor

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

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

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

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

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

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END OF GENERAL DECISION

BUY AMERICA REQUIREMENTS - 49 U.S.C. 5323(j); 49 CFR Part 661

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

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

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

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

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

Date _____

Signature _____

Company Name _____

Title _____

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

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

Date _____

Signature _____

Company Name _____

Title _____

Certification requirement for procurement of buses, other rolling stock and associated equipment.

Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

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

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

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

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

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

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

CNG Station Maintenance - Minimums.

In order to ensure the safety of our station users, operators, and the General public the Mesa County is asking for optional pricing for a maintenance contract on our Compressed Natural Gas fueling facility.

Below is a general outline of what we are looking for.

A routine scheduled maintenance program where the fueling station owner takes primary control of fueling station maintenance and uses an outside maintenance contractor to perform critical equipment rebuilds, i.e., dryer, compressor, dispenser, and PLC controller. The outside contractor would also be supportive in the maintenance program by providing periodic inspections of their own as a proactive measure to insure our daily maintenance activities are being performed in a manner that will ensure that the high-pressure fuel system equipment is safe to operate and use to fuel vehicles.

The maintenance contractor shall support our goals of our maintenance plan which include Manage maintenance activities, Monitor system operation, provide emergency fueling support, Enhance equipment reliability and Deliver clean fuel to vehicles, through an established proactive and scheduled maintenance plan, thus keeping reactive repairs as minimal as possible.

All Daily maintenance activities performed are documented on an operation and maintenance form. This form contains the date, time, ambient temperature, and a list of specific items to be checked, recorded, drained, or added at the time the activity is performed.(See attached)

Annual maintenance and other repairs are tracked through the Cities Fleet Management software and backed up with copies of sublet invoices.

Consideration shall be given to stipulating in the maintenance contract a penalty for failure of the maintenance contractor to respond to a call-out or failure to perform specified operation, maintenance or repair tasks that result in an inoperable fueling system. The amount of the penalty should be proportional to the cost and inconvenience of not having the fueling station operational when needed to fuel vehicles.

PM DUE	11377	5-11 to 5-14 Jerry Schrock							
DATE	METER	Compressor A (SER.# 1012105) IR 20H40NG	INLET	CRANKCASE	1ST STAGE	2ND STAGE	3RD STAGE	DISCHARGE	
9-May		Monday							
10-May		Tuesday							
11-May		Wednesday							
12-May		Thursday							
13-May		Friday							
PM DUE	6651	Compressor B (SER.# 1012115) IR 20H40NG							
9-May		Monday							
10-May		Tuesday							
11-May		Wednesday							
12-May		Thursday							
13-May		Friday							
		CHECK OFF	MON	TUES	WED	THURS	FRI		
		DRAIN VENT GAS RECOVERY TANK		0	0	0	0		
		DRAIN CNG COALESCING FILTER	0	0	0	0	0		
		DRAIN PULSATION TANK	0	0	0	0	0		
		VISUALLY LOOK FOR OIL & FROST ON LINES	0	0	0	0	0		
		LISTEN FOR UNUSUAL NOISES/VIBRATIONS	0	0	0	0	0		
		VISUALLY LOOK FOR ANY OTHER LEAKS	0	0	0	0	0		
		LISTEN AND SMELL FOR GAS LEAKS	0	0	0	0	0		oil out
OIL A		RECORD AMOUNT OF OIL ADDED COMP A							
OIL B		RECORD AMOUNT OF OIL ADDED COMP B							
PM DUE	5471	Compressor C (SER# 1012190) IR 20H40NG	INLET	CRANKCASE	1ST STAGE	2ND STAGE	3RD STAGE	DISCHARGE	
9-May		Monday							
10-May		Tuesday							
11-May		Wednesday							
12-May		Thursday							
13-May		Friday							
		CHECK OFF	MON	TUES	WED	THURS	FRI		
		DRAIN VENT GAS RECOVERY TANK	0	0	0	0	0		
		DRAIN STORAGE SPHERES (BRT's)	0	0	0	0	0		
		DRAIN PULSATION TANK	0	0	0	0	0		
		DRAIN ESD TANK	0	0	0	0	0		
		VISUALLY LOOK FOR OIL & FROST ON LINES	0	0	0	0	0		
		LISTEN FOR UNUSUAL NOISES/VIBRATIONS	0	0	0	0	0		
		VISUALLY LOOK FOR ANY OTHER LEAKS	0	0	0	0	0		
		LISTEN AND SMELL FOR GAS LEAKS	0	0	0	0	0		OIL OUT
OIL		RECORD AMOUNT OF OIL ADDED COMP C							
		CHECK OFF	MON	TUES	WED	THURS	FRI		
		Site Walk, INCLUDES Fast Fill system	0	0	0	0	0		
		visually inspect hoses and nozzles	0	0	0	0	0		
		Check for leaks, cracks, hose wear, frost	0	0	0	0	0		
PM DUE	1229	Compressor D (SER 01272) ANGI NG-50	INLET	CRANKCASE	1ST STAGE	2ND STAGE	3RD STAGE	DISCHARGE	
9-May		Monday							
10-May		Tuesday							
11-May		Wednesday							
12-May		Thursday							
13-May		Friday							
0-Jan		CYLINDER TEMPERATURE	1ST	2ND	3RD	4TH	Amb. Temp	run time	
	MON								
	TUES								
	WED								
	THURS								
	FRI								
		CHECK OFF	MON	TUES	WED	THURS	FRI		
		DRAIN VENT GAS RECOVERY TANK	0	0	0	0	0		
		DRAIN STORAGE SPHERES (BRT's)	0	0	0	0	0		
		DRAIN PULSATION TANK	0	0	0	0	0		
		DRAIN ESD TANK	0	0	0	0	0		
		VISUALLY LOOK FOR OIL & FROST ON LINES	0	0	0	0	0		
		LISTEN FOR UNUSUAL NOISES/VIBRATIONS	0	0	0	0	0		
		VISUALLY LOOK FOR ANY OTHER LEAKS	0	0	0	0	0		
		LISTEN AND SMELL FOR GAS LEAKS	0	0	0	0	0		
OIL OUT		RECORD AMOUNT OF OIL DRAINED COMP D							
OIL ADD		RECORD AMOUNT OF OIL ADDED COMP D							

SECTION 8.0: FEDERAL CLAUSES

FEDERAL TRANSIT ADMINISTRATION (FTA) CLAUSES

APPROPRIATION AND THE AVAILABILITY FUNDING: The Contractor acknowledges and understands that this contract is funded in whole or in part by the Federal Transit Administration (FTA) and administered by the County. Both the County and the Contractor are Parties to this Contract. In accordance with the Colorado Constitution, Article X, Section 20, and the County Charter, performance of the County's obligations under this Contract is expressly subject to appropriation of funds by the FTA and/or the County's Board of County Commissioners for this contract and the availability of those appropriated funds for expenditure. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of the County's obligations under this Contract, or appropriated funds may not be expended due to the County, Constitutional or the FTA spending limitations, then the County may terminate this Agreement without compensation to the Contractor. Performances of the Contractor's obligations under this contract are expressly subject to appropriation of funds by the County and/or the FTA and the availability of those funds for the payment of obligations incurred under this contract. Further, in the event that County and/or FTA funds are not appropriated in whole or in part sufficient for performance of the Contractor's obligations under this Contract, or appropriated funds may not be expended due to legal limitations on non-availability, then the County may terminate this Contract without compensation to the Contractor.

NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

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

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

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance

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

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

ACCESS TO RECORDS

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

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

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

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

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

FEDERAL CHANGES

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

CIVIL RIGHTS REQUIREMENTS

The following requirements apply to the underlying contract:

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

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

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

- (b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

VETERAN'S EMPLOYMENT FOR CONSTRUCTION PROJECTS

Contractors working on a capital project funded by FTA give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

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 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Mesa County requests which would cause Mesa County to be in violation of the FTA terms and conditions.

ENERGY CONSERVATION REQUIREMENTS

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

TERMINATION PROVISIONS

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

property in its possession belonging to Mesa County, the Contractor will account for the same, and dispose of it in the manner Mesa County directs.

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

c. Opportunity to Cure (General Provision) Mesa County in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 10 calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to Mesa County's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) calendar days after receipt by Contractor of written notice from Mesa County setting forth the nature of said breach or default, Mesa County shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Mesa County from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that Mesa County elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Mesa County shall not limit Mesa County's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

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

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, Mesa County may terminate this contract for default. Mesa County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County.

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in

this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, Mesa County may terminate this contract for default. Mesa County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of the County's goods, the Contractor shall, upon direction of the Mesa County, protect and preserve the goods until surrendered to the County or its agent. The Contractor and Mesa County shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Mesa County.

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, Mesa County may terminate this contract for default. Mesa County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the County may take over the work and compete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the County resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the County in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the County, acts of another Contractor in the performance of a contract with the County, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The contractor, within ten (10) calendar days from the beginning of any delay, notifies the County in writing of the causes of delay. If in the judgment of Mesa County, the delay is excusable, the time for completing the work shall be extended. The judgment of Mesa County shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the County.

i. Termination for Convenience or Default (Architect and Engineering) Mesa County may terminate this contract in whole or in part, for the County's convenience or because of the failure of the Contractor to fulfill the contract obligations. Mesa County shall terminate by delivering to

the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the County, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the County may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the County.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County.

j. Termination for Convenience of Default (Cost-Type Contracts) Mesa County may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of Mesa County or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from Mesa County), or property supplied to the Contractor by Mesa County. If the termination is for default, Mesa County may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Mesa County and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Mesa County the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, Mesa County determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, Mesa County after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

DEBARMENT AND SUSPENSION

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

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

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

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

BREACHES AND DISPUTE RESOLUTION 49 CFR Part 18 FTA Circular 4220.1

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the County. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the County. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the County shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the County, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the County and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the County is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the County or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach there under, except as may be specifically agreed in writing.

LOBBYING 31 U.S.C. 1352; 49 CFR Part 19; 49 CFR Part 20

Clause and specific language herein are mandated by 49 CFR Part 19, Appendix A.

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

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of

1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

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

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

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

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

CLEAN AIR 42 U.S.C. 7401 et seq 40 CFR 15.61 49 CFR Part 18

1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

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

CLEAN WATER REQUIREMENTS 33 U.S.C. 1251

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

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

CARGO PREFERENCE

Use of United States-Flag Vessels - The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed

separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

FLY AMERICA REQUIREMENTS 49 U.S.C. § 40118; 41 CFR Part 301-10

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act. Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases. The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance. The relevant statutes and regulations do not mandate any specified clause or language. FTA proposes the following language.- The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

(All construction contracts over \$2,000)

Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

- (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

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

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

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

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

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

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

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and

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

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

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

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

(2) **Withholding** - The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the County may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours

worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the County for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

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

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

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

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

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

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the

Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If

the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

(6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or 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** - (i) 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).

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

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

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

(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 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 (write in the name of the grantee) 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 paragraphs (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.

BONDING REQUIREMENTS

Bid Bond Requirements (Construction)

(a) Bid Security

A Bid Bond must be issued by a fully qualified surety company acceptable to County and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described there under.

(b) Rights Reserved

In submitting this Bid, it is understood and agreed by bidder that the right is reserved by County to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of County.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of County, shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of County's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefore.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by the County as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense the County for the damages occasioned by default, then the undersigned bidder agrees to indemnify the County and pay over to County the difference between the bid security and the County total damages, so as to make the County whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the County determines that a lesser amount would be adequate for the protection of the County.
2. The County may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The County may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal:
 - (i) Fifty percent of the contract price if the contract price is not more than \$1 million.

(ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(iii) Two and one half million if the contract price is more than \$5 million.

2. If the original contract price is \$5 million or less, the County may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the County's interest.

(a) The following situations may warrant a performance bond:

1. The County property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).

2. A contractor sells assets to or merges with another concern, and the County, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

3. Substantial progress payments are made before delivery of end items starts.

4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the County determines that a lesser amount would be adequate for the protection of the County.

2. The County may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The County may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the County's interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:

(i) Fifty percent of the contract price if the contract price is not more than \$1 million;

(ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(iii) Two and one half million if the contract price is increased.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The County shall determine the amount of the advance payment bond necessary to protect the (County).

Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The County shall determine the amount of the patent indemnity to protect the County.

Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to County, the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by County, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the Project Manager, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by the County and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to the County. As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment, furnish separate Maintenance (or Guarantee) Bonds in form acceptable to the County written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS FOR CONSTRUCTION ACTIVITIES

In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with:

- (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and
- (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

DISADVANTAGED BUSINESS ENTERPRISES

1. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. Mesa County's overall goal for DBE participation is 1%. A separate contract goal has not been established for this procurement.
2. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Mesa County deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
3. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
4. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from Mesa County. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.
5. The contractor must promptly notify Mesa County, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Mesa County.

PROMPT PAYMENT TO SUBCONTRACTORS

1. The Contractor is required to pay all Subcontractors for all work that the Subcontractor has satisfactorily completed, no later than five (5) business days after the Contractor has received payment from Mesa County.
2. In addition, all Retainage amounts must be paid by the Contractor to the Subcontractor no later than fourteen (14) business days after the Subcontractor has, in the opinion of the Contractor, satisfactorily completed its portion of the Work.
3. A delay in or postponement of payment to the Subcontractor requires good cause and prior written approval Mesa County.
4. The Contractor is required to include, in each subcontract, a clause requiring the use of appropriate arbitration mechanisms to resolve all payment disputes.
5. Mesa County will not pay the Contractor for work performed unless and until the Contractor ensures that the Subcontractors have been promptly paid for the work they have performed under all previous payment requests, as evidenced by the filing with Mesa County of lien waivers, canceled checks (if requested), and the Contractor's sworn statement that it has complied with the prompt payment requirements. Prime Contractors must submit a prompt payment affidavit, (form to be provided by Mesa County) which identifies each subcontractor (both DBE and non-DBE) and the date and amount of the last payment to such subcontractor,

with every payment request filed with Mesa County, except for the first payment request, on every contract with Mesa County. (See below for *Prompt Payment Affidavit*).

6. Failure to comply with these prompt payment requirements is a breach of the Contract, which may lead to any remedies permitted under law, including, but not limited to, Contractor debarment.

Reporting Requirements During the Term of the Contract

1. The bidder shall, within five (5) business days of contract award, or prior to any work being performed, execute formal subcontracts or purchase orders with the DBE firms included in the bid. These written agreements shall be made available to Mesa County upon request. All contracts between the bidder and its subcontractors must contain a prompt payment clause.
2. During the term of annual contracts, the bidder shall submit regular "Status Reports of DBE Subcontract Payments" in a form acceptable to Mesa County. The frequency with which these reports are to be submitted will be determined by Mesa County, but in no event will reports be required less frequently than quarterly. **In the absence of written notice from Mesa County, the bidder's first "Status Report of DBE Subcontract Payments" will be due ninety (90) days after the date of contract award, with additional reports due quarterly thereafter.**
3. In the case of a one-time procurement with either a single or multiple deliveries, a "Status Report of DBE Subcontract Payments," in a form acceptable to Mesa County, indicating final DBE payments shall be submitted directly to Mesa County. The information must be submitted prior to or at the same time as the bidder's final invoice to Mesa County. **Failure to follow these directions may delay final payment.**
4. The address for Mesa County's DBE Program, is: Mesa County Regional Transportation Planning Office (RTPO), Attn: DBELO, PO Box 20,000, Dept 5093, Grand Junction, CO 81502-5001.

PROMPT PAYMENT AFFIDAVIT

Contractor will place a check in the appropriate box below that applies to this payment request.

Re: Payment Request No. _____

I, _____ (Name), the _____ (Title - e.g., President, Vice President, etc.) of _____ ("Company"), do state the following with regard to payments made under Contract No. _____ ("Contract"):

1. *____ Subcontractors, at the first tier, both DBE and non-DBE, who completed work and were listed for payment on the prior Payment Request No. _____, were paid no later than five (5) business days after Company received payment from Mesa County.*
2. *____ Copies of invoices and cancelled checks for subcontractors at the first tier who were paid under the prior payment request have been delivered or mailed to Mesa County RTPO. In addition, Company has attached to the current Payment Request all lien waivers for prior subcontractor payments and any other documentation required by Mesa County. (Failure to attach all required documentation to the Payment Request or forward cancelled checks and invoices to Mesa County RTPO may cause the Payment Request to be rejected Mesa County.)*
3. *____ All retainage amounts withheld from any subcontractor who satisfactorily completed its portion of the contract work, including punch list items, were paid to the subcontractor(s) no later than fourteen (14) business days after it satisfactorily completed its work, whether*

or not Mesa County has paid said retainage amounts to Company. Attach a copy of the cancelled check evidencing payment of each retainage amount.

- 4. ___ There was no delay in or postponement of any payment owed to a subcontractor, whether periodic payment or retainage amount, except for good cause and after receipt of prior written approval from Mesa County RTPO.

Attach a copy of the written approval from the Mesa County RTPO.

Company Name

Signature

Print Name

Date: _____

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

Notary Public

RECYCLED PRODUCTS 42 U.S.C. 6962; 40 CFR Part 247; Executive Order 12873

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

ADA ACCESSIBILITY

Facilities to be used in public transportation service must comply with 42 U.S.C. Sections 12101 *et seq.*; DOT regulations, —Transportation Services for Individuals with Disabilities (ADA),ll 49 CFR Part 37; and Joint ATBCB DOT regulations, —Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles, 36 CFR Part 1192 and 49 CFR Part 38. Notably, DOT incorporated by reference into Appendix A of its regulations at 49 CFR Part 37 the ATBCB’s —Americans with Disabilities Act Accessibility Guidelines (ADAAG), revised July 2004, which include accessibility guidelines for buildings and facilities. DOT also added specific provisions to Appendix A of 49 CFR Part 37 modifying the ADAAG, with the result that buildings and facilities must comply with both the ADAAG and the DOT amendments.

PRIVACY ACT 5 U.S.C. 552

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

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

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.