

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council Of Howard County, Maryland

2016 Legislative Session

Legislative Day No. **2**

Bill No. 6 -2016

Introduced by: The Chairperson at the request of the County Executive

AN ACT pursuant to Section 612 of the Howard County Charter, approving an Assignment of Amended Agreement between Howard County, Maryland, the Central Maryland Regional Transit Corporation and the Center for Transportation and the Environment for an assignment of an amended Consulting Agreement for the Electric Bus Project and ratifying the County's approval of the Assignment.

Introduced and read first time _____, 2016. Ordered posted and hearing scheduled.

By order _____
Jessica Feldmark, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2016.

By order _____
Jessica Feldmark, Administrator

This Bill was read the third time on _____, 2016 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Jessica Feldmark, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2016 at ___ a.m./p.m.

By order _____
Jessica Feldmark, Administrator

Approved/Vetoed by the County Executive _____, 2016

Allan H. Kittleman, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment

1 **WHEREAS**, prior to July 1, 2014, the Central Maryland Regional Transit Corporation
2 (“CMRT”) was under contract with the County to manage the County’s public transit system,
3 known as “Howard Transit”; and
4

5 **WHEREAS**, in 2012, the County and CMRT initiated a grant-funded project where
6 CMRT would replace three diesel buses in its bus fleet with three all-electric buses (the “Electric
7 Bus Project”); and
8

9 **WHEREAS**, in August of 2012, CMRT received a grant in the amount of \$3,574,658 for
10 the Electric Bus Project from the Federal Transit Administration (“FTA”) via the Maryland
11 Department of Transportation (“MDOT”); and
12

13 **WHEREAS**, the Maryland Transit Administration (“MTA”), an operating arm of
14 MDOT, administers the grant; and
15

16 **WHEREAS**, on or about October 23, 2012, a consulting agreement was entered into
17 between CMRT and the Center for Transportation and the Environment (“CTE”) where CTE
18 would provide project management and consulting services for the Electric Bus Project; and
19

20 **WHEREAS**, on July 1, 2014 the County ended its contract with CMRT for the
21 management of public transportation services and transferred the management of public
22 transportation services to the Regional Transportation Agency of Central Maryland (“RTA”);
23 and
24

25 **WHEREAS**, in October 2014, MTA reassigned the grant from CMRT to Howard
26 County in the amount of \$3,574,658 for the Electric Bus Project, \$50,000 of which was
27 appropriated by SAO 5-2015, with the remainder being appropriated by the Annual Budget and
28 Appropriation Ordinance for FY 2016; and
29

30 **WHEREAS**, since CTE’s participation in the project was integral to the Federal Transit

1 Administration’s decision to award the grant to CMRT, it was important to reassign the project
2 CTE’s management services agreement to the County to maintain the continuity of the Electric
3 Bus Project; and
4

5 **WHEREAS**, in November 2014, the parties entered an Assignment of Amended
6 Agreement, substantially in the form attached as Exhibit 1, where CMRT assigned its consulting
7 agreement with CTE to the County; and
8

9 **WHEREAS**, the Assignment of Amended Agreement was necessary so the project
10 management services of the Electric Bus Project could continue to be performed by CTE; and
11

12 **WHEREAS**, the term of the Assignment of Amended Agreement goes through August
13 2018; and
14

15 **WHEREAS**, such a multi-year term requires the payment by the County of funds from
16 an appropriation in a later fiscal year and therefore requires County Council approval as a multi-
17 year agreement pursuant to Section 612 of the Howard County Charter.
18

19 **NOW, THEREFORE,**
20

21 *Section 1. Be It Enacted by the County Council of Howard County, Maryland that in*
22 *accordance with Section 612 of the Howard County Charter, it approves the Assignment of*
23 *Amended Agreement between Central Maryland Regional Transit Corporation, The Center for*
24 *Transportation and the Environment, and Howard County through 2018, substantially in the*
25 *form of Exhibit 1 attached to this Act.*
26

27 *Section 2. And Be It Further Enacted by the County Council of Howard County, Maryland that*
28 *the County Council hereby ratifies the County Executive’s signature on the Assignment of*
29 *Amended Agreement for such term in the name of and on behalf of the County.*
30

1 **Section 3. And Be It Further Enacted** by the County Council of Howard County, Maryland that
2 *this Act shall be effective immediately upon its enactment.*

Assignment



Howard County
Internal Memorandum

SUBJECT:

TO: Ken Ulman
County Executive

Lonnie Robbins
Chief Administrative Officer

Ray Wacks
Budget Director

 Stan Milesky
Finance Director

Margaret Ann Nolan
County Solicitor

FROM: John Powell
Office of Transportation

DATE: November 18, 2014

RECEIVED
2014 NOV 20 A 11 16
HOWARD COUNTY
OFFICE OF LAW

- Date Submitted: November 18, 2014
- Who is making the request: John W. Powell, Jr., Administrator, Office of Transportation
- Dollar value for approval: Zero (\$ 0.00) to the County; all costs funded through the grant (executed by Howard County on October 29, 2014)
- Term of the Agreement: Through September, 2017
- Parties to the Agreement: The Center for Transportation and the Environment and Howard County
- What the Agreement Requires the County to Do: Coordinate with the Center for Transportation and the Environment on the management/oversight of the Howard County Electric Bus Project
- What the Agreement Requires the Contractor to Do: Provide management and oversight of the Howard County Electric Bus Project

RECEIVED
2014 NOV 20 A 11 16
HOWARD COUNTY
OFFICE OF LAW

ASSIGNMENT OF AMENDED AGREEMENT

This Assignment of Amended Agreement, dated this 21st day of November, 2014 (the "**Assignment Agreement**"), is entered into by and among The Central Maryland Regional Transit Corporation, a Maryland corporation ("**CMRT**"), The Center for Transportation and the Environment, a non-profit corporation, ("**CTE**"), and Howard County, Maryland, a body corporate and politic, through its Office of Transportation (the "**County**").

WHEREAS, CMRT and CTE were part of an applicant team that applied for and was awarded a grant under the Transit Investments for Greenhouse Gas and Emissions Reduction Program, Grant MD-88-0001 from the Maryland Transit Administration (the "**MTA**") to develop three (3) electronic buses for use in Howard County, Maryland (the "**Bus Program**"); and

WHEREAS, CMRT and CTE entered into a Consulting Agreement dated October 23, 2012, pursuant to which CTE agreed to undertake a scope of services relating to the Bus Program, which agreement is attached hereto as Exhibit A and made a part hereof (the "**Original Consulting Agreement**"); and

WHEREAS, CMRT has determined to exit from the Bus Program and as a result, wishes to assign its rights, duties and obligations under the Original Consulting Agreement to the County; and

WHEREAS, the MTA has re-granted the grant for the Bus Program to the County pursuant to the terms of a Grant Agreement dated October 29, 2014, in the amount of \$3,574,658 (the "**Bus Program Grant**"); and

WHEREAS, the County wishes to accept the assignment of CMRT's rights, duties and obligations under the Original Consulting Agreement, with certain revisions as provided herein, and CTE and CMRT wish to consent to such assignment and revisions in accordance with the terms hereof.

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Incorporation of Recitals. CMRT, the County, and CTE affirm that the foregoing recitals are true and accurate and that they intend, by this reference, that the foregoing Recitals be incorporated into this Assignment Agreement as operative provisions hereof.

2. Revision of Original Consulting Agreement. CMRT, the County and CTE hereby agree to revise the Original Consulting Agreement as follows:

(a) the County reserves the right to alter the insurance required of CTE per section 12 of the Original Consulting Agreement in order to ensure compliance with the County's legal requirements.

(b) section 15 of the Original Consulting Agreement is revised to substitute Howard County, Maryland, for Prince George's County.

(c) the Project Schedule, on pages 16-17, of the Original Consulting Agreement is replaced in its entirety by the schedule attached hereto and made a part hereof as Exhibit B.

(d) in Exhibit A to the Original Consulting Agreement, delete section 1.5 under "Work Plan", and replace it with the following: "Manufacture, inspection, and testing of the vehicles: CTE will conduct regular conference calls with the bus manufacturer that is selected by Howard County. CTE will provide an inspector to inspect the buses during the manufacturing process. CTE will monitor and report the progress of the manufacturing process compared to the schedule, budget, and technical specifications."

3. Assignment and Assumption. The parties hereto agree that the County shall assume and accept assignment of all of CMRT's rights, duties and obligations under the Original Consulting Agreement, as amended herein.

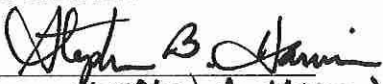
4. Authority to Execute. Each party represents and warrants to the other parties that the execution, delivery and performance contemplated herein are within its corporate powers and have been duly authorized by all necessary corporate or other action and that this Assignment Agreement constitutes its legal, valid and binding obligation.

5. Further Actions. CTE, CMRT and the County will execute, acknowledge and deliver any additional instruments, notices, releases and other documents and will promptly commence any acts necessary or advisable to fully assign to the County all of the respective rights, duties, and interest herein hereby granted or intended to be granted and to carry out their respective obligations under this Assignment Agreement.


6. Applicable Law. This Agreement shall be construed in all respects in accordance with the laws of the State of Maryland.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment Agreement to be executed and delivered, under seal, by its duly authorized officer or official on the date first above written.

CENTRAL MARYLAND REGIONAL TRANSIT CORPORATION

By: 
Name: STEPHEN B. HARRISON
Title: EXECUTIVE DIRECTOR

THE CENTER FOR TRANSPORTATION AND THE ENVIRONMENT

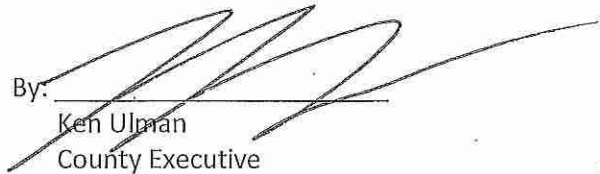
By: 
Name: DANIEL J. RAUDEBAUGH
Title: EXECUTIVE DIRECTOR

ATTEST:



Lonnie R. Robbins
Chief Administrative Officer

HOWARD COUNTY, MARYLAND
a body corporate and politic



By: _____
Ken Ulman
County Executive
Date: 11-26-14

APPROVED:



James M. Irvin, Director
Department of Public Works

APPROVED FOR SUFFICIENCY OF FUNDS:


Stanley J. Milesky, Director
Department of Finance

APPROVED FOR FORM AND LEGAL SUFFICIENCY

This 21 day of Nov 2014


Margaret Ann Nolan
County Solicitor

Reviewing Attorney:



Norman E. Parker, Jr.
Senior Assistant County Solicitor

Exhibit A

EXHIBIT A

CONSULTING AGREEMENT BETWEEN THE CENTRAL MARYLAND REGIONAL TRANSIT CORPORATION AND THE CENTER FOR TRANSPORTATION AND THE ENVIRONMENT

THIS CONSULTING AGREEMENT (this "Agreement") is hereby entered into this 23rd day of October, 2012, by and between the CENTRAL MARYLAND REGIONAL TRANSIT CORPORATION ("CMRT"), organized and existing under the laws of the State of Maryland located at 312 Marshall Avenue, Suite 1000, Laurel, Maryland 20707 and the Center for Transportation and the Environment "CTE" ("Consultant"), whose address is 730 Peachtree Street, Suite 330, Atlanta, Georgia 30308.

WITNESSETH:

WHEREAS, CMRT was awarded a grant as a sub-recipient under the Transit Investments for Greenhouse Gas and Emission Reductions program to provide funding to replace three diesel body-on-chassis vehicles with lightweight, purpose-built electric buses (the "Project"), Grant MD-88-0001 between CMRT and the Maryland Transit Administration (MTA); and

WHEREAS, when it applied for the Grant through the MTA, CMRT partnered with Consultant stating that Consultant will manage the project, monitor bus build and delivery, coordinate data collection, provide performance, emissions, and energy consumption evaluations and provide expertise in modeling, simulation and bus graphic design; and

WHEREAS, CMRT desires to enter into an agreement with Consultant setting forth the responsibilities of CMRT and Consultant with respect to the Grant and the Project funded thereby; and

WHEREAS, Consultant desires to provide the services outlined hereinabove under the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties, the parties hereto agree as follows:

1. Incorporation of recitals. CMRT and Consultant affirm that the foregoing Recitals are true and accurate and that they intend, by this reference, that the foregoing Recitals be incorporated into this Agreement as operative provisions hereof.

2. Engagement of Consultant. Upon the terms and conditions of this Agreement, CMRT hereby retains Consultant to provide Electric Bus Program Management Services ("Services"), and Consultant hereby accepts such engagement. The Services shall include but not be limited to the following duties and responsibilities: manage the project, monitor bus build and delivery, coordinate data collection, provide performance, emissions, and energy consumption evaluations and provide expertise in modeling, simulation and bus graphic design. The Services shall be performed in accordance with the Scope of Services as defined for and between CMRT and CTE in the attached Exhibit A, which Exhibit is incorporated herein by reference. Furthermore, the parties acknowledge that the General Terms, Conditions and Requirements set forth in Exhibit B are incorporated herein by this reference and are operative provisions of the Agreement. Consultant shall be an independent contractor and not an agent or employee of CMRT. As an independent contractor, Consultant is free to work in other capacities during the contract period, so long as the Consultant is available to work for CMRT as agreed to herein.

Consultant acknowledges that the award of this contract for the full amount is contingent upon CMRT receiving the Grant to fund that Project.

3. Term. This Agreement shall commence upon the execution by both parties and shall continue in full force until the Services have been completed in accordance with the Work Plan Tasks and within the Milestones and/or Timelines as set forth in **Exhibit A** or as may be modified and agreed to in writing between CMRT and Consultant.

4. Termination.

(a) Notwithstanding anything to the contrary contained herein, CMRT may terminate this Agreement when it determines in its sole and absolute discretion it is in its best interest to do so, upon ten (10) business days prior written notice to the Consultant which notice shall be sent by certified mail, return receipt requested. In the event this Agreement is terminated through no fault of Consultant, Consultant shall be paid for all Services satisfactorily performed prior to the effective date of termination upon delivery to CMRT of all documents, invoices and materials related to the Project.

(b) Upon termination of this Agreement for any reason, Consultant agrees to immediately return to CMRT all records, electronic files and information or other written materials which CMRT may have furnished to Consultant in connection with activities hereunder, so that none of the foregoing items or copies thereof shall remain in Consultant's possession. Consultant shall provide CMRT a copy of all information and material, whether maintained electronically or otherwise it may have obtained or prepared in the performance of this Agreement. In addition, any other property of CMRT shall similarly be returned to CMRT at the time of said termination, it being understood by the parties to this Agreement that all property, supplies, records and materials supplied to Consultant by CMRT are to remain, at all times, the sole property of CMRT. Consultant hereby grants CMRT unlimited rights to all documents, notes and other work developed by the Consultant in the performance of Services under this Agreement.

(c) It is the intention of the parties that if any restriction in this Agreement is determined by a court of competent jurisdiction to be overly broad, that the Court should enforce such restriction to the maximum extent permitted by law.

5. Grant Funding. Consultant acknowledges and understands that funding for this Agreement is provided using grant funds from the Federal Transit Administration (FTA) under the Transit Investments for Greenhouse Gas and Emissions Reductions Program, and is therefore subject to conditions imposed by regulations of the governmental entity providing the funds. It is Consultant's responsibility to determine the scope and requirements of and to comply with the terms of any regulations relating to or governing the use of such grant funds. Such regulations may under certain circumstances include, but not limited to, payment of prevailing wage rates, the purchase of materials manufactured in the United States, the maintenance of specific records for specific periods of time, and/or approval of subcontracts. Upon request of Consultant CMRT shall make available for Consultant's review and inspection all grant documents applicable to the Services herein requested.

6. Notice To Proceed. The Notice to Proceed (NTP) shall be issued within five (5) business days of the Contract execution.

7. Cost Breakdown. Within fifteen (15) calendar days after "Notice to Proceed" is issued by CMRT, Consultant shall submit a cost breakdown of the proposal on a Pricing Summary form approved by CMRT pursuant to work/tasks of contained in **Exhibit A**. This cost breakdown will form the basis for Progress payments and shall show all of the major categories and sub-categories of work, requested by CMRT.

8. Payment.

(a) In consideration of the Services performed by Consultant under this Agreement, CMRT shall pay Consultant a total amount not to exceed Four Hundred Twenty Nine Thousand Four Hundred Seventy Dollars (\$429,470) as specified in Grant MD-88-0001 between CMRT and the Maryland Transit Administration (MTA).

(b) Consultant shall submit invoices for Services performed no later than ten (10) days following the month in which they were performed. All invoices must include the Consultants Federal Tax Identification and assigned DUNS number and shall be addressed to:

Beverly Walenga, Director of Finance & Administration
Central Maryland Regional Transit Corporation
312 Marshall Avenue, Suite 1000
Laurel, Maryland 20707-4824

Payment shall be made to Consultant within thirty (30) calendar days of receipt and approval of invoice by CMRT.

(c) Consultant shall perform the Services required hereunder at such locations and at such times as the Consultant deems appropriate. Consultant shall work in conjunction with such staff as may be assigned by CMRT to assist the Consultant in executing its responsibilities hereunder.

(d) CMRT shall not reimburse Consultant for gasoline, mileage, travel and meeting expense reimbursements.

(e) CMRT and Consultant expressly understand and acknowledge that the sums payable hereunder shall be paid in gross amount, without reduction for any federal or state withholding or other payroll taxes, or any other governmental taxes or charges. The parties hereto further recognize that Consultant is an independent contractor of CMRT, not an employee, and is,

therefore, responsible for directly assuming and remitting any applicable federal or state withholding taxes, estimated tax payments, Social Security payments, unemployment compensation payments, or any other fees, taxes, or expenses whatsoever.

(f) The parties hereto agree that CMRT will not be responsible for any cost or expenses of operation of any kind associated with Consultant's provision of Services pursuant to this Agreement. Consultant shall be entitled to no benefits, fees, bonuses, contingent payments, or any other amount in connection with the services to be rendered hereunder.

(g) Consultant shall perform or furnish all services hereunder in a professional manner, in compliance with all applicable federal, state and local laws, statutes, codes, rules, regulations, orders, and ordinances, and in conformance with all applicable special and contractual requirements of CMRT, especially those of the Grant.

9. Services Defined. The term "Services" shall include all professional services, work, labor, tools, materials, equipment, supplies, products, reports, transportation, supervision, testing, management and other items necessary to properly complete Consultant's responsibilities, including any part thereof, in accordance with this Agreement. Consultant shall be responsible for the means and methods used in performing or furnishing all services under this Agreement and shall be responsible for supervising and managing Consultant's employees, if any.

10. Licensing. Consultant warrants and represents that they meet all qualifications and licensing requirements imposed by Maryland State law to provide the service they are being retained to provide.

11. Indemnification. Consultant shall indemnify, defend and hold CMRT, its Board of Directors, directors, officers and employees, harmless as set forth in paragraph 10 "Indemnification and Hold Harmless" of **Exhibit B** hereto.

12. Insurance. Consultant covenants to maintain during the entire term of this Agreement, all applicable insurances as set forth in paragraph 11, "Minimum Insurance Requirements" of **Exhibit B** hereto. Consultant further agrees to provide evidence of such insurance prior to the issuance of a Notice to Proceed by CMRT. Consultant also covenants to maintain and to comply with paragraph 12, "Worker's Compensation" of **Exhibit B** hereto.

13. Confidentiality. Consultant acknowledges that their engagement by CMRT will provide it with specialized knowledge and confidential information, which, if used in competition with and/or other than on behalf of CMRT, would cause immediate, substantial and irreparable injury to CMRT. Accordingly, Consultant agrees that during the Term of this Agreement and for a period of five (5) years thereafter, whether as an individual or as a proprietor, stockholder, partner, member, officer, director, employee, consultant or otherwise, Consultant and/or their representatives shall not, directly or indirectly, use in any manner whatsoever, other than in the performance of Consultant's duties for CMRT, or disclose, or communicate to any person, firm or corporation in any manner whatsoever, except such disclosures to CMRT or its agents and employees as may be necessary in the performance of Consultant's duties for CMRT, any information concerning any matters affecting or relating to the business of CMRT, Consultant's work performed for CMRT or any other information concerning the business of CMRT, its plans or processes. Any breach of the terms of this Section shall be a material breach of this Agreement. The restrictions contained in this Section apply to all confidential information regarding CMRT, regardless of the source providing or compiling such information and regardless of the person or

entity who prepared any documents containing such information. The provisions of this section shall survive termination of the Agreement and termination of the independent contractor relationship created hereby. Compliance with this provision is a condition precedent to CMRT's obligation to make payments of any nature to Consultant.

14. Non-Waiver. It is further understood and agreed that no failure or delay by CMRT in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or future exercise of any right, power or privilege hereunder.

15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland applicable to agreements made and to be performed within such State. Any suit to enforce the terms hereof or for damages or other remedy for breach hereof shall be brought exclusively in the courts of the State of Maryland for Prince George's County and the parties expressly consent to the jurisdiction thereof, acknowledge that jurisdiction and venue are proper therein, and waive any right that they may otherwise have to bring such action in or transfer or remove such suit to the courts of any other jurisdiction.

16. Right to Offset. In the event that Consultant shall owe an obligation of any type whatsoever to CMRT at any time during the Term or after termination hereof, and shall not have paid such obligation as and when the same became due and payable, Consultant hereby expressly authorizes CMRT to withhold or deduct an amount equal to said obligation from any sum due to Consultant from CMRT.

17. Agreement Not Assignable. Neither CMRT nor Consultant shall assign any rights or interest in this Agreement without the written consent of the other.

18. Entire Understanding. This Agreement and any exhibits and attachment represents the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior negotiations and agreements between the parties. Any prior Agreements, promises, negotiations or representations not expressly set forth in this agreement are of no force or effect. Subsequent modifications to this Agreement shall be in writing and signed by parties to this Agreement.

19. Doing Business in Maryland. Consultant warrants and represents that (1) if it is a corporate entity, it is either (a) incorporated in Maryland or (b) registered or qualified by the Maryland Department of Assessments and taxation (SDAT) as required by the Maryland Annotated Code, Corps & Assocs. Article, to do business in Maryland and (2) it is in good standing with SDAT.

20. Severability. If any term or provision of this Agreement shall be held invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each term and provision of the Agreement shall be enforced to the fullest extent permitted by law.

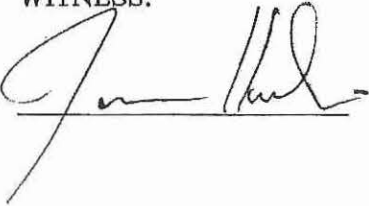
IN WITNESS WHEREOF, each party hereto has executed and ensealed this Agreement or caused it to be executed and ensealed on its behalf by its duly authorized representatives, as of the day and year first above written.

WITNESS OR ATTEST:

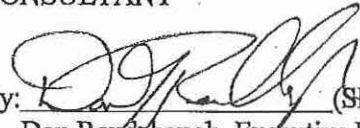
CENTRAL MARYLAND REGIONAL
TRANSIT CORPORATION

By: _____ (SEAL)
Janet S. Owens, Chair

WITNESS:



CONSULTANT


By: _____ (SEAL)
Dan Raudebaugh, Executive Director

Approved as to form and legal sufficiency:

Elissa D. Levan
Brennan Sullivan McKenna Manzi and Shay, L.C.C.
CMRT General Counsel

Date

EXHIBIT A

Transit Investments for Greenhouse Gas and Energy Reduction Grants (TIGGER) Project

The Howard County Electric Bus Project

Work Plan Submitted by
Center for Transportation and the Environment
Last Updated: 9/13/12

On April, 22, 2011, the Federal Transit Administration (FTA) announced that the Central Maryland Regional Transit Corporation (CMRT) was awarded a grant under the Transit Investments for Greenhouse Gas and Emission Reductions (TIGGER II) program. The grant will provide funding to replace three well-worn diesel body-on-chassis vehicles with, lightweight, purpose-built electric buses. The electric buses will be operated on Howard Transit's "Green" route which serves the Columbia Mall, the Village of Wilde Lake, the Howard Community College, and the Howard County General Hospital. The "Green" serves the three major traffic generators in the County.

TEAM ROLES AND RESPONSIBILITIES

ORGANIZATION	ROLE	CONTACT
Central Maryland Regional Transit Corporation	Lead Transit Agency	Michael Weinberger 240-581-5780 Michael.Weinberger@cmrtransit.org
Center for Transportation and the Environment	Project Management	Dan Raudebaugh 404-518-2322 Dan@cte.tv
The University of Maryland	Data Collection and Analysis	tbd
The Howard Community College	Data Collection and Analysis	tbd

PROJECT PARTICIPANTS

The "Project Team" consists of:



Central Maryland Regional Transit Corporation manages public transit services in Howard County, Anne Arundel County, Prince George's County and the City of Laurel. In fiscal year 2011, CMRT transported approximately 1.6 million passengers.



The **Center for Transportation and the Environment (CTE)** is a non-profit organization working to promote clean, advanced transportation technology. CTE will manage the project, monitor bus build and delivery, coordinate data collection, provide performance, emissions, and energy consumption evaluation, and provide expertise in modeling, simulation, and bus graphic design.



The **University of Maryland** is a public research university located in the city of College Park in Prince George's County, Maryland. Through a partnership with the Howard Community College, the University of Maryland will design and build an "Energy Information Station".



Howard Community College is a community college in Columbia, Howard County, Maryland. Through a partnership with the University of Maryland, Howard will help design and build an "Energy Information Station".

Work plan

Task 1: 3 Replacement Buses – This task will include all subtasks necessary to specify, build, and receive buses that meet the requirements of the TIGGER grant and the Central Maryland Regional Transit Corporation. The task will also include specification and selection of charging infrastructure and corresponding construction firm. The budgeted amount for this task is \$3,132,356. Milestones include:

- 1.1 Route evaluation, selection, and modeling: The project team will evaluate and select routes suitable for deployment of electric buses. CTE will evaluate routes and collect data from the identified routes, including time, speed, distance, elevation, etc. CTE will model bus performance using PSAT or Autonomie to determine the best routes and operating profile for actual service.
- 1.2 Identification and specification of vehicle and charging requirements: CTE will define all requirements related to the buses including, but not limited to, size, cost, and performance, with special considerations given to the fast charge electric system. The vehicle requirements should be structured around the vehicle's ability to perform specifically to meet CMRT's transit requirements.

- 1.3 Development and issuance of a solicitation: CTE will develop the solicitation for the electric buses and associated charging which includes all design requirements. CMRT will solicit bids from bus manufacturers.
- 1.4 Evaluation, selection and award of the vehicle procurement contract: CTE will work with CMRT staff to evaluate and select the best bid from submitted offers. CMRT will award the bid to the manufacturer meeting all design requirements. CTE will help insure CMRT follows all FTA rules and regulations throughout the process.
- 1.5 Manufacture, inspection and testing of the vehicles: CTE will conduct regular conference calls with the bus manufacturer who is to be selected by CMRT through a separate solicitation with CMRT. CTE will provide a resident inspector to inspect buses during manufacture. CTE will monitor and report the bus build progress against the schedule, budget and technical specifications.
- 1.6 Design and installation of the bus wrap: CTE will work with CMRT to create a bus wrap design that is coordinated with CMRT's marketing and outreach efforts.
- 1.7 Acceptance of vehicles: CTE will establish acceptance criteria. CMRT will take delivery of fully functional and tested electric buses. CTE will help CMRT evaluate the buses against established criteria for acceptance by CMRT.
- 1.8 Install slow chargers: CTE will help CMRT obtain bids for electrical installation work, as required. CTE will oversee the installation of slow chargers at the CMRT maintenance depot.
- 1.9 Site selection & evaluation: CTE will assess charging sites given access to high power utilities, proximity to planned routes, adequate space for the bus, chargers, and charge head, plus any other special requirements.
- 1.10 Identification and specification of charging station installation requirements: CTE will define all requirements related to the station construction including, but not limited to, electric supply requirements, and any other special considerations related to the fast charge electric bus interface.
- 1.11 Develop and issue installation solicitation: CTE will assist CMRT with the development of a solicitation for turnkey architecture, civil, mechanical, and electrical work associated with the installation of the charging station(s). CMRT will issue a design/build RFP or IFB.
- 1.12 Evaluate and select charger construction contract: CTE will help CMRT evaluate bids for the turnkey architecture, civil, mechanical, electrical work. CMRT will select and award contract.

Task 2: Construction Charging Infrastructure – This task includes completion of the design, permitting, and build of the charging infrastructure. The budgeted amount for this task is \$150,000.

- 2.1 Site preparation and installation of fast charging station: The design/build contractor will obtain any permits required including electrical, mechanical, and civil engineering. CTE will oversee the installation of the fast charge station.

Task 3: Energy Information Station and Transit Shelter – This task includes the development of an “Energy Information Station” and Transit Shelter that will be located adjacent to the inductive charging system in the Downtown Transit hub. The Energy Information Station will be designed and built through a partnership with the University of Maryland and the Howard Community College. The Energy Information Station will provide real-time information on the charging process including the recording of emission reductions and cost savings.

- 3.1 Acquire Bus Shelters: CMRT will secure the development and manufacture of a state-of-the-art Transit Shelter through a Request for Proposal. The budgeted amount for this task is \$16,000.
- 3.2 Eng/DE Energy Info Station: The budgeted amount for this task is \$10,000.
- 3.3 Construction Energy Info Station: The budgeted amount for this task is \$40,000.

Task 4: Project Management & Reporting – The budgeted amount for this task is \$429,470.

- 4.1 Hold Kickoff Meeting: The project will be launched, planned, and coordinated among the team. A kick-off meeting will be held during the first month of the opening quarter of the project.
- 4.2 Project Management and Reporting: CTE will monitor progress and costs against project schedule and budget, respectively, for each quarter of the project. CTE will monitor potential risks and identify mitigation strategies for any unforeseen issues that arise during the quarter. CTE will facilitate clear communications among the team and with the project sponsor. CTE will submit a quarterly report to FTA that documents project activities, status, costs summary, schedule progress, next activities, and any issues encountered.
- 4.3 Public Relations Strategy: It is critical to educate the public on the benefits of these buses. During this phase, CTE will help CMRT select a public relations firm to develop a public relations/outreach strategy. CMRT will be responsible to act on the recommendations included in the strategy document.
- 4.4 Collect Baseline data: CTE, with input from CMRT, will collect fuel consumption data on diesel buses currently operating on selected route(s); evaluate current energy consumption for the agency, including fuel and electricity. CTE will then evaluate associated emissions to establish baseline energy consumption and emission profile for the agency.
- 4.5 Vehicle Introduction – This task initiates before vehicle delivery and includes all milestones necessary to ready the buses and the transit agency for reliable service and

to prepare for proper data collection and evaluation. CTE will provide an on-site staff member during this phase to ensure proper deployment of vehicles. Subtasks include:

Vehicle registration and insurance: CTE will work with CMRT, and local/state agencies to register and insure new vehicles.

Operator training: CTE will coordinate training as needed to prepare CMRT drivers to operate bus. This may include both classroom and on-the-road training. Training will focus on unique and safety related features to the bus including the electric drive train with regenerative braking and charging.

Maintenance training: CTE will coordinate maintenance training for CMRT maintenance technicians. Training will enable CMRT technicians to perform all standard preventative maintenance, and assist as needed during unplanned maintenance events. Safety while working with high voltage systems will be covered.

Route Validation: CTE will coordinate with CMRT to drive the bus along the planned route under reasonable worst-case conditions (temperature, AC load, passenger load, traffic patterns). This will confirm the bus can perform as required. The stakeholders will mutually agree upon the conditions of this test.

Full Service Validation: CMRT will place the bus in shadow service for a period acceptable to CMRT to demonstrate full operational capability. This will include validating the fast-charge system performance including docking and time to charge.

- 4.6 **Collect Monthly Operational Data:** The buses will operate in regular transit service, including any necessary support by the bus manufacturer and project team. CTE, with input from the bus manufacturer and CMRT, will collect energy consumption for deployed fast charge electric buses and collect CMRT fuel and electricity consumption for comparative purposes. CTE will assess change in total agency emissions.
- 4.7 **Issue annual TIGGER Reports:** CTE, with input from the bus manufacturer and CMRT, will conduct a comprehensive analysis of the vehicle's ability to meet performance criteria and to achieve energy and emissions reductions. CTE will ensure all reports are collected, validated, and submitted to FTA twice annually.
- 4.8 **Final Reporting:** A final report summarizing all activity under this grant will be submitted including all results, events and activity concerning this award.

PROJECT SCHEDULE (AS OF JULY 19, 2012)

The overall Milestones are as follows:

Milestone	Baseline Completion Date
Design Complete	12/31/12
ROW Clear	N/A
Advertisement	3/21/13
Award	6/30/13
Notice to Proceed - Bus Purchase	7/31/13
Work Complete - Demonstration Start	6/30/14
Project Closeout	9/30/16

The Project Plan to meet the above Milestones:

TASK	DATES
Task 1: 3 Replacement Buses	
1. Route evaluation, selection, and modeling	Sept- Nov 2012
2. Identification and specification of vehicle requirements	Sept- Nov 2012
3. Development and issuance of a solicitation	Jan- Feb 2013
4. Evaluation, selection and award of the vehicle procurement contract	Apr - Jun 2013
5. Manufacture, inspection and testing of the vehicles	Aug 2013 - Apr 2014
6. Design and installation of the bus wrap	April 2014
7. Acceptance of vehicles	May 2014
8. Install slow chargers	May 2014
Charging Infrastructure	
9. Site selection & evaluation	Aug - Sept 2013
10. Identification and specification of charging station installation requirements	Aug 2013
11. Develop and issue charger installation solicitation	Aug - Sept 2013
12. Evaluation, selection of construction contract	Oct - Nov 2013
Task 2: Construction Charging Infrastructure	
1. Site preparation and installation of fast charging station	Dec 2013- Apr 2014
Task 3: Energy Information Station and Transit Shelter	
1. Acquire Bus Shelters	Aug 2013- Nov 2013
2. Engr/DE Energy Info Station	Aug 2013- Nov 2013

3. Construction Energy Info Station	Dec 2013 – Apr 2013
Task 4: Project Management	
1. Hold Kick-off Meeting	Sept 2012
2. Project Management and Reporting	Sept 2012 – Aug 2016
3. Public Relations Strategy	Jan – Dec 2013
4. Collect Baseline Data	Aug 2013 – May 2014
5. Vehicle Introduction	May – Jun 2014
6. Collect Monthly Operational Data	Jul 2014 – Jul 2016
7. Issue Annual TIGGER Reports	Aug 2015, Aug 2016
8. Final Report	Jul - Aug 2016

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CMRT Project # MD-88-0001 : Howard County Electric Bus Project

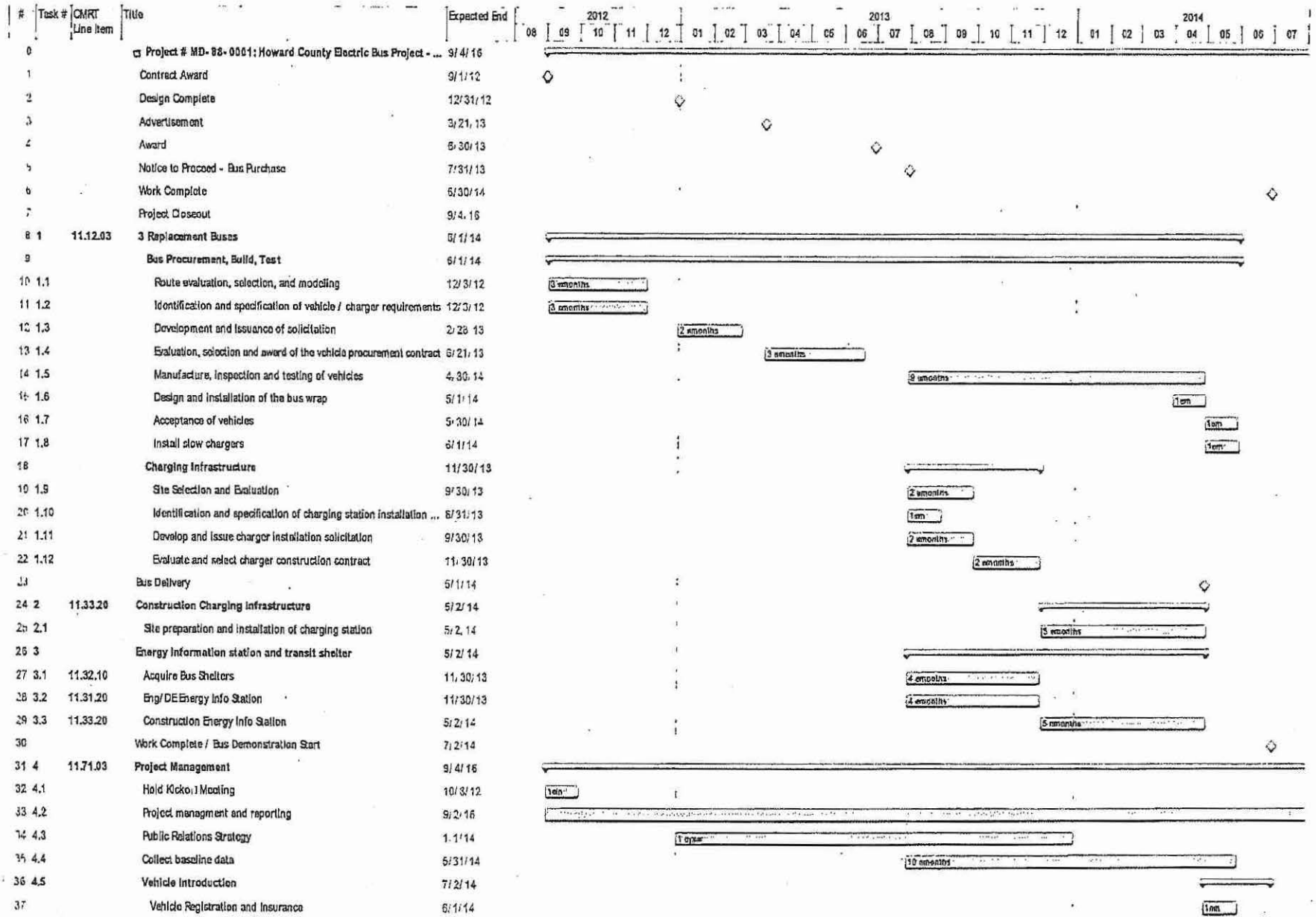


EXHIBIT B

GENERAL TERMS CONDITIONS AND REQUIREMENTS

SECTION 1

1. Disadvantaged Business Enterprises (DBE)

a. This contract is subject to Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The overall DBE goal for this contract is 27%.

b. The Consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Consultant 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 CMRT deems appropriate. Each subcontract the Consultant signs with a sub-Consultant must include the assurance in this paragraph [see 49 CFR 26.13(b)].

c. Consultant is required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following concurrent with and accompanying an initial proposal:

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

d. The Consultant is required to pay its sub-Consultants performing work related to this contract for satisfactory performance of that work no later than thirty (30) days after the Consultant's receipt of payment for that work from CMRT.

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

f. The Consultant will adhere to, utilize and submit required documents as contained in Section 3 of Exhibit B.

2. Disadvantaged Business Enterprise (DBE)

Consultant will be afforded full opportunity to submit proposals in response to this RFP and will not be subject to discrimination on the basis of race, color, sex or national origin in consideration for an award.

It is the goal of CMRT that DBEs participate in all projects. Consultant must comply with the provisions of all Equal Opportunity Programs within the Maryland State Highway Administration and Title VI of the Federal Civil Rights Act of 1964. Further information is obtainable from the State Highway Administration, Office of Equal Opportunity, 707 North Calvert Street, Baltimore, MD 21202, and by toll-free phone 1-888-545-0098 or direct phone (410) 545-0325.

DBEs must be certified by MDOT for participation in federally funded projects no later than the date of submittal of their proposal. Failure to comply with DBE requirements may result in cancellation of award.

CMRT supports the enhancement and growth of DBEs, and CMRT encourages all persons and firms that propose to do business with CMRT to include DBEs in the performance of their contracts. Consultant meeting this classification should be clearly identified.

3. Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Consultant is required to verify that none of the Consultant, 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 Consultant 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 Consultant certifies as follows:

The certification in this clause is a material representation of fact relied upon by CMRT. If it is later determined that the Consultant knowingly rendered an erroneous certification, in addition to remedies available to CMRT, the Federal Government and/or CMRT may pursue available remedies, including but not limited to suspension and/or debarment. The Consultant 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 Consultant further agrees to include a provision requiring such compliance in its lower tier covered transactions.

4. Parties and Changes in Parties

a) Parties

The parties to the Contract are CMRT and the Consultant.

b) Succession

The Contract will be binding on the parties, their successors, and assigns.

c) Assignment and Subcontracting

The Consultant shall not assign or subcontract its rights or obligations under the Contract without prior written permission of CMRT, and no such assignment or subcontract will be effective until approved in writing by CMRT.

5. Living Wage Requirements

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement (SFP) Article, Annotated Code of Maryland. Additional information regarding the State's Living Wage requirement is contained in this solicitation (see Attachment G entitled Living Wage Requirements for Service Contracts). If the Consultant fails to submit and complete the Affidavit of Agreement, the State may determine a Consultant to be not responsible.

Consultants and Sub-Consultants subject to the Living Wage Law shall pay each covered employee at least \$11.30 per hour, if State contract services valued at 50% or more of the total value of the contract is performed in the Tier 1 Area. If State contract services valued at 50% or more of the total contract value is performed in the Tier 2 Area, an Consultant shall pay each covered employee at least \$8.50 per hour. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the

employees who perform the services are not located in the State, the head of the unit responsible for a State contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located

The geographical area applicable to this solicitation is the Tier 1 Area.

The Living Wage Law does not apply to:

(1) A Consultant who:

(A) has a State contract for services valued at less than \$100,000, or

(B) employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.

(2) A Sub-Consultant who:

(A) performs work on a State contract for services valued at less than \$100,000,

(B) employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or

(C) performs work for a Consultant not covered by the Living Wage Law as defined in (1) (B) above, or B (3) or C below.

(3) Service contracts for the following:

(A) services with a Public Service Company;

(B) services with a nonprofit organization;

(C) services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or

(D) services between a Unit and a County or Baltimore City.

(4) If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.

(5) A Consultant must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Consultant or assign work to employees to avoid the imposition of any of the requirements of Title 18, State Finance and Procurement, Annotated Code of Maryland.

(6) Each Consultant/Sub-Consultant, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.

(7) The Commissioner of Labor and Industry shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's Website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.

(8) A Consultant/Sub-Consultant who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in §18-103(c), State Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. A Consultant/Sub-Consultant who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner of Labor and Industry.

(9) A Consultant/Sub-Consultant may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Consultant/Sub-Consultant who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland.

(10) Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, if the Commissioner determines that the Consultant/Sub-Consultant violated a provision of this title or regulations of the Commissioner, the Consultant/Sub-Consultant shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.

(11) Information pertaining to reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

7. Consultant Responsibilities

a. The Consultant shall furnish all equipment, software and services required by the contract in strict accordance with contract requirements. Sub-Consultants, if any, must be identified and a complete description of their role relative to the proposal must be identified.

b. Damages or penalties will not be assessed for delays or non-performance where performance of the Consultant's obligations is prevented or delayed by any act or failure to act by CMRT, natural disasters, freight embargoes, strikes, fire, or acts of God, provided the Consultant notifies CMRT's Grants and Procurement Coordinator, or the designee, of such circumstances and CMRT's Grants, Contracts and Procurement Administrator, or the designee, reasonably determines that the failure to perform within the specified time was beyond the control and without fault or negligence of the Consultant.

c. CMRT will not be bound to accept any substitutions or change in contract requirements by virtue of approval or acceptance of any submittal or other document unless the Consultant expressly brings to CMRT's attention, in writing, contained in the same document in which the substitution or change is proposed, the fact that a substitution or change is proposed and the CMRT Grants, Contracts and Procurement Administrator, or the designee, expressly approves the substitution or change in writing. Payment by CMRT for any product or service not in accordance with contract requirements will not constitute waiver or modifications of contract requirements.

d. To facilitate coordination with CMRT, it is necessary that the Consultant, sub-Consultants and any other project participants maintain the capability to electronically transfer and receive information from CMRT and other involved parties, as well as provide ready access to material databases and other relevant information sources.

e. NON-PERFORMANCE: In the event the Consultant does not fulfill its obligations under the terms and conditions of this Consulting Services Agreement, CMRT shall have the right to purchase equivalent services. Under no circumstances shall monies be due the Consultant in the event open market services can be obtained below contract price.

8. Work Products Ownership

All work products prepared under the terms of the Contract resulting from this procurement are the property of CMRT and shall be delivered by the Consultant to CMRT in a timely fashion and during CMRT business hours.

9. Penalties/Assessments

Should the Consultant fail or delay to provide any services, deliveries, or corrections to

previously-completed work in accordance with the requirements of this Consulting Services Agreement, such failure and delay may necessitate the expenditure of additional monies by CMRT for continuing the work of the contract and finding an alternate remedy. The Consultant shall be assessed an amount equal to all such expenses incurred by CMRT, from the date of notification by CMRT to the Consultant of CMRT's intent to impose such damages. The total amount of damages assessed by CMRT to CTE and those sub-consultants exclusively retained by CTE shall be limited to the stated amount as set forth in Paragraph 8 (a) of this Consulting Services Agreement between CMRT and CTE. Amounts shall be deducted from monies owed the Consultant, and the parties agree that such amounts are reasonable. Damages or penalties will not be assessed for delays or non-performance where performance of the Consultant's obligations is prevented or delayed by any act or failure to act by CMRT.

10. Indemnification and Hold Harmless

The Consultant shall name CMRT, its officers, agents, employees and members of the Board of Directors as additionally insured.

The Consultant will be required to indemnify and hold CMRT, its officers, directors, management consulting staff, and agents, free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character (hereinafter collectively "claims") in connection with or arising out of this Consulting Agreement between CMRT and CTE or the performance thereof by the Consultant or any Sub-Consultant retained exclusively by CTE. Without limiting the generality of the foregoing, any and all such claims, relating to personal injury, or property right, or actual or alleged violation of any other tangible or intangible personal or property right, or actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court, shall be included in the indemnity hereunder. CMRT will not hold harmless or indemnify the Consultant for any liability whatsoever.

Neither party shall be liable in damages or have the right to terminate the contract resulting from this procurement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control, including but not limited to Acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected. The party experiencing the difficulty shall give the other prompt written notice, with full details, following the occurrence of the cause of difficulty.

11. Minimum Insurance Requirements

Without limiting Consultant's indemnification of CMRT, the Consultant will be required to provide and maintain at its own expense throughout the contract term, a program of insurance that includes comprehensive general liability, endorsed for premises, operations, products and completed operations, independent Consultants and personal injury, and professional liability insurance that covers all events occurring during the Contract term. Insurance must also include contractual liability coverage and "all perils" or broad form business personal property insurance. Prior to the start of work on any contract, the Consultant shall submit to the Grants, Contract and Procurement Administrator certificate(s) of insurance indicating that he carries insurance against the risks and in the Amounts specified in the Contract.

The Consultant shall also agree to the following conditions:

- CMRT shall be included as named insured in all liability insurance policies except Worker's Compensation and Legal Liability coverage (i.e., fire). CMRT shall be named Loss Payee as its interest may appear in all business personal property insurance.
- Such insurance shall be primary with respect to any insurance maintained by CMRT and not contributing with any other insurance maintained by CMRT.
- Such insurance shall be obtained from brokers of carriers rated "A" or better in the Best Insurance Guide, and authorized and licensed to transact insurance business in the State of Maryland.
- Evidence of such insurance shall be submitted to and approved by CMRT prior to commencement of any work under the Contract.
- Such insurance shall not be canceled, materially reduced in coverage or limits, or non-renewed in the case of a continuous policy, except after forty-five (45) days' written notice by registered or certified mail has been given to CMRT.
- The Consultant will be required to submit a certificate of insurance with endorsements or other evidence acceptable to CMRT.
- The insurance afforded by the policy for contractual liability insurance (subject to the terms, conditions and exclusions applicable to such insurance) shall include liability assumed by the Consultant under the indemnification and/or hold harmless provisions of the Contract.

12. Workers' Compensation

Worker's Compensation shall be maintained by Consultant for all employees engaged in the work under the laws of the State of Maryland and shall furnish CMRT with a certificate showing proof of such coverage. Employers Liability Insurance shall be maintained by Consultant at limits not less than Maryland Statutory requirements and shall include a waiver of subrogation in favor of CMRT. Such insurance shall not be canceled or materially changed without a forty-five (45) day prior written notice to and subsequent written approval by CMRT.

13. Proof and Maintenance of Certification, Licensing and Bonding

The Consultant must provide CMRT with proof that it is currently certified and/or licensed and bonded to perform the duties and services set forth in this procurement. The Consultant will further be required to maintain said certification, licensing and bonding throughout the term of the Contract. In the event of Consultant's failure to abide by these requirements, CMRT reserves the right to terminate the Contract.

14. Bond Requirements

A Payment Bond on the part of the Consultant for five percent (5%) of the contract price shall be required for the duration of every sub-contractor/consultant exclusively retained by CTE and purchase order entered into by Consultant in connection with this Agreement. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract (i.e., a sub-Consultant).

An irrevocable letter of credit will also satisfy the requirement for each bond.

15. CMRT-Requested Items

Samples of items when called for by CMRT must be furnished free of expense, and if they are not subsequently destroyed, may, upon Consultant request, be returned at the Consultant's expense. Each individual sample must be labeled with the Consultant's name and the CMRT proposal number and item reference. The successful Consultant's items must remain on file with CMRT for the term of the Contract. Request for return of items shall be accompanied by instructions that include shipping authorization and name of carrier and must be received within ninety (90) calendar days after the notice to proceed date. If instructions are not received within this time, the items may be disposed of by CMRT.

16. Termination for Convenience

CMRT may terminate the Contract, in whole or in part, without showing cause upon giving ten (10) business day's written notice to the Consultant. The Consultant shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination.

Consultant may terminate the Contract, in whole or in part, without showing cause upon

giving at ten (10) business day's written notice to the CMRT. CMRT and the Consultant may agree upon reasonable termination costs to be paid to the CMRT, which amount shall include payment for the expenditure of additional monies by CMRT for continuing the work of the contract and finding an alternate remedy.

17. Termination for Default

The Contract may be cancelled or rescinded by CMRT in whole or in part by written notice of default to the Consultant upon non-performance or violation of a contract's terms and conditions. The defaulting Consultant (or their surety) shall be liable to CMRT for costs to CMRT in excess of the defaulter's contract price. Failure of the Consultant to deliver and/or perform respectively the specified goods and/or services within the time stipulated in the Contract, unless extended in writing by CMRT, shall constitute contract default. If the Consultant 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 Consultant fails to comply with any other provisions of this agreement. The Contract may be cancelled or rescinded by CMRT in whole or in part by written notice of default to the Consultant upon non-performance or violation of a contract's terms or conditions. The defaulting Consultant (or their surety) shall be liable to CMRT for costs to CMRT in excess of the defaulter's contract price. Failure of the Consultant to deliver and/or perform respectively the specified goods and services within the time comply with any other provisions of this contract, CMRT may terminate this contract for default. CMRT shall terminate by delivering to the Consultant a Notice of Termination specifying the nature of the default. In this event, CMRT may take over the work and complete 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 Consultant and its sureties shall be liable for any damage to CMRT resulting from the Consultant's refusal or failure to complete the work within specified time, whether or not the Consultant's right to proceed with the work is terminated. This liability includes any increased costs incurred by CMRT in completing the work.

The Consultant's right to proceed shall not be terminated, and the Consultant shall not be 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 Consultant; and
2. the Consultant, within ten (10) days from the beginning of any delay, notifies CMRT in writing of the causes of delay. If in the judgment of CMRT, the delay is excusable and the Consultant's revised delivery and performance schedule is acceptable to CMRT, the time for completing the work shall be extended. The judgment of CMRT shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

CMRT in its sole discretion may, in the case of a termination for breach or default, allow the Consultant an appropriate period of time, in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If the Consultant fails to remedy to CMRT's satisfaction the breach or default of any of the terms, covenants, or conditions of this contract within the stated time period after receipt by Consultant of written notice from CMRT setting forth the nature of said breach or default, CMRT shall have the right to terminate the Contract without any further obligation to Consultant. Any such termination for default shall not in any way operate to preclude CMRT from also pursuing all available remedies against Consultant and its sureties for said breach or default.

If, after termination of the Consultant's right to proceed, it is determined that the Consultant 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 CMRT.

In the event that CMRT elects to waive its remedies for any breach by Consultant of any covenant, term or condition of this contract, such waiver by CMRT shall not limit CMRT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this contract.

18. Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by CMRT or the Consultant 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.

19. Maryland State Disclosure

Consultants are advised that the provisions of the Election Law Article of the Annotated Code of Maryland, Title 14, requires the filing of certain disclosure statements by persons doing business with the State or with a County, incorporated municipality, or other political subdivision of the State. Further information with regard to this disclosure requirement may be obtained from the Office of the Secretary of State, Jeffrey Building, 16 Francis Street, Annapolis, Maryland 21404.

20. Non-Discrimination

The Consultant who is the recipient of CMRT funds, or who proposes to perform any work or furnish any goods under this Contract, shall not discriminate against any worker, employee or applicant, or any member of the public because of religion, race, sex, age, physical or mental disability, or perceived disability. Discriminatory practices based upon the foregoing are declared to be contrary to the public policy. The Consultant agrees to fully comply with the federal mandates of the Americans with Disabilities Act. The Consultant further agrees that this article will be incorporated by the Consultant in all contracts entered into with suppliers of materials, services, sub-Consultants, and all labor organizations, furnishing skilled, unskilled and craft union connection with this contract.

21. Contract Renegotiations

During the period of the Contract or any applicable option period, CMRT reserves the right to renegotiate any aspect of the Contract, including terms, price and quality.

22. No Obligation by the Federal Government

All parties to the Contract resulting from this procurement shall 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, Consultant, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. The Consultant further 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 sub-Consultant who will be subject to its provisions.

23. Modifications to the Contract

The Contract resulting from this procurement cannot be modified except by written agreement between the parties.

a) Consultant Changes

Any Consultant-proposed change to the Contract shall be submitted to CMRT for its prior written approval.

b) Written Change Orders

Oral change orders are not permitted. No change in this contract shall be made unless the CMRT Grants and Procurement Coordinator or the CMRT CEO gives prior written approval. The Consultant shall be liable for all costs resulting from, and/or for

satisfactorily correcting, any Consultant-initiated specification change not properly ordered by written modification to the Contract and signed by the CMRT CEO.

c) **Change Order Procedure**

As soon as reasonably possible, but no later than thirty (30) calendar days after receipt of a written change order to modify the Contract, the Consultant shall submit to the CMRT Project Coordinator a price and time schedule proposal for the work to be performed. This proposal shall be accepted or modified by negotiations between the Consultant and the CMRT Project Coordinator; if so accepted or modified, a modification shall be documented and executed in writing by both parties. Contracts that cannot be resolved within such negotiations shall be resolved in accordance with dispute resolution methods in the Contract. Importantly, regardless of any disputes, the Consultant shall proceed with the work ordered and the planned performance of the Contract.

d) **Price Adjustment for Regulatory Changes**

If any price adjustment is indicated, either upward or downward, it shall be negotiated between CMRT and the Consultant for any changes that are mandated as a result of legislation or regulations that are promulgated and become effective after the proposal due date. Such price adjustment may be audited by CMRT wherever CMRT deems necessary.

24. Federal Changes

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

25. Program Fraud and False or Fraudulent Statements or Related Acts

- a) The Consultant 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 Consultant 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 Consultant 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 Consultant to the extent the Federal Government deems appropriate.

- b) The Consultant 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 Consultant, to the extent the Federal Government deems appropriate.
- c) The Consultant 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 sub-Consultant who will be subject to the provisions.

26. Access to Records and Reports

The Consultant shall agree to permit accessibility and reproduction by any means whatsoever or to copy excerpts and transcriptions of all books, records, electronic files, accounts and reports as reasonably needed by CMRT. The Consultant further agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than five (5) 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 Consultant agrees to maintain same until CMRT, 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.

In accordance with 49 C. F. R. 18.36(i), the Consultant agrees to provide CMRT, 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 Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Consultant also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any P.M.O. Consultant access to Consultant'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.

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

27. Civil Rights

(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 Consultant 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 Consultant 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 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 Consultant 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 Consultant 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 Consultant 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 Consultant agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Consultant agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12112, the Consultant 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 Consultant agrees to comply with any implementing requirements FTA may issue.

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

28. Access for Individuals with Disabilities

The Consultant agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Consultant also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Consultant agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Federal Government determines otherwise in writing, as follows:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations,

"Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

(7) 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;

(8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

(9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;

(10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

(11) Federal civil rights and nondiscrimination directives implementing the foregoing regulations.

29. Privacy Act

The following requirements apply to the Consultant and its employees that administer any system of records on behalf of the federal government under any contract:

- (1) The Consultant 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 Consultant agrees to obtain the express consent of the Federal Government before the Consultant or its employees operate a system of records on behalf of the Federal Government. The Consultant 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 Consultant 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.

30. Incorporation of and Precedence of Federal Transit Administration (FTA) Terms

All contractual provisions required by U.S. DOT, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the Contract. The Consultant shall not perform any act, fail to

perform any act, or refuse to comply with any (name of grantee) requests that would cause (name of grantee) to be in violation of the FTA terms and conditions.

31. Energy Conservation

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

32. Fly America

The Consultant 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 sub-recipients of Federal funds and their Consultants 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 Consultant 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 Consultant agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

33. Buy America

The Consultant 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.

The Consultant must submit to CMRT the appropriate Buy America certification (below). Any proposal that is not accompanied by a completed Buy America certification will be rejected as nonresponsive. This requirement does not apply to lower tier sub-Consultants.

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

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

The bidder or Consultant 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 Consultant 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 _____

34. Recycled Products

The Consultant 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.

35. Cargo Preference

The Consultant 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 Consultant in the case of a sub-Consultant'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.

36. Clean Water

(1) The Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Consultant 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 Consultant also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

37. Clean Air

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

38. Lobbying

APPENDIX A, 49 CFR Part 20 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

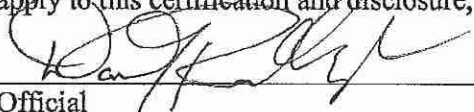
The undersigned [Consultant] certifies, to the best of his or her knowledge and belief, that:

- (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 any 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. 1040-65, 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 sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

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

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



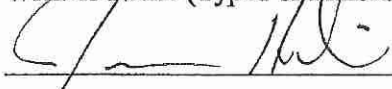
Signature of Consultant's Authorized Official

DANIEL J RAUDERBAUGH
Name and Title of Consultant's Authorized Official

10-19-12 Date

JASON HANLIN

Witness Name (Typed or Printed)



Witness Signature

SECTION 2

1. DEFINITIONS

Wherever in these General Conditions or in other contract documents the following terms or abbreviations are used, the meaning shall be as follows:

Award - The decision by a Jurisdiction to execute a purchase agreement or contract after all necessary approvals have been obtained.

Bid Security - See Proposal Guaranty.

Business - A corporation, partnership, individual, sole proprietorship, joint venture, or any other legal entity through which business or commercial activity is conducted.

Business Day - Any day CMRT administrative offices are open for business.

Calendar Day - Every day shown on the calendar: Saturdays, Sundays, and holidays included.

Change Order - A written order signed by the responsible Grants, Contract and Procurement Administrator, directing a Consultant to make changes, which the modification clause of a contract authorizes the Grants, Contract and Procurement Administrator to order, with or without the consent of the Consultant.

Consultant - A person formally submitting a bid or proposal for the work contemplated, acting directly as the, or through the, duly authorized representative-same as Consultant. Consultant does not include employees with labor contracts (collective bargaining agreements) or an employee with an employment contract.

Contract - Any agreement entered into by CMRT for the acquisition of supplies, services, construction, construction-related services, or any other item and includes:

- (1) Awards and notices of award;
- (2) Contracts of a fixed-price, cost-reimbursement, cost-plus-a-fixed-fee, fixed-price incentive, or cost-plus incentive fee type;
- (3) Contracts providing for the issuance of job or task orders;
- (4) Leases;
- (5) Letter contracts;
- (6) Purchase orders;
- (7) Supplemental agreements with respect to any of these;

- (8) Orders; and
- (9) Grants.

Contract does not include:

- (1) Collective bargaining agreements with employee organizations;
- (2) An employee with an employment contract; or
- (3) Medical, Medicare, Judicare, or similar reimbursement contracts for which user eligibility and cost are set by law regulation.

As used herein, the word Agreement has the same meaning.

Contract Documents - The written agreement executed between CMRT and the successful Consultant, covering the performance of the work and furnishing of labor, equipment and materials, by which the Consultant is bound to perform the work and furnish the labor, equipment, services, and materials, and by which CMRT is obligated to compensate the Consultant at the mutually established and accepted rate or price.

The Contract shall include the Invitation for Bids or Request for Proposal, Notice to Consultants, Instructions to Consultants, Contract Forms and Bonds, General Terms and Conditions, Specifications, Supplemental Specifications, all Special Provisions, all Technical Provisions, all Plans and Notices to Proceed, also any written Modifications, Change Orders and Supplemental Contracts that are required to complete the scope of the work or services in an acceptable manner, including authorized extensions thereof.

Contract Modification - Any written alteration or change in the specifications, delivery point, date of delivery, contract period, price, quantity, or other provision of any existing contract, whether accomplished in accordance with a contract provision, or by mutual action of the parties to the Contract. It includes without limitation Change Orders, extra Work Orders, Supplemental Contracts, Contract amendments, or Reinstatements, or any changes made to a contract as a consequence of partial termination or settlements.

Cost-Reimbursement Contract - A contract under which the Consultant is reimbursed for those contract costs, within as stated ceiling, and a fee, if any, which are recognized as allowable and allocable under the cost and price principle regulations.

Day - Calendar day unless otherwise designated.

Notice to Proceed - A written notice to the Consultant of the date on or before which the Consultant shall begin the work or service to be performed under the Contract.

Procurement - Includes all functions that pertain to the obtaining of any public procurement, including description of requirements, solicitation of sources, selection,

preparation and award of contract, all phases of Contract Administration.

Grants, Contract and Procurement Administrator – The CMRT employee responsible for the procurement process associated with a particular solicitation.

Proposal - The response by a Consultant and/or Contractor to a solicitation by CMRT to obtain goods and/or services. The response may include, but is not limited to, a Consultant's/Contractor's price and terms for the proposed contract, a description of technical expertise, work experience and other information as requested in the solicitation. As used herein the words "Proposal," "Offer," or "Bid," have the same meaning.

Proposal Guaranty - Acceptable security for bid, performance, and payment bonds, as stated in COMAR 21.06.07.01B, designated in the IFB or Proposal, to be furnished by the Consultant as a guaranty of good faith to enter into a contract with CMRT.

Services - The rendering of time, effort or work, rather than the furnishing of a specific physical product other than reports incidental to the required performance of services. It includes, but is not limited to, the professional, personal and/or contractual services provided by attorneys, accountants, physicians, consultants, appraisers, land surveyors, and property management, where the service is associated with the provision of expertise and/or labor. Examples include, but are not limited to, property management, janitorial, security, waste disposal, pest control, environmental control, trash removal, window cleaning, computer hardware and software, snow removal, equipment maintenance, professional and consultant services.

"Services" does not include services contained within the definitions of maintenance, construction-related services, architectural services or engineering services.

Solicitation - Invitation for bids, request for quotations, request for proposals, or any other method or instrument used to provide public notice and advertisement of CMRT's intent to procure supplies, services, and construction.

Specification - A written description of functional performance or salient characteristics. It may include a statement of any of the user's requirements and may provide for inspection, testing, or preparation of a sample or prototype before procurement.

State - The State of Maryland acting through its authorized representative.

Sub-Consultant - Any person undertaking the providing of a part of the Statement of Work or service under the terms of the Contract, by virtue of an agreement with the Consultant, who, prior to such undertaking, receives the approval of CMRT and, if applicable, the surety.

Statement of Work or Services - shall mean the furnishings of all labor, materials, equipment, and other deliverables necessary to the successful completion of the Contract and the carrying out of all the duties and obligations imposed by the Contract.

2. **SANCTIONS UPON IMPROPER ACTS**

- A. In the event the Consultant or any of its officers, partners, principals, or employees, is convicted of a crime arising out of, or in connection with, the procurement of work or service to be done or payment to be made under this contract, the Contract may, in the discretion of CMRT, be terminated.
- B. Section 16-203 of State Finance and Procurement Article of the Annotated Code, and COMAR 21.08.01, which relate to contracts with persons convicted of bribery, attempted bribery or conspiracy to bribe are incorporated into this contract by reference.
- C. Section 11-205 of State Finance and Procurement Article and COMAR 21.08.03 relating to collusion for purposes of defrauding of the State are incorporated into this contract by reference.
- D. Subtitle 08 of Title 21 of COMAR, "Disqualification, Suspension, Debarment, Reinstatement, and Sanctions" is incorporated into this contract by reference.

3. **COMPLIANCE WITH LAWS**

The Consultant hereby represents and warrants that:

- A. It is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It is not in arrears with respect to the payment of any monies due and owing the State of Maryland, or any department or unit thereof, including, but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this contract;
- C. It shall comply with all Federal, State, and local laws, regulations and ordinances applicable to its activities and obligations under this contract; and
- D. It shall obtain, at its expense, all licenses, permits, insurance, and Government approvals, if any, necessary to the performance of its obligations under this contract.

4. NON-DISCRIMINATION IN EMPLOYMENT

A. Compliance with State Law and regulations

- (1). State Law: The Consultant agrees:
 - (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or the physical or mental disability of a qualified individual with a disability;
 - (b) to include a provision similar to that contained in subsection (a) above, and in any subcontract except a subcontract for standard commercial supplies or raw materials; and
 - (c) to post and to cause sub-Consultants to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of these clauses.
- (2). Sanctions for Non-compliance: In the event of the Consultant's non-compliance with the non-discrimination provisions of this Contract, CMRT shall impose such sanctions as it may determine to be appropriate, including but not limited to:
 - (a) withholding of payment to the Consultant under the Contract until the Consultant complies, and/or
 - (b) cancellation, termination or suspension of the Contract in whole or in part.

B. Compliance with Federal Law

Consultants providing materials, equipment, supplies, or services to the State under this contract herewith assure the State that they are conforming to the provision of the Civil Rights Act of 1964, and Section 202 of Executive Order 11246 of the President of the United States of America as amended December 1, 1996.

The Consultant shall comply with all applicable Federal law pertaining to non-discrimination in employment.

5. **DISSEMINATION OF INFORMATION**

During the term of this contract, the Consultant shall not release any information related to the services or performance of the services under this contract nor publish any final reports or documents without the prior written approval of CMRT.

6. **NON-HIRING OF EMPLOYEES**

No employees of CMRT whose duties as such employee include matters relating to or affecting the subject matter of this contract, shall while so employed, become or be an employee of the party or parties hereby contracting with CMRT.

7. **CONTINGENT FEE PROHIBITION**

- A. The Consultant, architect, or engineer warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the Consultant, architect, or engineer, to solicit or secure this Contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide salesperson, or commercial selling agency, any fee or other consideration contingent on the making of this Contract.
- B. For breach or violation of this warranty, CMRT shall have the right to terminate this Contract without liability, or, at CMRT's discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

8. **CONFLICT OF INTEREST LAW**

It is unlawful for any CMRT officer, employee, or agent to participate personally in his official capacity through decision, approval, disapproval, recommendation, advise, or investigation in any contract or other matter in which he, his spouse, parent, minor child, brother or sister, has a financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization whom he is negotiating or has any arrangement concerning prospective employment, is a part.

9. **FINANCIAL DISCLOSURE**

The Consultant shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every business that enters into contracts, leases or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

10. **POLITICAL CONTRIBUTION DISCLOSURE**

The Consultant shall comply with the Election Law Article of the Annotated Code of Maryland, Title 14, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies during a calendar year in which the person received in the aggregate \$100,000 or more, shall file with the State Board of Election a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two (2) calendar years; and (2) if the contribution is made after the execution of a lease or contact, then twice a year throughout the Contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

11. **PERSONAL LIABILITY OF OFFICIALS**

In carrying out any of the provisions of the Contract, or in exercising any power or authority granted to them by or within the scope of the Contract, there shall be no liability upon the CMRT Grants, Contract and Procurement Coordinator or other authorized CMRT representatives, either personally or as officials of CMRT, it being understood that in all such matters, the above act solely as agents and representatives of CMRT.

12. **COST AND PRICE CERTIFICATION**

- A. The Consultant by submitting cost or price information certifies that, to the best of its knowledge, the information submitted is accurate, complete, and current.
- B. The price under this contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increase occurring because the Consultant furnished cost or price information which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

13. **CONTRACT/AGREEMENT ADMINISTRATION**

This contract/agreement will be administered on behalf of CMRT by the CMRT Grants, Contract and Procurement Administrator.

14. **AUTHORITY OF THE CMRT GRANTS, CONTRACT AND PROCUREMENT ADMINISTRATOR**

- A. The Grants, Contract and Procurement Administrator and/or responsible contract administrator(s) shall decide all questions which may arise as to the quality and acceptability of work performed and as to the rate of progress of said work; all questions which may arise as to the interpretation of any or all plans and/or specifications; and all questions as to the acceptable fulfillment of the Contract on the part of the Consultant.
- B. The Grants, Contract and Procurement Administrator and/or responsible contract administrator(s) shall determine the Amount of work performed to be paid for under the Contract.
- C. The Grants, Contract and Procurement Administrator shall have the authority to suspend the work wholly or in part due to the failure of the Consultant to carry out provisions of the Contract.
- D. The Grants, Contract and Procurement Administrator and/or responsible contract administrator(s) may authorize progress payments for work satisfactorily completed, subject to such withholding that the Grants, Contract and Procurement Administrator deems appropriate.

15. **CORPORATE REGISTRATION AND TAX PAYMENT CERTIFICATION**

Corporations are required to execute a Certification of Corporation Registration and Tax Payment.

16. **INVITATION OF WORK**

The Consultant shall not commence performance of the services until it receives from CMRT a formal written Notice to Proceed.

17. **NOTICE TO PROCEED AND PROSECUTION OF WORK**

- A. After the Contract has been executed, CMRT will issue to the Consultant a Notice to Proceed and this notice will stipulate the date on or before which the Consultant is expected to begin work. Any preliminary work, started before receipt of the Notice to Proceed, shall be at the risk of the Consultant.
- B. The Consultant shall begin work promptly within the time specified by the Grants, Contract and Procurement Administrator. After the work has once been started, it shall be prosecuted diligently until the entire Contract is complete.

18. **DISCREPANCIES IN CONTRACT DOCUMENTS**

In the event the Consultant discovers any discrepancies in the Contract documents, he shall immediately notify the Grants, Contract and Procurement Administrator. The Grants, Contract and Procurement Administrator will then make such corrections and interpretations as may be deemed necessary in the best interests of CMRT and for fulfilling the intent of the Contract.

19. **RESPONSIBILITY FOR CLAIMS AND LIABILITY**

- A. It is expressly understood that the Consultant shall indemnify and save harmless CMRT and its officers, agents, and employees from and against all claims, suits, judgments, expenses, actions, damages and costs of every name and description, arising out of or resulting from errors, omissions, negligent acts, negligent performance or nonperformance of the services of the Consultant or those of his sub-Consultants, agents, or employees under this contract, or arising from or based on the violation of applicable Federal, State or local law, ordinance, regulation, order, or decree, whether by himself or his employees or sub-Consultants.
- B. Further, the Consultant shall pay any claims for personal injury, bodily injury or property damage which the Consultant is legally obligated to pay and shall indemnify CMRT against such claims. The Consultant shall undertake to defend any third party claim seeking those damages.

20. **COOPERATION BY CONSULTANT**

The Consultant shall give the work and/or services the constant attention necessary to facilitate the progress thereof, and shall cooperate with the Grants, Contract and Procurement Administrator and/or contract administrator(s) in every way possible.

21. **COOPERATION BETWEEN CONSULTANTS**

The Consultant agrees in the event of dispute as to cooperation between Consultants, the Grants, Contract and Procurement Administrator and/or contract administrator(s) will act as referee and decisions made by the Grants, Contract and Procurement Administrator and/or contract administrator(s) will be binding. The Consultant agrees to make no claims against CMRT for any inconvenience, delay or loss experienced because of the presence and operations of other Consultants.

22. **ASSIGNMENT**

The Consultant shall not assign the whole or any part of this contract, or any monies due or to become due under this contract without the prior written consent of CMRT. In case the Consultant assigns all or any part of the monies due or to become due under this contract, the instrument of assignment shall contain a clause providing that the right of the assignee in and to any monies due or to become due to the Consultant shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this contract. CMRT is not responsible for Consultant assignments.

23. **CHANGES, ALTERATIONS OR MODIFICATIONS IN THE SERVICES**

CMRT shall have the unilateral right, at its discretion, to change, alter or modify in writing the services provided for in this Contract and such changes, alterations or modifications may be made even though it will result in an increase or decrease in the services of the Consultant or in the Contract cost thereof.

24. **APPROVAL AUTHORITY**

This contract and any change order or amendment thereto, is subject to the approval requirements established by CMRT. The Contract shall be considered to bind the parties hereto in accordance with the Constitution and Laws of the State of Maryland.

25. **OWNERSHIP OF DOCUMENTS**

The Consultant agrees that all data and material including, but not limited to, reports, drawings, studies, specifications, estimates, maps, photographs, dies, prints, diskettes and computations prepared by or for him under the terms of this Contract shall at any time during the performance of the services be made available to CMRT upon request. CMRT shall have the right to use same without restriction or limitation and without compensation to the Consultant other than that provided in the Contract.

26. **MULTI-YEAR CONTRACTS CONTINGENT UPON APPROPRIATIONS**

If appropriate funds are not made available by Federal, State or Local government agencies, for continued performance for any fiscal period of this contract succeeding the first fiscal period, this contract shall be cancelled by CMRT as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either CMRT's rights or the Consultant's rights under any termination clause in this contract. The effect of termination of the Contract hereunder will be to discharge both the Consultant and CMRT from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Consultant shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the Contract. CMRT shall notify the Consultant as soon as it has knowledge that funds may not be available for the continuation of the Contract for each succeeding fiscal period beyond the first.

27. **CONSULTANT'S INVOICES**

Consultant agrees to include on the face of all invoices billed to CMRT, Consultant's Federal Tax Identification Number and DUNS number.

28. **OCCUPATIONAL SAFETY AND HEALTH ACT (OSHA)**

All materials, supplies, equipment or services supplied as a result of this contract shall comply with the applicable U.S. and Maryland OSHA standards.

29. **DELAYS AND EXTENSIONS OF TIME**

- A. The Consultant agrees to prosecute the Statement of Work or services continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances from any clause whatsoever during the progress of any portion of the work specified in this contract.
- B. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Consultant in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of sub-Consultants or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Consultant or the sub-Consultants or suppliers.

30. **GENERAL GUARANTY**

Neither the final acceptance of the work or payment therefore nor any provision in the Contract documents nor partial or entire use of the work by CMRT shall constitute an acceptance of work not performed in accordance with the Contract documents or relieve the Consultant of liability for any express or warranties or responsibility for faulty materials or workmanship. The Consultant shall remedy any defects in the work, and pay for any damage to other work resulting from defects in his work that shall appear within a period of one (1) year from the date of final acceptance of work, unless a longer period is specified. CMRT will give notice of observed defects with reasonable promptness.

31. **PATENT INDEMNITY**

Consultant shall indemnify, protect and save harmless CMRT, its officers, agents and employees from all claims growing out of any patent or copyright infringements or claims thereof pertaining to any design, drawings, specifications or other patented or copyrighted items used by the Consultant.

32. **GENERAL CONDITIONS PREVAILING**

In event of a conflict between these General Terms and Conditions and any other provisions of the Contract documents, these General Conditions shall prevail unless such other provision expressly provides to the contrary.

33. **INCORPORATION BY REFERENCE**

All terms and conditions under the solicitation, or any amendments thereto, are made a part of this contract.

34. **MISCELLANEOUS**

For the purpose of these General Terms and Conditions, the words Contract and Agreement are synonymous.

35. **MARYLAND LAW PREVAILS**

The provisions of this contract shall be governed by the Laws of Maryland.

36. **COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA)**

Consultant shall comply with the ADA, 42 USC §§ 12101 et seq. and applicable regulations. To the extent required by the ADA, Consultant's facilities, services, and programs shall be accessible to persons with disabilities. Consultant shall bear sole responsibility for assuring that its activities under this Contract conform to the ADA. Consultant shall indemnify and hold CMRT harmless in any administrative proceeding or other action brought pursuant to the ADA for all damages, attorney fees, litigation expenses and costs, if such action or proceeding arises from the acts of Consultant, Consultant's employees, agents or sub-Consultants.

37. **PAYMENT OF STATE OBLIGATIONS**

- A. Payment to the Consultant pursuant to this contract shall be made no later than thirty (30) days after CMRT's receipt of a proper invoice from the Consultant. Charges for late payment of invoices, other than as prescribed by title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, or by the Public Service Commission of Maryland with respect to regulated public utilities, as applicable, are prohibited.
- B. A proper invoice shall include a description of the items or services provided; the date the goods were received, or the inclusive dates the services were rendered; the Contract price(s); retention, if any; the basis for the billing; the Contract or purchase order number; the Consultant's Federal Tax Identification Number or Social Security Number; the name and address of the proper invoice recipient.
- C. For the purpose of this contract, an invoice amount will not be deemed due and payable if:
 - (1) The amount invoiced is inconsistent with the Contract;
 - (2) The proper invoice has not been received by the party or location specified in the Contract;
 - (3) The invoice or performance under the Contract is in dispute, or the Consultant has failed to otherwise comply with the provisions of the Contract;

- (4) The item or services have not been accepted;
- (5) The quantity of items delivered is less than the quantity ordered;
- (6) The items or services do not meet the quality requirements of the Contract.
- (7) The proper invoice for the progress payment, if applicable, has not been submitted according to the schedule contained in the Contract;
- (8) All stipulated conditions for release of the withholding, if applicable, have not been met; and
- (9) Satisfactory documentation or other evidence reasonably required by the Grants, Contract and Procurement Administrator or by the Chief Executive Officer concerning performance under the Contract has not been submitted by the Consultant.

38. **SUSPENSION OF WORK**

The CMRT Grants, Contract and Procurement Administrator unilaterally may order the Consultant in writing, to suspend, delay, or interrupt all or any part of the work for such period of time as he or she may determine to be appropriate for the convenience of CMRT.

39. **RETENTION OF RECORDS**

The Consultant shall retain and maintain all records and documents relating to this contract for three (3) years after final payment by CMRT hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of CMRT, including the Grants, Contract and Procurement Administrator or designee, at all reasonable times.

40. **INSOLVENCY**

If the Consultant becomes insolvent, files a bankruptcy petition in any court, becomes the subject of an involuntary bankruptcy petition, makes a general assignment for the benefit of creditors, has a receiver appointed for assets, or ceases to conduct business, the Consultant shall be considered in default of the Contract. If any of these events occurs, the Consultant must immediately notify the Grants, Contract and Procurement Administrator or designee.

41. **SURETY BOND ASSISTANCE PROGRAM**

Assistance in obtaining bid, performance, and payment bonds may be available to qualifying small businesses through the Maryland Small Business Development Financing Authority (MSBDFA). MSBDFA can directly issue bid, performance, or payment bonds up to \$750,000.

Questions regarding the bonding assistance program should be referred to:

Maryland Department of Business and Economic Development
Maryland Small Business Development Financing Authority
217 E. Redwood St., 22nd Floor
Baltimore, MD 21202
(410) 767-6359

SECTION 3
REQUIRED DBE FORMS

**MDOT DBE FORM B
FEDERALLY-FUNDED CONTRACTS
DBE PARTICIPATION SCHEDULE**

PART 2 – DBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID/PROPOSAL. IF THE BIDDER/OFFEROR FAILS TO ACCURATELY COMPLETE AND SUBMIT PART 2 WITH THE BID/PROPOSAL AS REQUIRED, THE BID SHALL BE DEEMED NOT RESPONSIVE OR THE PROPOSAL SHALL BE DEEMED NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD.

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

LIST INFORMATION FOR EACH CERTIFIED DBE SUBCONTRACTOR YOU AGREE TO USE TO ACHIEVE THE DBE PARTICIPATION GOAL.

COLUMN 1	COLUMN 2	COLUMN 3 Unless the bidder/offeror requested a waiver in MDOT DBE Form A – Federally Funded Contracts for this solicitation, the cumulative DBE participation for all DBE firms listed herein must equal at least the DBE participation goal set forth in Form A.
NAME OF DBE SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND DBE CLASSIFICATION	FOR PURPOSES OF ACHIEVING THE DBE PARTICIPATION GOAL, refer to sections 6, 7 and 8 in Part 1 - Instructions. State the percentage amount of the products/services in Line 3.1, except for those products or services where the DBE firm is being used as a wholesaler, supplier, or regular dealer. For items of work where the DBE firm is being used as a supplier, wholesaler and/or regular dealer, complete Line 3.2 using the 60% Rule.
<input type="checkbox"/> Please check if DBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: _____ (If dually certified, check only one box.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American- Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other DBE Classification _____	3.1. <u>TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR (STATE THIS PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE- EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS OR REGULAR DEALERS).</u> _____% (Percentage for purposes of calculating achievement of DBE Participation goal) 3.2. <u>TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE DBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER) (STATE THE PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE AND THEN APPLY THE 60% RULE PER SECTION 6(E) IN PART 1 - INSTRUCTIONS).</u> _____% Total percentage of Supplies/Products x _____ 60% (60% Rule) _____% (Percentage for purposes of calculating achievement of DBE Participation goal)

Please check if Continuation Sheets are attached.

**MDOT DBE FORM B
FEDERALLY-FUNDED CONTRACTS
DBE PARTICIPATION SCHEDULE
CONTINUATION SHEET**

PAGE ___ OF ___

Prime Contractor	Project Description	Solicitation Number

LIST INFORMATION FOR EACH CERTIFIED DBE SUBCONTRACTOR YOU AGREE TO USE TO ACHIEVE THE DBE PARTICIPATION GOAL.

COLUMN 1	COLUMN 2	COLUMN 3 Unless the bidder/offeror requested a waiver in MDOT DBE Form A – Federally Funded Contracts for this solicitation, the cumulative DBE participation for all DBE firms listed herein must equal at least the DBE participation goal set forth in Form A.
NAME OF DBE SUBCONTRACTOR AND TIER	CERTIFICATION NO. AND DBE CLASSIFICATION	FOR PURPOSES OF ACHIEVING THE DBE PARTICIPATION GOAL, refer to sections 6, 7 and 8 in Part 1 - Instructions. State the percentage amount of the products/services in Line 3.1, except for those products or services where the DBE firm is being used as a wholesaler, supplier, or regular dealer. For items of work where the DBE firm is being used as a supplier, wholesaler and/or regular dealer, complete Line 3.2 using the 60% Rule.
<input type="checkbox"/> Please check if DBE firm is a third-tier contractor (if applicable). Please submit written documents in accordance with Section 5 of Part 1 - Instructions	Certification Number: <hr/> (If dually certified, check only one box.) <input type="checkbox"/> African American-Owned <input type="checkbox"/> Hispanic American-Owned <input type="checkbox"/> Asian American-Owned <input type="checkbox"/> Women-Owned <input type="checkbox"/> Other DBE Classification <hr/>	3.1. TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR (STATE THIS PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE- EXCLUDING PRODUCTS/SERVICES FROM SUPPLIERS, WHOLESALERS OR REGULAR DEALERS). _____ % (Percentage for purposes of calculating achievement of DBE Participation goal) 3.2 TOTAL PERCENTAGE TO BE PAID TO THE SUBCONTRACTOR FOR ITEMS OF WORK WHERE THE DBE FIRM IS BEING USED AS A SUPPLIER, WHOLESALER AND/OR REGULAR DEALER) (STATE THE PERCENTAGE AS A PERCENTAGE OF THE TOTAL CONTRACT VALUE AND THEN APPLY THE 60% RULE PER SECTION 6(E) IN PART 1 - INSTRUCTIONS). _____ % Total percentage of Supplies/Products x _____ 60% (60% Rule) _____ % (Percentage for purposes of calculating achievement of DBE Participation goal)

Please check if Continuation Sheets are attached.

**MDOT DBE FORM B
FEDERALLY-FUNDED CONTRACTS
DBE PARTICIPATION SCHEDULE**

PART B – CERTIFICATION FOR DBE PARTICIPATION SCHEDULE

PARTS 2 AND 3 MUST BE INCLUDED WITH THE BID/PROPOSAL AS DIRECTED IN THE SOLICITATION.

I hereby affirm that I have reviewed the Products and Services Description (specific product that a firm is certified to provide or areas of work that a firm is certified to perform) set forth in the MDOT DBE Directory for each of the DBE firms listed in Part 2 of this DBE Form B for purposes of achieving the DBE participation goal that was identified in the DBE Form A that I submitted with this solicitation, and that the DBE firms listed are only performing those products/services/areas of work for which they are certified. I also hereby affirm that I have read and understand the form instructions set forth in Part 1 of this DBE Form B.

The undersigned Prime Contractor hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority business enterprise in its bid or proposal;
- (2) fail to notify the certified minority business enterprise before execution of the contract of its inclusion of the bid or proposal;
- (3) fail to use the certified minority business enterprise in the performance of the contract; or
- (4) pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

I solemnly affirm under the penalties of perjury that the contents of Parts 2 and 3 of MDOT DBE Form B are true to the best of my knowledge, information and belief.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

**MDOT DBE FORM C
FEDERALLY-FUNDED CONTRACTS
OUTREACH EFFORTS COMPLIANCE STATEMENT**

In conjunction with the offer/proposal submitted in response to Solicitation No. _____, I state the following:

1. Bidder/Offeror took the following efforts to identify subcontracting opportunities in these specific work categories:

2. Attached to this form are copies of written solicitations (with bidding/proposal instructions) used to solicit certified DBE firms for these subcontract opportunities.

3. Bidder/Offeror made the following attempts to personally contact the solicited DBE firms:

4. Please Check One:

- This project does not involve bonding requirements.
- Bidder/Offeror assisted DBE firms to fulfill or seek waiver of bonding requirements. (DESCRIBE EFFORTS)

5. Please Check One:

- Bidder/Offeror did attend the pre-bid/pre-proposal meeting/conference.
- No pre-bid/pre-proposal meeting/conference was held.
- Bidder/Offeror did not attend the pre-bid/pre-proposal meeting/conference.

Company Name

Signature of Representative

Address

Printed Name and Title

City, State and Zip Code

Date

MDOT DBE FORM D
FEDERALLY-FUNDED CONTRACTS
DBE SUBCONTRACTOR PROJECT PARTICIPATION AFFIDAVIT

IF THE BIDDER/OFFEROR FAILS TO RETURN THIS AFFIDAVIT WITHIN THE REQUIRED TIME, THE PROCUREMENT OFFICER MAY DETERMINE THAT THE BIDDER IS NOT RESPONSIBLE AND THEREFORE NOT ELIGIBLE FOR CONTRACT AWARD OR THAT THE PROPOSAL IS NOT SUSCEPTIBLE OF BEING SELECTED FOR AWARD. SUBMIT ONE FORM FOR EACH CERTIFIED DBE FIRM LISTED IN THE DBE PARTICIPATION SCHEDULE. BIDDERS/ OFFERORS ARE HIGHLY ENCOURAGED TO SUBMIT FORM D PRIOR TO THE TEN (10) DAY DEADLINE.

Provided that _____ (Prime Contractor's Name) is awarded the Contract in conjunction with Solicitation No. _____, such Prime Contractor will enter into a subcontract with _____ (Subcontractor's Name) committing to participation by the DBE firm _____ (DBE Name) with MDOT Certification Number _____ (if subcontractor previously listed is also the DBE firm, please restate name and provide DBE Certification Number) which will receive at least \$ _____ or _____ % (Total Subcontract Amount/ Percentage) for performing the following products/services for the Contract:

NAICS CODE	WORK ITEM, SPECIFICATION NUMBER, LINE ITEMS OR WORK CATEGORIES (IF APPLICABLE)	DESCRIPTION OF SPECIFIC PRODUCTS AND/OR SERVICES

I solemnly affirm under the penalties of perjury that the information provided in this DBE Subcontractor Project Participation Affidavit is true to the best of my knowledge, information and belief. I acknowledge that, for purposes of determining the accuracy of the information provided herein, the Procurement Officer may request additional information, including, without limitation, copies of the subcontract agreements and quotes.

PRIME CONTRACTOR	SUBCONTRACTOR (SECOND-TIER)	SUBCONTRACTOR (THIRD-TIER)
Signature of Representative: _____	Signature of Representative: _____	Signature of Representative: _____
Printed Name and Title: _____	Printed Name and Title: _____	Printed Name and Title: _____
Firm's Name: _____	Firm's Name: _____	Firm's Name: _____
Federal Identification Number: _____	Federal Identification Number: _____	Federal Identification Number: _____
Address: _____	Address: _____	Address: _____
Telephone: _____	Telephone: _____	Telephone: _____
Date: _____	Date: _____	Date: _____

IF DBE FIRM IS A THIRD-TIER SUBCONTRACTOR, THIS FORM MUST ALSO BE EXECUTED BY THE SECOND-TIER SUBCONTRACTOR THAT HAS THE SUBCONTRACT AGREEMENT WITH THE DBE FIRM.

Exhibit B

EXHIBIT B

Howard County, Maryland
Office of Purchasing

SOLICITATION SCHEDULE

Date: November 7, 2014
Bid No.: RFP 11-2015
Bid Name: Electric Bus Project
Buyer: Dean Hof
Agency: Office of Transportation
Contact: John Powell

Shopping Cart and Specs to Purchasing	09/18/2014
Solicitation Approved by MTA	11/05/2014
Post on Website (Advertise)	11/12/2014
Pre-Bid/Pre-Proposal Conference	12/04/2014
Opening Date	12/17/2014
Selection of Short List	01/09/2015
Interviews of Short Listed Vendors	01/23/2015
Determine Recommended Vendor & Issue Award Letter	01/30/2015
Receive Executed Agreement from Vendor	02/13/2015
Print Contract or Purchase Order	02/23/2015

CMRT Project # MD-88-0001 : Howard County Electric Bus Project

#	Task #	CMRT Line Item	Title	Expected Start	Expected End	2014		2015				2016				2017				2018			
						Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	
0			Project # MD-88-0001: Howard County Electric Bus Project - Revised 2-8-13	9/1/12	8/11/18																		
1			Original MTA Tasks	9/1/12	6/30/14																		
2	MTA		Contract Award	9/1/12	9/1/12																		
3	MTA		Design Complete	12/31/12	12/31/12																		
4	MTA		Advertisement	3/31/13	3/31/13																		
5	MTA		Award	6/30/13	6/30/13																		
6	MTA		Notice to Proceed - Bus Purchase	7/31/13	7/31/13																		
7	MTA		Work Complete	6/30/14	6/30/14																		
8	1	11.12.03	3 Replacement Buses	11/5/12	5/9/16																		
9			Bus Procurement, Build, Test	11/5/12	5/9/16																		
10	1.1		Route evaluation, selection, and modeling	11/16/12	12/31/12																		
15	1.2		Identification and specification of vehicle / charger requirements	11/5/12	1/21/13																		
21	1.3		Development and issuance of solicitation	1/21/13	5/22/13																		
26	1.4		Evaluation, selection and award of the vehicle procurement contract	6/24/13	2/23/15																		
58	1.5		Manufacture, inspection and testing of vehicles	2/23/15	4/23/16																		
62	1.6		Design and installation of the bus wrap	2/23/16	3/23/16																		
63	1.7		Acceptance of vehicles	4/25/16	5/9/16																		
64			Bus Acceptance	5/9/16	5/9/16																		
65	1.8		Install slow (plug-in) chargers	1/23/16	2/23/16																		
66			Charging Infrastructure	2/23/15	7/25/15																		
67	1.9		Site Selection and Evaluation	2/23/15	4/23/15																		
68			Process Planning for Infrastructure Install	2/23/15	5/23/15																		
71	1.10		Identification and specification of charging station installation requirements	2/23/15	3/23/15																		
72	1.11		Develop and issue charger installation solicitation	3/23/15	5/23/15																		
73	1.12		Evaluate and select charger construction contract	5/25/15	7/25/15																		
74	2	11.33.20	Construction Charging Infrastructure	7/27/15	1/27/16																		
75	2.1		Site preparation and installation of charging station	7/27/15	1/27/16																		
76	3		Energy information station and transit shelter	2/23/15	3/23/16																		
77			Process Planning for Energy Information Station Design Build Install	2/23/15	6/23/15																		
78	3.1	11.32.10	Acquire Bus Shelters	6/23/15	10/23/15																		
79	3.2	11.31.20	Eng/DE Energy Info Station	6/23/15	10/23/15																		
80	3.3	11.33.20	Construction Energy Info Station	10/23/15	3/23/16																		
81			Work Complete / Bus Demonstration Start	6/9/16	6/9/16																		
82	4	11.71.03	Project Management	9/3/12	8/11/18																		
83	4.1		Hold Kickoff Meeting	10/1/12	11/1/12																		
84	4.2		Project management and reporting	9/3/12	8/10/18																		
85	4.3		Public Relations Strategy	10/24/16	10/24/17																		
86	4.4		Collect baseline data	5/9/15	5/9/16																		
87	4.5		Vehicle Introduction	5/9/16	6/9/16																		
92	4.6		Collect monthly operational data	6/9/16	6/9/18																		
93	4.7		Issue annual TIGGER reports	7/10/17	8/10/17																		
94	4.8		Final reporting	6/11/18	8/11/18																		