



RFTA Solicitation No. 12-049

ON-CALL SERVICE AND MAINTENANCE PROVIDERS FOR PLUMBING

IMPORTANT DATES:

Date Issued: October 31, 2012

Pre-Proposal Meeting November 12, 2012 5:00 PM (MT)
At 1340 Main Street, Carbondale, CO

**Inquiries and/or Requests for
Clarification Due to RFTA:** November 16, 2012 5:00 PM (MT)

**RFTA Response to Inquiries and/or
Requests for Clarification Due:** November 26, 2012 5:00 PM (MT)

Proposals Due: **December 6, 2012 2:00 PM (MT)**

Procurement Department
1340 Main Street
Carbondale, CO 81623
970-384-4861

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GENERAL GUIDELINES FOR COMPLETING RFTA'S SOLICITATION PACKAGE

This document is intended as a guideline to assist Proposers in successfully completing the necessary paperwork. You are strongly encouraged to read the solicitation document very carefully. These guidelines ARE NOT intended to replace the more detailed instructions that are included in the following solicitation.

- For each solicitation, please complete a Vendor Registration form. We will then be able to notify you immediately of any updates to the solicitation. Please remember that it is your primary responsibility to make yourself aware of any addenda.
 - *Note that if you've previously completed a form, there is a button on the form for you to indicate that you are already registered. A prompt will appear to ask you for the solicitation number and an email is sent to Procurement.*
- Be sure to regularly check RFTA's website, <http://www.rfta.com/rfps.html>, for any changes or updates to the solicitation. Any changes will be documented in writing and labeled as addenda.
- It is extremely important that all required forms be completed. If a form does not apply to your business or proposal, please mark the form "Not Applicable." Please also sign and date each form. Some forms may require notarization. Failure to complete and return all forms will result in your Proposal being ruled non-responsive. Non-Responsive Proposals will not be awarded a contract.
- DBE (Disadvantaged Business Enterprise) Obligation: The Roaring Fork Transportation Authority ("RFTA") agrees to ensure that DBEs have the maximum opportunity to participate in the performance of contracts. Therefore, it is imperative that you read the DBE Section and complete the necessary paperwork. A DBE means a for-profit small business concern—
 - That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
 - Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- Why does RFTA require DBE participation?
 - To ensure nondiscrimination in the award and administration of its contracts;
 - To create a level playing field on which DBEs can compete fairly for contracts;
 - To help remove barriers to the participation of DBEs in RFTA's contracts.

- Please verify that your Insurance coverage meets the minimum requirements of Article 14 in Part III of the Pro Forma Contract. Submitting a proposal certifies that you have or will acquire the necessary coverage levels.
- Restrictions on Communications with RFTA during Solicitation, Offer & Award Period. All inquiries, offers, submissions and/or other correspondence regarding solicitations, excluding protests, must be directed, in writing, to the Procurement Department at procurement@rfta.com. All official communications to and from RFTA will be transmitted in writing (defined as being sent or received via electronic mail). Oral communications regarding this solicitation shall not be considered official communications. RFTA is not responsible for and will not be legally bound by any oral statements made by its employees regarding any solicitation.
- Make sure the Proposal Response is received by the RFTA's Procurement Department by the designated date and time. **Late proposals will not be accepted.**
 - o FOR EMAILED PROPOSALS: When emailing proposals, please make sure they are in PDF format. This is to ensure that your document is secure and cannot be changed. The email containing the proposal should not be sent to anyone at RFTA other than the RFTA Procurement Department. The subject line of the email containing the proposal must reference "Proposal for RFTA Solicitation No. 12-049 Plumbing" to ensure that the proposal is properly identified and evaluated by RFTA. Failure to clearly denote your email submission may result in late discovery of your proposal, which will result in your proposal being disqualified from evaluation.
- It is the sole responsibility of the Proposer to ensure that its submission is successfully delivered to RFTA by the specified date and time. RFTA will not be responsible for late or lost deliveries of proposals submitted via email, nor will they be held responsible for information technology issues which result in delaying submittals. RFTA shall not be responsible for proposals delayed by non-responsive IT systems; failure of emailed submittals to pass through spam or other security screens; or rejection of PDFs that exceed the system's size limitations for attachments, which are subject to change.

When in doubt, contact Collina Washington, RFTA Procurement Manager, (970) 384-4886 or Barbara Hauptli, Procurement Specialist, (970) 384- 4861. All questions and communication may also be directed via email to procurement@rfta.com.



**RFTA SOLICITATION No. 12-049
ON-CALL SERVICE AND MAINTENANCE PROVIDERS
FOR PLUMBING**

PART I – Solicitation, Offer & Award

- 1.1 **Purpose of Procurement.** The purpose of this solicitation is to procure on-call plumbing service and maintenance providers for the Roaring Fork Transportation Authority (RFTA/Authority).

These services will be performed at the various RFTA Operations and Maintenance Facilities, RFTA Employee Housing and RFTA business offices. The requested services will be conducted in accordance with generally accepted industry standards and as defined by Task Order. Please follow the instructions in Section 1.29 below.

This solicitation does not commit RFTA to award a contract, or pay any cost incurred in preparation of proposals, or to produce or contract for services. RFTA will be the sole contracting entity for these services.

- 1.2 **Award of Contract:** Award of these contracts shall be made to three (3) to five (5) of the most responsive and responsible proposers. RFTA will develop an on-call list to be used when we are in need of assistance on small projects. RFTA reserves the right to solicit any project regardless of the project cost for services when it is deemed to be in its best interest.

The successful proposer(s) will be placed on a Preferred Vendors List. The list that will be established will not obligate RFTA to rotate or otherwise utilize the services of each company. RFTA reserves the right to use any company on the Preferred Vendors List which it deems to be in its best interest for a job. Selection on each project shall be within the sole discretion of RFTA. Inclusion on the Preferred Vendors List does not bar the company from bidding on any of RFTA's large projects.

- 1.3 **Type and Term of Contract.** The Successful Proposers ("Proposers") in each service category will be required to execute the attached Service Contract (Part III of this RFP). Not all projects will be subject to Federal Funding. However, this solicitation and the Contract contain clauses and certifications required by the

Federal Transit Administration (FTA).

The initial term of the contract shall begin on the date of execution and will expire on December 31, 2013. RFTA shall have the option to renew the contract for four (4) additional twelve (12) month periods beginning on January 1, 2014, subject to annual appropriations. All extensions and/or renewals of the term of the contract shall be made in writing by both parties in advance of the contract expiration date. Annual contract amounts will not exceed \$75,000.00. Please note that this is not a guaranteed annual amount.

The price of this Contract includes, and Contractor is liable for and shall pay, all foreign and domestic taxes, impositions, charges and exactions except as noted in Paragraph 1.21 below.

1.4 **Solicitation Schedule.**¹ This solicitation will be governed by the following schedule:

Solicitation Date	October 31, 2012
Pre-Proposal Meeting At 1340 Main Street, Carbondale, CO	November 12, 2012 5:00 PM (MT)
Deadline for Written Inquiries and/or Requests for Clarifications:	November 16, 2012 5:00 PM (MT)
RFTA Response to Inquiries and/or Requests for Clarifications:	November 26, 2012 5:00 PM (MT)
Proposals Due:	December 6, 2012 2:00 PM. (MT)
RFTA Announcement of Recommendation for Contract Award(s)*:	December 17, 2012
RFTA Executive Director Awards Contract(s)*:	December 21, 2012

¹ Dates denoted with an “*” are tentative and subject to change with no formal modification to the RFP document. Changes to all other dates shall require the issuance of a formal addendum to the RFP document

1.5 **Restrictions on Communications with RFTA during Solicitation. Offer & Award Period.** All official correspondence from RFTA regarding this solicitation shall be transmitted to and from RFTA’s Procurement Specialist, Barbara Hauptli or Procurement Manager, Collina Washington. All inquiries, offers, submissions and/or other correspondence regarding this solicitation, excluding protests, must be directed, in writing, to the Procurement Department at procurement@rfta.com.

From the date of issuance of this solicitation through the date of contract award by RFTA, all official communications to and from RFTA will be transmitted in writing (defined as being sent or received via electronic mail). Oral communications regarding this solicitation shall not be considered official communications. RFTA is not responsible for any oral statements made by its employees regarding this solicitation. Please see Part I, Section 1.28 for instructions regarding the submittal of protests.

- 1.6 **Deadline for Submission of Proposals/Late Proposals.** Proposals submitted in response to this solicitation must be received by RFTA no later than **2:00 p.m. (MT) on Thursday, December 6, 2012.** Proposals received after the submission deadline will not be evaluated.
- 1.7 **Format of Proposals.** RFTA requires that proposals be submitted via electronic mail ("email"), with the proposal documents attached in Portable Document Format (".pdf"). All proposals must be prepared and submitted in accordance with the content requirements specified in Part I, Section 1.29 of this solicitation. As a condition of proposal responsiveness, all proposal documents that require the signature of the Proposer must be signed and incorporated into the .pdf document(s). The Fee Schedule should be attached as a separate .pdf document within the same email as the other proposal documents.

Any contract award made as a result of this solicitation shall bind the Proposer to all of the terms, conditions, and specifications set forth in this solicitation.

- 1.8 **Method of Delivery/Location for Submission of Proposals.** Proposals must be submitted exclusively to the RFTA Procurement Department at procurement@rfta.com with the Fee Schedule submitted as a separate .pdf document. The email containing the proposal should not be sent to anyone at RFTA other than the RFTA Procurement Department. The subject line of the e-mail containing the proposal must reference **"Proposal for RFTA Solicitation No. 12-049 Plumbing"** to ensure that the proposal is properly identified and evaluated by RFTA. Failure to clearly denote your email submission may result in late discovery of your proposal, which will result in your proposal being disqualified from evaluation.

Upon receipt of a proposal by email, RFTA will reply to the email as confirmation of receipt of the proposal. It is the sole responsibility of the Proposer to ensure that its proposal is successfully delivered to RFTA by the specified date and time.

RFTA will not be responsible for late or lost deliveries of proposals submitted via email, nor will they be held responsible for information technology issues which result in delaying submittals. RFTA shall not be responsible for proposals delayed by non-responsive IT systems; failure of emailed submittals to pass through spam or other security screens; or rejection of PDFs that exceed the system's size limitations for attachments, which are subject to change.

- 1.9 **Inquiries and/or Requests for Clarifications.** Inquiries and/or Requests for Clarifications regarding this solicitation must be submitted to RFTA in writing via email to procurement@rfta.com by **5:00 p.m. (MT) on November 16, 2012.** Written inquiries/clarifications must be submitted to the attention of the RFTA Procurement Specialist, in accordance with Part I, Section 1.4 above. Written inquiries/clarifications must be in the form of questions. There is no prescribed format for the submission of written inquiries/clarifications. Written inquiries/clarifications received after the submission deadline will not be responded to by RFTA.

RFTA staff will review and evaluate all written inquiries and/or requests for clarifications that are received by the submission deadline and will post RFTA's responses to www.rfta.com by not later than **5:00 p.m. (MT) on November 26, 2012.** If applicable, an addendum to the RFP that incorporates the changes necessitated by RFTA's responses to written inquiries will be issued in accordance with Part I, Section 1.10 below on or after November 26, 2012. It is the sole responsibility of the Proposer to make itself aware of RFTA's responses to written inquiries/clarifications and their impact on the RFP.

- 1.10 **Amendments to Solicitation (Addenda)/Postponement of Proposal Submission Deadline.** RFTA reserves the right to revise or amend the RFP up to the time set for the submission of proposals. Such revisions and amendments, if any, shall be announced by written addendum to the RFP. If an addendum significantly changes the RFP, the date set for the submission of proposals may be postponed by such number of days as in the opinion of RFTA shall enable potential Proposers to revise their proposals. In any case, the proposal submission deadline shall be at least five (5) business days after the last addendum, and the addendum shall include an announcement of the new date, if applicable, for the submission of proposals.

Upon issuance, addenda will be considered part of the RFP and will prevail over inconsistent or conflicting provisions contained in the original RFP. Copies of all addenda will be made available on the RFTA website <http://www.RFTA.com/rfps.html>. All potential Proposers that have previously requested and received a copy of the RFP document will be notified via email that an addendum is available. This process will be repeated each time an addendum is made available by RFTA.

A valid email address must be provided when requesting the original RFP in order for RFTA to notify potential Proposers of the availability of addenda. RFTA will not be responsible for a potential Proposer failing to receive notification of the availability of addenda if an invalid email address is provided to RFTA. RFTA will only be responsible for providing notification of the availability of addenda to potential Proposers who directly request and receive copies of the original RFP document from RFTA.

Proposers shall acknowledge receipt of all addenda by completing and submitting the attachment, Acknowledgement of Addenda, included in Part IV of this RFP, as part of its proposal. As with other required documentation, proposals that fail to reference receipt of addenda by inclusion of the Acknowledgement of Addenda may be excluded from consideration for a contract award.

- 1.11 **Proposal Price Validity.** Proposal pricing shall remain valid for a period of ninety (90) calendar days after the deadline for proposal submission identified in Part I, Section 1.6 above.
- 1.12 **Modification of Proposals.** Except at the written request of RFTA, no proposal may be modified after the deadline for proposal submission identified in Part I, Section 1.6 above.
- 1.13 **Conditional Proposals.** Conditional proposals and any proposal taking exception to these instructions, the Pro-Forma Contract, the Scope of Services or to other RFTA requirements will be considered non-responsive and shall be rejected.
- 1.14 **Withdrawal of Proposals.** Proposals previously submitted to RFTA may be withdrawn upon written request by the Proposer prior to the time fixed for the receipt of proposals. No proposal may be withdrawn for a period of 90 days after the time set herein for the receipt of proposals.
- 1.15 **Single Response to Solicitation.** If only one proposal is received in response to this solicitation, a detailed cost analysis of the single proposal may be requested of the single Proposer. A cost analysis, evaluation, and/or audit of the proposal may also be performed by RFTA in order to determine if the proposal price is fair and reasonable. If RFTA determines that a cost analysis is required, the single Proposer must be prepared to provide, upon request, detailed summaries of estimated costs (i.e., labor, equipment, supplies, overhead costs, profit, etc.) and documentation supporting all cost elements.
- 1.16 **Confidential/Proprietary Information.** All proposals that are received by RFTA in response to this RFP will be considered public records subject to the Colorado Open Records Act and shall be fully open to public inspection following award of a contract. If a Proposer believes a portion of the information submitted in its proposal constitutes a trade secret or proprietary information as provided by Colorado state law, the Proposer may request that RFTA consider keeping confidential the trade secrets or proprietary information which the Proposer believes should be legally protected from disclosure. For such information to be so considered, the Proposer must mark in boldface as "PROPRIETARY TRADE SECRET INFORMATION" the top and bottom of each page of its proposal that contains such information. Notwithstanding the Proposer's claim of or designation of information as a trade secret or proprietary information, the determination whether it is or not will be determined by RFTA under Colorado state law.
- 1.17 **Reserved Rights.** RFTA reserves the right to reject any and all proposals or any

portion of a specific proposal for any reason. RFTA also reserves the right to award a single or multiple contracts as a result of this solicitation; however, issuance of this RFP and receipt of proposals does not commit RFTA to award a contract or contracts.

RFTA has the sole right to select the successful proposal(s) for contract award; to reject any proposal as unsatisfactory or non-responsive due to non-conformance with the requirements of this RFP; to cancel the solicitation and to advertise for new proposals; to award a contract or contracts to other than the Proposer submitting the lowest price proposal; or not to award a contract as a result of this RFP.

RFTA reserves the right to accept any proposal deemed to be in the best interest of RFTA and to waive any irregularities in any proposal that does not prejudice other Proposers. RFTA further reserves the right to negotiate with any source whatsoever. A contract will be negotiated with the Proposer(s) whose proposal(s) is considered by RFTA in its sole discretion to be most advantageous to RFTA.

RFTA further reserves the rights to retain all proposals submitted and to use any ideas or concepts in any proposal for any purpose regardless of whether that proposal is selected for contract award.

Proposals shall be submitted to RFTA on the most favorable of terms possible from the standpoint of cost, quality, and technical capability. No Proposer shall have any cause of action against RFTA arising out of the methods by which proposals are evaluated.

- 1.18 **Equipment.** The Proposer shall at its own expense furnish all labor, supplies, equipment and machinery necessary to provide the services required by the Contract.
- 1.19 **Personnel.** The Proposer represents that he/she has, or will secure at his/her own expense, all personnel required in performing the services under the contract. Such personnel shall not be employees of or have any contractual relationship with RFTA. All the services required hereunder will be performed by the Proposer or under his/her supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or licensed, if applicable, under state and local law to perform such services. None of the work or services covered by this contract shall be sub-contracted without prior written approval by RFTA.
- 1.20 **Knowledge of Conditions.** Each Proposer shall thoroughly examine and be familiar with the contract documents, scope of services and all conditions and requirements that may in any manner affect the work to be performed under the contract. The submission of a proposal shall constitute an acknowledgement that the Proposer has thoroughly examined and is familiar with the contract documents, scope of services, conditions and requirements in every detail.

- 1.21 **Tax Exempt.** RFTA is exempt from payment of Federal, State and local taxes, and such taxes must not be included in the proposal price. RFTA will furnish the Service Provider//Vendor with the necessary tax-exempt certificates.
- 1.22 **Prime Contractor Responsibilities.** The Proposer will be required to assume responsibility for all services offered in its proposal regardless of who provides them. Further, RFTA will consider the Service Provider to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.
- 1.23 **No Geographic Preference.** This procurement will be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences in evaluation of proposals or award of contracts, except where Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws.
- 1.24 **Conflicts of Interest.** RFTA employees and directors are bound by the RFTA Code of Ethics and Standards of Conduct, which were adopted by the RFTA Board of Directors on April 13, 2006. The RFTA Code of Ethics and Standards of Conduct prohibits RFTA employees and directors engaged in the award and administration of contracts, or any person acting on their behalf, from accepting, directly or indirectly, any gift with a value of more than a nominal amount, including meals or tickets to sporting events, from any person with whom the employee interacts on official RFTA business. Therefore, Proposer or its subcontractors or suppliers, may not make gifts or favors to any RFTA employee or director. It is a violation of the RFTA Code of Ethics and Standards of Conduct for any RFTA employee to accept any such gift or favor.
- 1.25 **Contractual Relationships.** RFTA intends to execute the Pro-Forma Contract, attached as Part III to this RFP, for the provision of the required services with the Proposer. The Proposer's contractual responsibility must solely rest with one firm or legal entity, which shall not be a subsidiary or affiliate with limited resources. RFTA will not be a party to agreements between the Proposer and/or any subcontractors it may choose to employ during fulfillment of the contract; however, the Proposer shall execute fair and reasonable agreements with its subcontractors (if any) and shall provide RFTA with copies of said agreements not later than five (5) business days prior to their execution. Additional contract requirements related to Subcontractors are specified in Article 15 of Part III (Pro-Forma Contract) to this RFP.
- 1.26 **Contractual Provisions.** The contract to be executed between RFTA and the Proposer as a result of this solicitation is attached as Part III (Pro-Forma Contract) to this RFP. RFTA has no obligation to consider and/or approve exceptions or changes to the Pro-Forma Contract. RFTA reserves the right to modify the Pro-Forma Contract and/or include additional contractual provisions in the contract at its sole discretion.
- 1.27 **Responsibility for Compliance with Legal Requirements.** Proposer's

products, services, and facilities shall be in full compliance with any and all applicable federal, state, and local laws, regulations, ordinances, and standards and any standards adopted by nationally recognized testing facilities regardless of whether or not they are referred to in this RFP.

- 1.28 **Protests.** Protests related to this RFP or resulting contract award must be submitted in writing to the RFTA Procurement Manager. RFTA's protest procedures, as included in the 2010 RFTA Procurement Manual, are as follows:

3.13.1 AUTHORITY TO RESOLVE PROTESTED SOLICITATIONS AND AWARDS

- (1) Right to Protest. Any actual or prospective proposer or contractor who is aggrieved in connection with the solicitation or award of a contract shall first try to resolve the grievance/protest with the RFTA Procurement Manager. If the grievance is not satisfied, the prospective proposer or contractor shall then protest to the RFTA CEO. The protest shall be submitted in writing within 5 days after such aggrieved person knows or should have known of the facts giving rise thereto.
- (2) Authority to Resolve Protests. The RFTA CEO shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved proposer or contractor, actual or prospective, concerning the solicitation or award of a contract.
- (3) Decision. If the protest is not resolved by mutual agreement, the RFTA CEO shall promptly issue a decision in writing. The decision shall:
 - a. state the reason for the action taken; and
 - b. inform the protestant of its right to administrative review as provided in this Article.
- (4) Notice of Decision. A copy of the decision under Subsection 3.13.1 (3) of this Section shall be mailed or otherwise furnished immediately to the protestant and any other party intervening.
- (5) Finality of Decision. A decision under Subsection 3.13.1 (1) of this Section shall be final and conclusive, unless the protestant appeals administratively to the RFTA Board acting as the Procurement Appeals Board.

In all instances involving FTA funds the RFTA will disclose information regarding the protest to the FTA Region VIII office, and keep them informed

about the status of the protest,

A protester must exhaust all administrative remedies with the RFTA before pursuing a protest with FTA.

The contract resulting from this solicitation will not utilize FTA funds.

- 1.29 **Information Required from the Proposer.** To be eligible for evaluation by RFTA, the Proposer must submit a complete, responsive proposal in response to RFTA Solicitation No. 12-049. Any and all proposals submitted to RFTA must contain all eleven (11) of the following documents, properly signed (as required) by the person authorized to submit the proposal, fully completed by the Proposer, numbered and arranged in the following order with the exception of the Fee Schedule which should be submitted in a separate .pdf.

1. **Statement of Proposer's Qualifications and Experience.** This document shall include a narrative description of the Proposer that includes a brief history of the firm, number of employees, lines of business, areas of specialization, office locations, organizational structure, etc.

In addition, this document shall include a list of recent relevant work performed by the Proposer. Please include a list of at least five (5) clients for which you have performed similar services within the last three (3) years. Proposers must provide the following information for each client referenced.

- a) Name and address of client
- b) Name and Title of Contact Person for the client
- c) Telephone number and email address for Contact Person for the client
- d) Start and completion dates of most recent project with client
- e) Services provided to client during most recent project
- f) Contract amount of most recent project with client
- g) Current status of the most recent project
- h) Was the most recent project completed on time and within budget?

There is no prescribed format for this document. The format of the document shall be at the discretion of Proposer; however, the document shall be limited to no more than 10 typed pages.

2. **Proposal Submission Form.** This document acknowledges that the Proposer has thoroughly examined this solicitation and that the Proposer is informed of any and all conditions and requirements of the solicitation. This document must be fully completed and submitted with the proposal. Blank form is attached in Part IV of this RFP.
3. **Proposer Questionnaire.** This document summarizes key information about the Proposer for RFTA's assistance and reference during evaluation of the

proposals. This document must be fully completed and submitted with the proposal. Blank form is attached in Part IV of this RFP.

4. Acknowledgement of Addenda to RFP. This document must be fully completed, signed, and submitted with the proposal. Even if no addenda to the RFP were issued by RFTA, Proposer must still complete the form and include it in its proposal. Blank form is attached in Part IV of this RFP.
5. Affidavit of Non-Collusion. This document is required to ensure that the Proposer submitting a proposal has prepared its proposal without collusion of any kind. As a condition of submission responsiveness, this document must be fully completed, signed, notarized and submitted with the proposal. Blank form is attached in Part IV of this RFP.
6. Federal Debarment and Suspension Certification. This document is required by Part III (RFTA Contract Terms and Conditions), Article 43 of this RFP. As a condition of submission responsiveness, this document must be fully completed, signed and submitted with the proposal. Blank form is attached in Part IV of this RFP.
7. Conflicts of Interest Disclosure Requirements. This document serves as a list of all entities and/or individuals with which the Proposer has relationships that may create or appear to create conflicts of interest with the work to be performed as a result of the contract that may result from this solicitation. As a condition of submission responsiveness, this document must be fully completed, signed and submitted with the proposal. Blank form is attached in Part IV of this RFP. This document is required by Part III (RFTA Contract Terms and Conditions), Article 26 of this RFP.
8. Corporate Certification of Illegal Aliens. This document is required by C.R.S. § 8-17.5-101, et. seq. (Colorado State House of Representatives Bill No. 06-1343) and Part III (RFTA Contract Terms and Conditions), Article 33 of this RFP. As a condition of submission responsiveness, this document must be fully completed, signed and submitted with the proposal. Blank form is attached in Part IV of this RFP.
9. Financial & Exception Statement: This document provides RFTA with the Proposer's financial reference information and acknowledges any exceptions the Proposer has to any of the terms, conditions, or specifications of these solicitation documents. Blank form is attached in Part IV of this RFP.
10. Fee Schedule. Your fee schedule should be attached as a separate PDF and include the following:
 - a. Labor (manpower) rates – by category if appropriate:

- Regular time labor rates

- Overtime labor rates
 - After hour/emergency labor rates
 - Holiday or weekend labor rates (if any):
- b. Equipment Rates – please provide a full list of all equipment you own. Indicate any small equipment that is not independently billed (which must be identified as “not billed”).
- Regular time equipment rates
 - Overtime equipment rates
 - After hour/emergency equipment rates
 - Holiday or Weekend equipment Rates (if any)
- c. Other (if any)
- Materials Mark-up
 - Surcharges (fuel, weight)
 - Delivery/Pick-up
 - Removal, trucking, disposal of materials/debris

Please note that RFTA Operations and Facilities does not observe holidays. If a vendor is called to perform work on a holiday, the following are the only holidays RFTA will recognize: New Year’s Day, Memorial Day, July 4th (Independence Day), Labor Day, Thanksgiving, and Christmas.

The Fee Schedule must be signed, dated and submitted in a separate PDF document. It shall be understood that the pricing submitted will be guaranteed for the full term of the contract.

11. W-9 Form. Blank form is attached in Part IV of this RFP.

12. DBE. If the Proposer is a CDOT, UCP or other DOT certified DBE, a copy of your current certification should be submitted. It should be noted that certain task orders, depending on the size of the project, may require these DBE requirements and by submitting your proposal you certify your willingness to do so.

13. If applicable, a copy of any license or certification that is essential to your trade or craft.

1.30 **Proposal Evaluation and CONTRACTOR Selection.**

1. Standards for Award. RFTA Solicitation No. 12-049 is a Request for Proposals (RFP). RFTA intends to award contracts to three (3) to five (5) Proposers whose proposal conforms to the solicitation and is determined to be the most advantageous to RFTA, taking into consideration price and other evaluation factors set forth below. In order to be eligible for contract

award a proposal must meet all of the following criteria:

- a. The proposal submitted is responsive to the solicitation.
 - A proposal shall be considered responsive if it conforms in all material aspects to the requirements of the solicitation at the scheduled time of submission and does not require further discussions with the Proposer.
 - It shall be at the sole discretion of RFTA to determine if a proposal “conforms in all material aspects to the requirements of the solicitation”.
 - b. The Proposer who submitted the proposal is a responsible Proposer.
 - A Proposer shall be considered responsible if the Proposer possesses, at the time of contract award, the ability to perform successfully and a willingness to comply with the terms and conditions of the proposed contract (attached as Part III – Pro-Forma Contract to this RFP).
 - c. The Proposer is judged, at the sole discretion of RFTA, to be the qualified firm that offers the best value to RFTA for the Services to be provided.
2. Evaluation and Award Process. All proposals shall be evaluated by a Proposal Review Committee to be comprised of professional staff employed by RFTA. Following the receipt of proposals, proposals will be evaluated and a contract will be awarded in accordance with the following process:
- a. Proposals will first be evaluated by RFTA staff for responsiveness in accordance with the standard set forth in Part I, Section 1.29 above. Only those proposals that are determined to be responsive shall be evaluated for Proposer responsibility.
 - b. Proposers who submitted responsive proposals will be evaluated by the Proposal Review Committee for responsibility in accordance with the standard set forth in Part I, Section 1.30 above.
 - c. Proposals that are determined to be responsive and that were submitted by responsible Proposers shall be further evaluated by the Proposal Review Committee to determine the proposal(s) that is/are most advantageous to RFTA. To determine the most advantageous proposal(s) to RFTA, the Proposal Review Committee will rank the proposals taking into consideration the following criteria:

☐ Fee Schedule

Proposal Review Committee shall specifically consider information submitted in accordance with Part I, Section 1.29.11

when evaluating the Price Proposal.

☐ Proposer Qualifications and Experience

Proposal Review Committee shall specifically consider information submitted in accordance with Part I, Section 1.29.1 when evaluating Proposer Qualifications and Experience.

As evaluation factors, Fee Schedule and Proposer Qualifications and Experience shall be approximately equal in importance.

d. A Recommendation for Contract Award to the Proposer(s) who submitted the most advantageous proposals to RFTA, as solely determined by the Proposal Review Committee, and that meet the standards for contract award specified above will be forwarded to the RFTA Chief Executive Officer (CEO). A notice of the Recommendation for Contract Award will be sent to all Proposers who submitted a proposal.

e. The RFTA CEO will consider the Recommendation for Contract Award.

f. If the Recommendation for Contract Award is approved by the RFTA CEO, a Notice of Contract Award will be sent to all Proposers and contract negotiations with the successful Proposer(s) will commence.

g. A contract(s) will be executed with the successful Proposers and a Notice to Proceed will be issued.

h. The RFTA CEO may, at his sole discretion, delay consideration of the Recommendation for Contract Award or reject the recommendation and award the contract to other Proposer(s) or cancel the procurement altogether.

PART II – Scope of Work

- 2.1 **Organizational Background & Summary.** RFTA is the regional public transportation provider for Garfield and Pitkin Counties, as well as a portion of southwestern Eagle County. RFTA operates commuter bus service along the 40-mile State Highway (SH) 82 corridor from Glenwood Springs to Aspen and the 27-mile Interstate 70 (“I-70”) corridor from Glenwood Springs to Rifle. In addition, RFTA owns and manages the Rio Grande Rail Corridor from 7th Street in Glenwood Springs to Woody Creek Road in Pitkin County. RFTA facilities include, but not limited to:

- Rubey Park Transit Center
- Aspen Maintenance Facility
- Carbondale Maintenance Facility
- Carbondale Administration
- Glenwood Springs Maintenance
- Carbondale Parker House (Employee Housing)
- Carbondale Main Street Apartments (Employee Housing)

- 2.2 **Scope of Work.** Each Proposer shall furnish labor, tools, equipment, and supervision for the services outlined below. RFTA’s expectation is that the Proposer will perform the majority of the work. Any subcontracted work is to be pre-approved by RFTA.

2.2.1 General Information for all Proposers

- 2.2.1.1 RFTA is a 24 hour/7 day a week operation. It observes no holidays. The responsive and responsible proposer should be available to provide services at any time.
- 2.2.1.2 Response Time: Proposers response to requests for service should be within twenty-four (24) hours of RFTA’s initial contact for non-emergencies and two (2) hours for emergencies or your eligibility to perform services for the task requested may be forfeited.
- 2.2.1.3 Permitting: Proposer shall obtain, at own expense, all permits which are necessary to perform the work.
- 2.2.1.4 RFTA will require the Proposers to pay Davis Bacon/Prevailing Wages for both Federally Funded and CDOT funded projects.
- 2.2.1.5 It should be noted that certain task orders, depending on the size of the project, may include DBE requirements, and by submitting your proposal you certify that you are willing to comply with such requirement.
- 2.2.1.6 It is the expectation of RFTA that the Proposer will perform the majority of the work. Subcontract work must be pre- approved

by RFTA.

2.2.1.7 All utility locates and protects are the responsibility of the Proposer.

2.2.1.8 Work may be for either commercial or residential locations.

2.2.1.9 RFTA is a drug free workplace.

2.2.2 Types of service. Please note that the descriptions listed for the service include, **but are not limited to:**

Soldering of damaged lines, sewer line work, hot water installation, backflow installation, fixture work, commercial and residential plumbing issues.

2.2.3 Minimum Qualifications

2.2.3.1 The Proposer must have been in business at least three (3) verifiable years.

2.2.3.2 The Proposer should submit written proof of (a) valid Colorado professional license(s) that may be required to perform the services that are the subject of the work. Certain types of work may require additional certifications by RFTA, Department of Transportation, or FTA.

2.2.3.3 Must be a company, whether sole proprietorship, corporation or limited liability corporation, in "Good Standing" with the State of Colorado.

2.2.3.4 Minimum Insurance Requirements: Please see Article 14 in the attached Pro-Forma Service Contract on pages 25 - 28.

2.2.3.5 A Safety Plan may be required from the Proposer for some types of work or work orders.

2.2.3.6 The Proposer would be expected to warranty its work based upon usual and customary standards of doing business.

Before issuing a written Task Order, RFTA will request an estimate of the number of hours and reimbursable expenses that will be required for the services. Proposer will be responsible for evaluating the proposed project and providing a timely response on labor hours, materials and scheduling. If Proposer is unable to perform the proposed project as requested for any reason, a negative response is required and no Task Order will be issued. Such rejection of any individual project will not necessarily jeopardize Proposer's standing with RFTA.

PART III – PRO-FORMA CONTRACT
ON-CALL SERVICE AND MAINTENANCE CONTRACT FOR PLUMBING
RFTA CONTRACT NO. 12-049

This Contract is made and entered into this _____ day of _____, 2012 (“Effective Date”) between the ROARING FORK TRANSPORTATION AUTHORITY, (RFTA), a regional transportation authority created pursuant to title 43, article 4, part 6, Colorado Revised Statutes, as amended and a political subdivision of the State of Colorado, and _____, a **[Indicate corporation, partnership or sole proprietorship]** (the “CONTRACTOR”) organized pursuant to the laws of the State of Colorado

WHEREAS, RFTA desires to engage a qualified and experienced CONTRACTOR to furnish on-call services as described in Exhibit A – Scope of Services attached hereto (“Services”); and

WHEREAS, RFTA has chosen CONTRACTOR to provide the Services following a competitive procurement process wherein RFTA issued a Request for Proposals, attached hereto as Exhibit C and incorporated herein, and CONTRACTOR submitted a proposal in response to the Request for Proposals, attached hereto as Exhibit D and incorporated herein, that was determined by RFTA to be the most advantageous proposal to RFTA; and

WHEREAS, the CONTRACTOR has represented to RFTA that it is sufficiently qualified and experienced to provide those services described in Exhibit A and RFTA has relied on such representations.

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth, RFTA and the CONTRACTOR agree as follows:

ARTICLE 1 – SCOPE OF SERVICES

The required Services are as enumerated and described in Exhibit A – Scope of Services, which document is attached hereto and incorporated as if fully set out herein. RFTA will request an estimate of the number of hours and reimbursable expenses that will be required for the services per each written task order. RFTA will be the sole contracting entity for these services.

ARTICLE 2 – COMPENSATION AND PAYMENT

The terms for Compensation and Payment are set forth in Exhibit B – Compensation and Method of Payment for On-Call Services, attached hereto and incorporated as if fully set out herein.

ARTICLE 3 – TERM OF CONTRACT

The initial term of the Contract shall begin on the date of execution and will expire on December 31, 2013, with four (4) twelve (12) month options to renew the engagement

of their services subject to annual appropriations. All extensions of the Term of Contract will be in writing and signed by both parties to the Contract in the form of a Contract Amendment as set forth in Article 11 below.

Notwithstanding anything to the contrary contained in this Contract, no charges shall be made to RFTA nor shall any payment be made to the Contractor in excess of the amount for any work done without written approval in accordance with a budget adopted by the RFTA Board of Directors in accordance with provisions of the Colorado Revised Statutes. Moreover, the parties agree that RFTA is a governmental entity and that all obligations beyond the current fiscal year are subject to funds being budgeted and appropriated.

ARTICLE 4 – NEGOTIATED RATE

The Contract will be based upon the Contractor's submitted fee schedule; however, RFTA reserves the right to negotiate fees for any specific project. All extensions and renewals of the term of the contract shall be made in writing by both parties in advance of the contract expiration date. Annual contract amounts will not exceed \$75,000.00. This is not a guaranteed amount. The total dollar amount of the Contract as specified in Exhibit B – Compensation and Method of Payment may only be modified by written agreement of both parties to the Contract in the form of a Contract Amendment as specified in Article 11 below.

ARTICLE 5 – PROJECT AUTHORIZATION AND PERFORMANCE

The CONTRACTOR agrees to perform the required Services in accordance with the Project Schedule as agreed upon by RFTA and the CONTRACTOR.

Upon issuance and full execution of a Task Order, the CONTRACTOR shall begin work on the Services as agreed to by RFTA.

ARTICLE 6 – RFTA PROJECT MANAGER

The RFTA Project Manager for this Contract is Angela Kincade, Assistant Director Project Management & Facilities Operations, unless otherwise designated in writing.

ARTICLE 7 – INDEPENDENT CONTRACTOR

CONTRACTOR shall perform the Services required under this Contract as an independent CONTRACTOR, not as an agent or employee of RFTA. CONTRACTOR has no authority to make any statement, representation, or commitment of any kind or to take any action binding upon RFTA, without RFTA's written authorization. RFTA is only interested in the results achieved by the Services performed by the CONTRACTOR; the manner of legally achieving those results is the responsibility of the CONTRACTOR.

All of the Services required by this Contract shall be performed by CONTRACTOR or under its supervision, and all personnel engaged in the Services shall be fully qualified.

Furthermore, it is understood that RFTA will not provide insurance or benefits of any nature to the CONTRACTOR, its employees, or subcontractors.

The CONTRACTOR agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its Services hereunder. The CONTRACTOR further agrees that in the performance of the Contract, no person having any such interests shall be employed.

ARTICLE 8 – INVOICING AND PAYMENT

- (1) RFTA will pay CONTRACTOR, as full and complete compensation for completion of the Services and assuming all duties, responsibilities, and obligations under the Contract, costs pursuant to Exhibit B – Compensation and Method of Payment for On-Call Services of this Contract.
- (2) In accordance with the requirements of Exhibit B – Compensation and Method of Payment for On-Call Services of this Contract, CONTRACTOR shall submit to RFTA's Project Manager complete, properly supported and audit-worthy invoices for the Services performed. CONTRACTOR may submit no more than one (1) invoice to RFTA for every 30 calendar days of the Term of Contract.
- (3) RFTA will make payment to CONTRACTOR, conditioned upon compliance by CONTRACTOR with all other provisions of the Contract and CONTRACTOR furnishing RFTA with the following:
 - (a) CONTRACTOR's properly supported and audit-worthy invoices for the Services performed.
 - (b) Proof satisfactory to RFTA that there are no unsatisfied claims and that no other indebtedness exists in connection with the Services.
 - (c) All documents, records, correspondence, and deliverables which CONTRACTOR and other persons performing the Services are required to provide to RFTA under the Contract.
 - (d) The invoices shall be in a form satisfactory to RFTA and shall reference this RFTA Contract No. 12-049. The invoices shall be submitted, with a copy to RFTA's designated Project Manager, via email to:

Original Invoice to: Roaring Fork Transportation Authority
1340 Main Street
Carbondale, CO 81623
ATTN: Angela Kincade

Copy to: Collina Washington, Procurement
Manager

- (4) Payment terms are 30 calendar days following receipt of a correct and audit worthy invoice by RFTA.

- (5) The invoices submitted to RFTA for payment shall include the applicable RFTA Contract number; task order number, RFTA Project Manager for the task order, invoice number, total invoice amount (including itemized amounts charged for labor and materials); total number of labor hours expended and labor billing rates; invoice billing period; description of the Services performed during the invoice billing period (including completed Deliverables); address and location of the work performed, and any other information that RFTA may reasonably require.
- (6) The price of this Contract or Task Order includes, and CONTRACTOR is liable for and shall pay, all foreign and domestic taxes, impositions, charges and exactions imposed on or measured by this Contract. Prices shall not include any foreign and domestic taxes, impositions, charges or exactions for which RFTA has furnished a valid exemption certificate or other evidence of exemption.
- (7) The presentation of the invoices by CONTRACTOR to RFTA as set forth in this Article constitutes an express warranty and representation by CONTRACTOR to RFTA that the Services have progressed to the point indicated and that the quality of the Services is in accordance with this Contract.
- (8) No approval of any invoice, nor any payment, final or otherwise, nor any use or approval of deliverables by RFTA shall itself constitute Acceptance of the Services.
- (9) RFTA may withhold all or part of any amounts due CONTRACTOR to protect RFTA from a loss, including but not limited to, losses caused by the following:
 - (a) Failure of CONTRACTOR to make proper payments to its subcontractors for Services.
 - (b) Failure of CONTRACTOR to carry out and/or remedy the Services in accordance with the Contract.
 - (c) CONTRACTOR's breach of warranties.
- (10) By acceptance of final payment under the Contract, CONTRACTOR waives any and all further claims against RFTA arising out of or in connection with performance of the Services performed under the Contract.
- (11) CONTRACTOR shall maintain books and records supporting all amounts invoiced to RFTA. CONTRACTOR shall preserve such books and records for the duration of this Contract and for three (3) years thereafter, during which time RFTA and its representatives shall have access to such books and records and shall have the right to make any copies thereof for the purpose of auditing or verifying invoices or for any other reasonable business purpose.
- (12) CONTRACTOR warrants and represents that all books and records specified above shall be complete and accurate and that RFTA may rely on such records and books for any purposes. If CONTRACTOR becomes aware that such records are inaccurate or incomplete, CONTRACTOR will promptly notify RFTA in writing.

ARTICLE 9 – EMPLOYMENT OF AUTHORITY'S PERSONNEL

The CONTRACTOR shall not employ any person or persons in the employ of RFTA for any work required by the terms of this Contract without the written permission of RFTA, except as may otherwise be provided for herein.

ARTICLE 10 – REVIEW OF WORK

Authorized representatives of RFTA may, at all reasonable times review and inspect the Services, financial reports, and data collected under the terms of this Contract and any amendments thereto. All reports, drawings, studies, specifications, estimates, maps, and computations prepared by or for the CONTRACTOR pursuant to this Contract, shall be available to authorized representatives of RFTA for inspection and review at all reasonable times. Acceptance shall not relieve the CONTRACTOR of its professional obligation to correct, at its expense, any of its negligent errors in the work.

ARTICLE 11 – CHANGES

- (1) RFTA shall have the right, without additional consent from CONTRACTOR and without invalidating the Contract, to add, delete, or change the required Services.
- (2) Contract Amendments. RFTA shall issue Contract Amendments to make additions, deletions, or changes to the required Services. To initiate a Contract Amendment, RFTA shall send CONTRACTOR a Request for Contract Amendment. Upon receipt, CONTRACTOR shall prepare an estimate of the effects of the change on the Contract Budget and/or Term of Contract. Upon agreement between CONTRACTOR and RFTA on the effects of the change, RFTA will issue a Contract Amendment specifying any change to the Contract Budget or the Term of Contract.
- (3) The Contract Budget and/or Term of Contract shall be subject to adjustment only by Contract Amendment(s).

ARTICLE 12 – SUBSTANTIAL CHANGES

If, prior to the satisfactory completion of the Services required under this Contract, RFTA materially alters the scope, character, complexity, or duration of the Services from those required under the Contract, a Contract Amendment may be executed between the parties.

Minor changes in the Services which do not involve increased compensation, extensions of time or changes in the goals and objectives of the Services may be made by written notification of such change by either RFTA or the CONTRACTOR with written approval by the other party.

ARTICLE 13 – INDEMNIFICATION

- (1) Professional Liability. The CONTRACTOR shall exercise in its performance of the Services the standard of care normally exercised by nationally recognized organizations engaged in performing comparable services. The CONTRACTOR shall be liable to RFTA for any loss, damages or costs incurred by RFTA for the repair, replacement or correction of any part of the project which is deficient or defective as a result of any failure of the CONTRACTOR to comply with this standard.
- (2) Indemnification. To the fullest extent permitted by law, the CONTRACTOR shall indemnify, defend, and hold harmless RFTA and its agents and employees from and against all claims, even professional liability claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Goods and Services, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the project itself) including the loss of use resulting there from, but only to the extent caused by the negligent act or omission of, or breach of contract by, the CONTRACTOR, any subcontractor of the CONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Contract. RFTA may, if it so desires, withhold the payments due the CONTRACTOR so long as shall be reasonably necessary to indemnify RFTA on account of such injuries.

In any and all claims against RFTA or any of its agents or employees by any employee of the CONTRACTOR, any subcontractor of the CONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligations under this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any subcontractor.

The parties agree that nothing contained herein waives or is intended to waive any protections that may be applicable to RFTA under the Governmental Immunity Act, §24-10-101 et. Seq., C.R.S., or any other rights, protections, immunities, defenses or limitations on liability provided by law, and subject to any applicable provisions of the Colorado Constitution and applicable laws.

ARTICLE 14 – INSURANCE

- (1) Procurement – CONTRACTOR and its subcontractors shall procure and maintain, until all of their obligations have been discharged, including until any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the Services performed hereunder by the

CONTRACTOR, its agents, representatives, employees, or subcontractors.

- (2) Minimum Requirements – The insurance requirements herein are minimum requirements for this Contract. RFTA in no way warrants that the minimum limits contained herein are sufficient to protect the CONTRACTOR from liabilities that might arise out of the performance of the Services under this Contract by the CONTRACTOR, its agents, representatives, employees, or subcontractors and CONTRACTOR is free to purchase such additional insurance as may be determined necessary.

CONTRACTOR shall procure and maintain in effect the following types of insurance at least as broad and with limits of liability not less than those stated below.

- a. Commercial General Liability Insurance - Occurrence form including bodily injury, property damage, premises and operations coverage, products and completed operations coverage, coverage for independent contractors, personal and advertising injury coverage, and broad form contractual liability.

Limits of Liability

General Aggregate	\$2,000,000
Each Occurrence	\$1,000,000

- b. Workers Compensation and Employer's Liability Insurance

Limits of Liability

Workers Compensation	Colorado Statutory Limits
EL: Bodily Injury by Accident – per employee	\$100,000
EL: Bodily Injury by Disease – per employee	\$100,000
Employer's Liability (EL) Policy Limits	\$500,000

- c. Business Automobile Liability

Limits of Liability

Combined Single Limit (Bodily Injury & Property Damage)	\$1,000,000
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- d. Professional Liability

Limits of Liability

General Aggregate	\$1,000,000
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- (3) Primary Insurance – The CONTRACTOR's insurance coverage shall be primary insurance with respect to RFTA, its Board of Directors, officials, agents, and employees. Any insurance or self-insurance maintained by RFTA, its officers, officials, agents, or employees shall be in excess to the coverage of the CONTRACTOR's insurance and shall not contribute to it.

- (4) RFTA as Additional Insured – RFTA shall be named as an additional insured under the CONTRACTOR's Automobile and Commercial General Liability policies, providing that such insurance is primary with respect to claims made by RFTA, and these policies shall be occurrence-based policies, and shall specifically provide that all coverage limits are exclusive of costs of defense, including attorney fees. The CONTRACTOR shall provide certificates of insurance to RFTA indicating compliance with this paragraph.
- (5) Waiver of Subrogation – CONTRACTOR shall obtain from its insurers a waiver of subrogation in favor of RFTA, and all affiliated companies as stipulated by RFTA for the CONTRACTOR'S Workers Compensation and General Liability policies.
- (6) CONTRACTOR and Subcontractors – CONTRACTOR shall require all of its subcontractors to provide the aforementioned coverage at levels that the CONTRACTOR and its subcontractors may consider necessary and any deficiency in the coverage or policy limits of the subcontractors will be the sole responsibility of CONTRACTOR.
- (7) Contractual Liability – The insurance provisions in this Contract in no way affect the liability of CONTRACTOR or the indemnity covenants stated elsewhere in this Contract.
- (8) Deductibles and Self-Insured Retention – All deductibles and/or self-insured retention amounts must be declared to and approved by RFTA. At the option of RFTA, the insurer shall either reduce or eliminate such deductibles or self-insured retentions with respect to RFTA, its Board of Directors, officials, agents, or employees.
- (9) Acceptability of Insurers – Insurance is to be placed with insurers duly licensed in the State of Colorado and with an "A.M. Best" rating of not less than "A:VII" at the time of placement of the insurance policies. RFTA in no way warrants that the above required minimum insurer rating is sufficient to protect the CONTRACTOR from potential insurer insolvency.
- (10) Certificates of Insurance – Before commencing performance on the Contract, CONTRACTOR and its subcontractors must furnish certificate(s) of insurance (using ACORD form or equivalent) to RFTA evidencing:
 - a. Insurance coverage acceptable to RFTA.
 - b. Signature by person authorized by insurer to bind coverage on its behalf.
 - c. Effective expiration dates of policies.
 - d. RFTA must be given 30 days written notice of all cancellation, non-renewable, or material changes in policy.
 - e. A waiver of subrogation endorsement has been attached to all policies.
 - f. Any deductible and/or self-insured retention.
 - g. Any policy endorsements that restrict or limit coverage.
 - h. Any exclusions to the policy which are not part of the standard form.

- i. Certificate of Insurance title block format is as follows: Roaring Fork Transportation Authority, 0051 Service Center Drive, Aspen, CO 81611.

Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of the Contract.

ARTICLE 15 – SUBLETTING, ASSIGNMENT, OR TRANSFER

It is understood by the parties to this Contract that the work of the CONTRACTOR is considered personal by RFTA. The CONTRACTOR agrees not to assign, sublet, or transfer any or all of its interest in this Contract without prior written approval by RFTA.

RFTA reserves the right to review all subcontracts prepared in connection with the Contract, and the CONTRACTOR agrees that it shall submit to RFTA any proposed subcontract documents together with subcontractor cost estimates for review and written concurrence of RFTA no later than five (5) business days in advance of their execution.

Any contract between the CONTRACTOR and any subcontractor shall comply with all provisions of this Contract. RFTA's approval of any assignment, sublet, or transfer shall not release the CONTRACTOR of any obligation under this Contract. As between RFTA and the CONTRACTOR, the CONTRACTOR shall be fully responsible for the acts and omissions of the subcontractors and persons either directly or indirectly employed by the CONTRACTOR. Nothing contained in this Contract shall create any contractual relation between any subcontractor and RFTA.

All subcontracts in the amount of \$10,000.00 or more shall include the provisions set forth in this Contract.

ARTICLE 16 – TERMINATION

- (1) Termination for Cause: If the CONTRACTOR fails to perform in the manner called for in this Contract or if the CONTRACTOR fails to comply with any other provisions of this Contract, RFTA may terminate this Contract for cause. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR has breached or is in default. The CONTRACTOR will only be paid the contract price for services performed in accordance with the manner of performance set forth in this Contract.

If it is later determined by RFTA that the CONTRACTOR has an excusable reason for not performing, such as a strike, fire, flood or other events which are not the fault of or are beyond the control of the CONTRACTOR, RFTA, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work or treat the termination as a termination of convenience.

RFTA in its sole discretion may, in the case of a termination for cause, allow the

CONTRACTOR an appropriate period of time to cure the breach or default. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If the CONTRACTOR fails to remedy to RFTA's satisfaction the breach or default, RFTA shall have the right to terminate this Contract without any further obligation to the CONTRACTOR. Any such termination for breach or default shall not in any way operate to preclude RFTA from also pursuing all available remedies against the CONTRACTOR and its sureties for said breach or default.

- (2) Termination for Convenience: RFTA may terminate this Contract for its convenience at any time by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least five (5) business days before the effective date of such termination. If the Contract is terminated by RFTA for convenience, the CONTRACTOR will be paid compensation for those Services actually performed. Partially completed tasks will be compensated for based on a signed statement of completion to be submitted by the CONTRACTOR which shall itemize each task element and briefly state what work has been completed and what work remains to be done.

ARTICLE 17 – APPLICABLE LAWS AND VENUE AND CONTRACT DISPUTES

This Contract shall be governed by the laws of the State of Colorado. This Contract shall be deemed entered into in Garfield and Pitkin County, State of Colorado, as RFTA is located in both counties. At RFTA's option, the location for settlement of any and all claims, controversies and disputes arising out of or related to this Contract or any breach thereof, whether by alternative dispute resolution or litigation, shall be proper only in either county.

Disputes arising in the performance of this Contract, which are not resolved by agreement of the parties, shall be decided in writing by the RFTA Chief Executive Officer (CEO) prior to any commencement of an action in court or arbitration concerning any disputes. The decision of the RFTA CEO will state the reason for the action taken and shall inform the CONTRACTOR of its right to administrative review by the RFTA Board of Directors acting as the RFTA Procurement Appeals Board. The decision of the RFTA CEO shall be final and conclusive unless within 60 calendar days from the date of delivery of the decision to the CONTRACTOR, the CONTRACTOR delivers a written appeal to the RFTA General Counsel for consideration by the RFTA Procurement Appeals Board.

In connection with any such appeal, the CONTRACTOR shall be afforded an opportunity to submit written evidence in support of its position. The appeals proceeding shall be **de novo**. A decision on the appeal shall be made by the RFTA Board acting as the RFTA Procurement Appeals Board and shall become binding upon the CONTRACTOR and the CONTRACTOR shall abide by the decision. Unless otherwise directed by RFTA, CONTRACTOR shall continue performance under this Contract while matters in dispute are being resolved.

In addition to the requirements of Article 20 in this Contract entitled "Notices", a copy of any written notices, appeals, and documents pertaining to a contract dispute under this Article shall also be delivered to RFTA's Procurement Manager and General Counsel.

CONTRACTOR agrees that the economic loss rule as set forth in the Town of Alma v. Azco Construction, Inc., 10 P.3d 1256 (Colo. 2000) shall not serve as a limitation on the RFTA's right to pursue tort remedies in addition to other remedies it may have against CONTRACTOR. Such rights and remedies shall survive the acceptance of the Work or any termination of the Contract documents.

ARTICLE 18 – SEVERABILITY

If any provision of this Contract is held to be invalid, illegal, or unenforceable for any reason, the validity, legality, and enforceability of the remaining provisions of this Contract will not be adversely affected.

ARTICLE 19 – ASSIGNABILITY

The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

ARTICLE 20 – NOTICES

- (1) All official notices and communications under this Contract shall be in writing and shall be deemed to have been duly given (i) on the date of delivery if delivered personally to the party to whom notice is given, or (ii) at the date of actual receipt if mailed by U.S. Postal Service, postage prepaid, return receipt requested.
- (2) Notices and other communications shall be directed to the parties at the addresses listed below:

Notice to CONTRACTOR:

[Insert Name of CONTRACTOR]

[Insert Mailing Address of CONTRACTOR]

[Insert City, State and ZIP Code of CONTRACTOR] ATTN:

[Insert Name of CONTRACTOR Employee]

Notice to RFTA:

Roaring Fork Transportation Authority
2307 Wulfsohn Road
Glenwood Springs, CO 81601
ATTN: Dan Blankenship, CEO

Copy to: Collina Washington, Procurement Manager

- (3) Telephonic and electronic mail communications and facsimile transmittals may be used to expedite communications, but neither shall be considered official

communications under this Contract unless and until confirmed in writing in accordance with this Article 20, paragraph (1) above.

ARTICLE 21 – OWNERSHIP OF DOCUMENTS

The CONTRACTOR agrees that all reports, drawings, computer disks, specifications, survey notes, estimates, maps, computations, and other data prepared by or for it under the terms of this Contract shall be delivered to, become, and remain the property of RFTA upon termination or completion of the work. RFTA shall have the right, at its sole risk, to use the same without restriction or limitation and without compensation to the CONTRACTOR other than that provided for in this Contract. The CONTRACTOR shall not have the right to use same for sale or other benefit without express written permission from RFTA.

ARTICLE 22 – PATENT AND RIGHTS IN DATA

If patentable discoveries or inventions should result from work described herein, all rights accruing from such discoveries or inventions will be the sole property of RFTA. However, RFTA agrees to and does hereby grant to the CONTRACTOR an irrevocable, non-exclusive, non-transferable, and royalty-free license to practice each invention in the manufacture, use, and disposition according to law of any article or material and in use of any method that may be developed as a part of the work under this Contract.

ARTICLE 23 – COPYRIGHTING

The CONTRACTOR and RFTA agree that any papers, interim reports, forms, and any other material which are part of the Work under this Contract are to be deemed a “work for hire,” as such term is defined in the Copyright Laws of the United States. As a “work made for hire”, all copyright interests in said works will vest in RFTA upon creation of the copyrightable work. If any papers, interim reports, forms, or other material which are a part of work under this Contract are deemed by law not to be a “work for hire”, any copyright interests of the CONTRACTOR are hereby assigned completely and solely to RFTA. Publication rights to any works produced under this Contract are reserved by RFTA.

ARTICLE 24 – PUBLICATION AND PUBLICITY

Articles, papers, bulletins, data, studies, statistics, interim or final reports, oral transmittals, or any other materials reporting the plans, progress, analyses, results, or findings of work conducted under this Contract shall not be presented publicly or published without prior written approval by RFTA.

All releases of information, findings, and recommendations shall include a disclaimer provision and all published reports shall include that disclaimer on the cover and title page in the following form:

"The contents of this publication reflect the views of the author(s), who is (are)

responsible for the facts and accuracy of the data presented herein. The opinions, findings, and conclusions in this publication are those of the author(s) and do not necessarily reflect the official views or policies of those of the Roaring Fork Transportation Authority or the Federal Transit Administration. This publication does not constitute a standard, specification, or regulation."

If any information concerning the Services, their conduct, results, or data gathered or processed should be released by the CONTRACTOR without prior approval from RFTA, the release of same shall constitute grounds for termination of this Contract without indemnity to the CONTRACTOR. In addition, the CONTRACTOR shall indemnify and hold harmless RFTA, its officers, employees, and agents from any liability arising from such unauthorized release of data.

Any request for information directed to the CONTRACTOR, pursuant to the Colorado Open Records Act, by the public shall be immediately redirected to RFTA for handling. RFTA shall be responsible for providing the response to requests under the Colorado Open Records Act. The CONTRACTOR acknowledges and agrees that all records of the Services and the work, including records of the CONTRACTOR and its subcontractors are subject to the Colorado Open Records Act, C.R.S. 24-72-201 through 24-72-309 et seq.

ARTICLE 25 – COVENANT AGAINST CONTINGENT FEES

The CONTRACTOR shall comply with all relevant requirements of all Federal, State, and local laws. The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, RFTA shall have the right to annul this Contract without liability, or in its 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.

ARTICLE 26 – CONFLICTS OF INTEREST

RFTA employees and directors are bound by the RFTA Code of Ethics and Standards of Conduct, which were adopted by the RFTA Board of Directors on April 13, 2006. The RFTA Code of Ethics and Standards of Conduct prohibits RFTA employees and directors engaged in the award and administration of contracts, or any person acting on their behalf, from accepting, directly or indirectly, any gift with a value of more than a nominal amount, including meals or tickets to sporting events, from any person with whom the employee interacts on official RFTA business. Therefore, CONTRACTOR, or its subcontractors or suppliers, may not make gifts or favors to any RFTA employee or director. It is a violation of the RFTA Code of Ethics and Standards of Conduct for any RFTA employee to accept any such gift or favor.

ARTICLE 27 – WARRANTIES

The CONTRACTOR warrants that it shall use the highest professional principles and practice in the performance of its obligations under this Contract and that its performance shall reflect the highest professional knowledge, skill, and judgment. CONTRACTOR further warrants and agrees that it, and any persons assigned by CONTRACTOR, shall perform this Contract in compliance with all federal, state, and local laws, statutes, acts, ordinances, rules, regulations, codes, or standards.

ARTICLE 28 – NONWAIVER

No failure or waiver or successive failures or waivers on the part of either party, its successors or permitted assigns, in the enforcement of any condition, covenants, or article of this Contract shall operate as a discharge of any such condition, covenant, or article nor render the same invalid, nor impair the right of either party hereto, their successors or permitted assigns, to enforce the same in the event of any subsequent breaches by the other party hereto, its successors or permitted assigns.

ARTICLE 29 – MERGER

This Contract constitutes the entire agreement of the parties, all prior discussions, representations, and agreements being merged herein. The Contract may not be changed, modified, extended, or amended, nor any provision thereof waived, except by a written amendment executed by duly authorized representatives of the respective parties. The captions in this Contract are for convenience only and shall not affect the substantive meaning of any provision herein.

ARTICLE 30 – NO THIRD PARTY RIGHTS

Except as expressly set forth herein, the representations, warranties, terms, and provisions of this Contract are for the exclusive benefit of the parties hereto and no other person or entity shall have any right or claim against either party by reason of any of these terms and provisions or be entitled to enforce any of these terms and provisions against either party.

ARTICLE 31 – ATTACHMENTS

Any attachment or exhibit to this Contract will be incorporated into and made a part of this Contract. In the event of a conflict between the provisions contained in the body of this Contract and any attachment or exhibit, the terms in the body of this Contract will control.

ARTICLE 32 – SEPARATE COUNTERPARTS

This Contract may be executed in one or more counterparts, each of which, when so executed, shall be deemed to be an original. Such counterparts shall together constitute and be one and the same instrument.

ARTICLE 33 – IMMIGRATION COMPLIANCE

To the extent this Contract constitutes a public Contract for services pursuant to C.R.S. 8-17.5-101 et seq., the following provisions shall apply:

- (1) CONTRACTOR certifies that, prior to executing this Contract, it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either the E-verify program administered by the United States Department of Homeland Security and the Social Security Administration (the “E-verify Program”), or the employment verification program administered by the Colorado Department of Labor and Employment (the “Colorado Verification Program”).
- (2) CONTRACTOR shall comply with all reasonable requests by the Colorado Department of Labor and Employment made in the course of an investigation undertaken pursuant to the authority established in C.R.S. 8-17.5-102(5).
- (3) To the extent required by C.R.S. 8-17.5-102(1), by submitting a proposal or bid, the CONTRACTOR certifies that at the time of proposal it did not knowingly employ or contract with an illegal alien who will perform work under this Contract, and that the CONTRACTOR will participate in the E-verify Program or the Colorado Verification Program in order to verify the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

ARTICLE 34 – REGULATORY COMPLIANCE

The work to be performed as the Services under this Contract may be financed, in part, by grants provided under programs of the Federal Transit Act, as amended, and as such is subject to the Terms and Conditions set forth in the grant agreements. CONTRACTOR understands that Federal laws, regulations, policies, and related administrative practices applicable to the Contract may be modified from time to time. CONTRACTOR acknowledges that the most recent of such Federal requirements will govern the Contract at any particular time, unless the Federal Government determines otherwise. Likewise, new Federal laws, regulations, policies, and administrative practices may be established after the Contract is executed and may apply to the Contract. The laws and regulations detailed in this Contract include, but are not limited to, those that will be applicable to the Contract. To the extent applicable, CONTRACTOR shall comply with the Federal, State, and RFTA imposed requirements contained in this Contract.

ARTICLE 35 – NO GOVERNMENT OBLIGATION TO THIRD PARTIES

- (1) RFTA and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to RFTA, CONTRACTOR, or any other

party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.

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

ARTICLE 36 – PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- (1) The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Contract. Upon execution of the underlying Contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.
- (2) The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.
- (3) The CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

ARTICLE 37 – ACCESS TO RECORDS

The following access to records requirements apply to this Contract:

- (1) Where the Purchaser (RFTA) is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the CONTRACTOR agrees to provide the Purchaser (RFTA), the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and

transcriptions.

- (2) The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The CONTRACTOR agrees to maintain all books, records, accounts, and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case CONTRACTOR agrees to maintain same until the Purchaser (RFTA), the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- (4) FTA does not require the inclusion of these requirements in subcontracts.

ARTICLE 38 – FEDERAL CHANGES

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

ARTICLE 39 – CIVIL RIGHTS

The following requirements apply to the underlying Contract:

- (1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying Contract:
 - (a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs,

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

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

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

ARTICLE 40 – DISADVANTAGED BUSINESS ENTERPRISES (DBE)

- (1) This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. RFTA's overall goal for DBE participation in federally funded contracts during FY 2013 (October 1, 2012 – September 30, 2013) is 1%. A separate contract goal has not been established for this Contract.
- (2) The CONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONTRACTOR shall

carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the CONTRACTOR to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as RFTA deems appropriate. Each subcontract the CONTRACTOR signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

- (3) The CONTRACTOR will be required to report its DBE participation obtained through race-neutral means throughout the Term of Contract.
- (4) The CONTRACTOR is required to pay its subcontractor (s) performing work related to this contract for satisfactory performance of that work no later than 15 calendar days after the CONTRACTOR's receipt of payment for that work from RFTA. In addition, the CONTRACTOR may not hold retainage from its subcontractors.
- (5) The CONTRACTOR must promptly notify RFTA, whenever a DBE subcontractor performing work related to this Contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The CONTRACTOR may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of RFTA.

ARTICLE 41 – INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in [FTA Circular 4220.1F](#), are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any RFTA requests which would cause RFTA to be in violation of the FTA terms and conditions.

ARTICLE 42 – ENERGY CONSERVATION

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

ARTICLE 43 - DEBARMENT AND SUSPENSION

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the CONTRACTOR is required to verify that neither the CONTRACTOR, its principals as defined at 49 CFR 29.995, or affiliates as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The CONTRACTOR is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its proposal, CONTRACTOR certifies as follows:

The certification in this clause is a material representation of fact relied upon by Roaring Fork Transportation Authority. If it is later determined that the CONTRACTOR knowingly rendered an erroneous certification, in addition to remedies available to Roaring Fork Transportation Authority, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The CONTRACTOR agrees to comply with the requirements of 49 CFR 29, Subpart C throughout the Term of Contract. The CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.

ARTICLE 44 – FLY AMERICA REQUIREMENTS

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

ARTICLE 45 - DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

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

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

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

- (ii) (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
 - (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

- (C) In the event the contractor, the laborers or mechanics to be employed in

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

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

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

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

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

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

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

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

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer

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

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

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

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

(3) **Payrolls and basic records.** (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs

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

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

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

- (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

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

- (4) **Apprentices and trainees.** (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If

the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal

Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

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

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

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

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

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

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

ARTICLE 46 -CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in

paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

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

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

ARTICLE 47 – TITLE VI

During the performance of this Contract, the CONTRACTOR, for itself, its assignees and successors in interest agrees as follows:

- 1) Compliance with Regulations: The CONTRACTOR shall comply with the regulations relative to non-discrimination in federally assisted programs of the United States Department of Transportation ("DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (the "Regulations"), which are herein incorporated by reference and made a part of this Contract.
- 2) Non-discrimination: The CONTRACTOR, with regard to the Work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- 3) Solicitations for Subcontracts, including procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the CONTRACTOR for Work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONTRACTOR of the CONTRACTOR's obligations under this Contract and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.

- 4) Information and Reports: The CONTRACTOR shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by RFTA or the Federal Transit Administration ("FTA") to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information the CONTRACTOR shall so certify to RFTA, or the FTA as appropriate, and shall set forth what efforts it has made to obtain the information.
- 5) Sanctions for Noncompliance: In the event of the CONTRACTOR's non-compliance with non-discrimination provision of this Contract, RFTA shall impose contract sanctions as it or the FTA may determine to be appropriate, including but not limited to:
 - a) Withholding of payments to the CONTRACTOR under the Contract until the CONTRACTOR complies; and/or
 - b) Cancellation, termination, or suspension of the Contract, in whole or in part.
- 6) Incorporation of Provisions: The CONTRACTOR shall include the provisions of paragraphs (1) through (6) of this Article in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONTRACTOR shall take such action with respect to any subcontract or procurement as RFTA or the FTA may direct as a means of enforcing such provisions including sanctions for non-compliance provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONTRACTOR may request RFTA enter into such litigation to protect the interests of RFTA, and, in addition, the CONTRACTOR may request the United States federal government to enter into such litigation to protect the interest of the United States.

ARTICLE 48 – ORDER OF PRECEDENCE OF THE CONTRACT DOCUMENTS

In the event of inconsistency between provisions of the Contract Documents, the inconsistency will be resolved by giving precedence in the following order:

- 1) Contract Amendments;
- 2) Contract for On-Call Service and Maintenance Providers For Plumbing, including Attachment B – Compensation and Method of Payment for Goods and Services;
- 3) Attachment A – Scope of Work and Technical Specifications;
- 4) Attachment C – Contractor's Proposal in Response to RFP;
- 5) Attachment D – RFTA Solicitation No. 12-049 Request for Proposals for On Call Service and Maintenance Providers For Plumbing, fully-conformed and inclusive of all addenda to the RFP.

IN WITNESS WHEREOF, said parties have hereunto set their hand and affixed their seals the day and year above first written.

	ROARING FORK TRANSPORTATION AUTHORITY
By:	By:
Printed Name: _____	Dan Blankenship
Title:	Chief Executive Officer
Address:	Address:
_____	2307 Wulfsohn Road
_____	Glenwood Springs, Colorado 81601
	APPROVED AS TO FORM AND LEGALITY
	By:
	RFTA General Counsel

EXHIBIT A
SCOPE OF SERVICES

[Scope of Services to be inserted into final contract. Scope of Services will be a negotiated version of the Scope of Services included as Part II of the Request for Proposals document.]

EXHIBIT B
COMPENSATION AND METHOD OF PAYMENT FOR SERVICES

1. Total Compensation

This Contract is based upon the negotiated fees, as agreed upon and listed below. [**INSERT FEE SCHEDULE HERE**]

The compensation under this Contract may only be modified by written agreement of both parties to the Contract in the form of a Contract Amendment as specified in Article 11 of the Contract.

2. General Terms and Conditions

- A. For full and complete compensation for all work, materials, and services furnished under the terms of this Contract, the CONTRACTOR shall be paid according to the fee schedule specified in Exhibit B, Section 1 above.
- B. The agreed upon rates/fees for the Contract shall not be exceeded unless RFTA determines that there is a requirement for a substantial change in the scope, character, or complexity of the work from that originally negotiated for the Contract and issues a Contract Amendment.
- C. RFTA shall pay the CONTRACTOR for Services performed in accordance with Article 8 of the Contract.
- D. The CONTRACTOR expressly agrees that he shall do, perform and carry out in a satisfactory and proper manner, as determined by RFTA, all of the work and services described in the Contract.
- E. Should the work under the Contract be terminated for convenience by RFTA, pursuant to Article 16 of the Contract, the CONTRACTOR shall be paid based upon the percentage of work completed at the point of termination.

3. Partial Payment

Payment for Services performed under the Contract shall be made based on actual work completed and substantiated by detailed invoices and other such documentation that RFTA may reasonably require. Such invoices and other documentation will be verified by RFTA, and payment will be made by RFTA to the CONTRACTOR in the full amount of the actual work completed.

EXHIBIT C
REQUEST FOR PROPOSALS

[RFP document to be attached prior to contract execution.]

EXHIBIT D
PROPOSAL SUBMITTED BY CONTRACTOR IN RESPONSE TO RFP

[Proposal submitted by CONTRACTOR to be attached prior to contract execution.]



RFP NO. 12-049 ON-CALL SERVICE AND MAINTENANCE PROVIDERS FOR PLUMBING

PART IV – PROPOSAL CONTENT CHECKLIST

Your submitted Proposal must contain the following items, in this order:¹

- ☐ Statement of Proposer's Qualifications & Experience
- ☐ **Proposal Submission Form**
- ☐ **Proposer Questionnaire**
- ☐ **Acknowledgement of Addenda Form**
- ☐ **Affidavit of Non-Collusion** (notarized)
- ☐ **Federal Debarment & Suspension Certification**
- ☐ **Conflicts of Interest Disclosure Requirements** (requires separate statement)
- ☐ **Corporate Certification of Illegal Aliens**
- ☐ **Financial & Exception Statement** (notarized)
- ☐ Fee schedule (signed and separate .pdf)
- ☐ **W-9 form**
- ☐ DBE Certification (if applicable)
- ☐ Professional license or Certificate (if applicable)

Note: Be certain to sign and date all forms, as indicated.

¹ Items in **bold** have been provided in this package.



PROPOSAL SUBMISSION

TO: The Roaring Fork Transportation Authority

The company listed below hereby submits its offer as indicated below in accordance with the terms of the Notice to Proposer, The Scope and General Conditions, the FTA or Federally Required or Recommended Provisions, and all provisions contained in this solicitation, all of which have been furnished to the Proposer. If this Proposal is accepted, this document and the referenced Proposal documents shall constitute the entire agreement between the parties, and no changes will be recognized unless the parties agree in writing.

Attached is my Proposal for providing On-Call Plumbing Maintenance and Services and related services as outlined in this solicitation. I have carefully examined the solicitation and have informed myself thoroughly regarding any and all conditions and requirements of the solicitation. Any additional information that is requested in the RFP is attached hereto.

Company Name

Representative's Signature

Mailing Address

Representative's Name (Printed)

City, State and Zip Code

Date

Email Address

Telephone Number



PROPOSER'S QUESTIONNAIRE

A. SUBMITTING BUSINESS ENTITY IDENTIFICATION & OWNERSHIP DISCLOSURE

Company: _____

Contact Person: _____

Title: _____

Address: _____

Telephone No.: _____

Organized under the laws of the State of _____

Principal place of business located at _____

Taxpayer Identification Number: _____

Indicate which of the following apply:

☐ Corporation

☐ Partnership

☐ Sole Proprietor

☐ Small Business Enterprise (SBE) Certified by _____

☐ Disadvantaged Business Enterprise (DBE) Certified by _____

PROPOSER'S QUESTIONNAIRE (cont'd)

B. OTHER INFORMATION

1. General character of work performed by your firm: _____

2. Has your firm ever failed to complete any work awarded to you? If yes, explain.

3. Has your firm ever defaulted on a contract? If yes, explain.

4. Indicate the names of subcontractors, if any, proposed for this project and whether the subcontractor is a certified Disadvantaged Business Enterprise (DBE) and by whom they are certified.

PROPOSER'S QUESTIONNAIRE (cont'd)

5. Please indicate if your firm, subcontractor or any persons associated therewith in the capacity of owner, partner, director, officer or any other position involving the administration of federal funds²:
- ☐ is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility of any federal agency;
 - ☐ has been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the last three (3) years;
 - ☐ has a proposed debarment pending; or
 - ☐ has been indicted, convicted, or had a civil judgment rendered against it or them by a court competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

CERTIFICATION

I certify that this Proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a Proposal for the same services, materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I understand collusive proposing is a violation of the State and Federal law and can result in fines, prison sentences, and civil damage awards. I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of this Request for Proposals and certify that I am authorized to sign for the Proposer.

Signature _____

Date _____

Printed Name _____

Title _____

² Any of the above conditions will not necessarily result in denial of award, but will be considered in determining Offeror responsibility. For any condition noted, indicate to whom it applies, initiating agency, and date of action. Providing false information may result in federal criminal prosecution or administrative sanctions.



ACKNOWLEDGMENT OF ADDENDA

The following form shall be completed and included in the Proposal. Failure to acknowledge receipt of all addenda may cause the Proposal to be considered non responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Offer.

The undersigned acknowledges receipt of the following addenda to the documents:

Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____

Offeror:

Name

Street Address

City, State, Zip

Signature of Authorized Signer

Title

Phone



AFFIDAVIT OF NON-COLLUSION

I hereby swear (or affirm) under penalty of perjury:

1. That I am the Proposer (if the Proposer is an individual), a partner of the Proposer (if the Proposer is a partnership), or an officer or employee of the proposing corporation, having authority to assign on its behalf (if the Proposer is a corporation); and
2. That the attached Proposal or Proposals have been arrived at by the Proposer independently, and have been submitted without collusion with, and without any agreement, understanding or planned common course of action with any other vendor of materials, supplies, equipment or services described in the request for Proposal, designed to limit independent bidding or competition; and
3. That the contents of the Proposal or Proposals have not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer or its surety on any bond furnished with the Proposal or Proposals, and will not be communicated to any such person prior to the official opening of the Proposal or Proposals; and
4. That no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by _____; and
5. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

The _____ hereby certifies that it is/ is not included on the United States Comptroller General's consolidated list of persons or firms currently debarred for violations of various public contracts incorporated labor standards provisions.

Signature of Proposer's Authorized Official

Name of Proposer's Authorized Official

Title of Proposer's Authorized Official

Date

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

Notary Public

My Commission expires _____, 20____



CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

INSTRUCTIONS FOR CERTIFICATION

By signing and submitting this Proposal, the Proposer is providing the certification set out above.

1. The inability of a person to provide the certification required will not necessarily result in denial of participation in this covered transaction. The Proposer shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with RFTA's determination whether to enter into this transaction. However, failure of the Proposer to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
2. This certification is a material representation of fact upon which reliance is placed when RFTA determines to enter into this transaction. If it is later determined that the Proposer knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, RFTA may terminate this transaction for cause or default. This certification concerns a matter which may be within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Section 1001, Title 18, United States Code.
3. The Proposer shall provide immediate written notice to RFTA if at any time the Proposer learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "Proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Orders 12549 and 12689. You may contact RFTA for assistance in obtaining a copy of those regulations (49 CFR Part 29).
5. The Proposer agrees by submitting this Proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by RFTA.
6. The Proposer further agrees by submitting this Proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the ineligibility of its principals. Each participant may, but is not required to, check the Non-Procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized by RFTA, as provided herein, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies

available to the Federal Government, the department or agency may terminate this transaction for cause or default.

CERTIFICATION

The Proposer certifies to the best of its knowledge and belief that it and its principals:

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

If the prospective primary participant is unable to certify to the statement above, it shall attach an explanation, and indicate that it has done so, by placing an "X" in the following space: _____. Such prospective primary participant shall attach an explanation to this Proposal.

THE OFFEROR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND EXPLANATION, IF ANY. IN ADDITION, THE OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET. SEQ. APPLIES TO THIS CERTIFICATION AND EXPLANATION, IF ANY.

Contractor Name _____

Date: _____

By: _____

Name and Title of Authorized Representative

Signature of Authorized Representative



ORGANIZATIONAL CONFLICT OF INTEREST STATEMENT

Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to RFTA, or the person's objectivity in performing work is or might be otherwise impaired, or a person has an unfair competitive advantage. This can be a real and/or apparent conflict.

Please be sure to include descriptions of relationships with any or all RFTA Board Members, employees, representatives or agents that create, or may appear to create, any real and/or apparent conflicts of interest. I hereby disclose the following persons, entities, or interests with which there is an interest or involvement that may result in an actual or potential conflict of interest, directly or indirectly

Each firm responding to the RFP shall provide the statement described below. This requirement will apply individually to any of the firm's consultants or lower-tier subcontractors that also furnish services in performance of the agreement to be awarded.

The statement must contain the following:

1. Name of the firm and the number of the RFP in question.
2. The name, address, telephone number, and federal taxpayer identification number, if applicable, of the firm.
3. A description of the nature of the services rendered by or to be rendered on the agreement or related thereto.
4. A statement of any past (within the past twelve months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the statement of work. For contractual interests, such statement must include the name, address, telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of a responsible officer or employee of the firm who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to RFTA or any other client respecting the same subject matter of the instant solicitation, or directly relating to such subject matter. The client and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.
5. A statement that no actual or potential conflict of interest or unfair competitive advantage exists with respect to the services to be provided in connection with the agreement or that any actual or potential conflict of interest or unfair competitive advantage that does or may exist with respect to the agreement or related thereto has been communicated as part of the statement required by above.

Failure of a firm to provide the required statement may result in the firm being determined ineligible for award. Misrepresentation or failure to report any fact may result in the assessment of penalties associated with false statements or such other provisions provided for by law or regulation.

THE OFFEROR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND EXPLANATION, IF ANY.

_____	Signature of Proposer's Authorized Official
_____	Name of Proposer's Authorized Official
_____	Title of Proposer's Authorized Official
_____	Witness
_____	Date



CORPORATE CERTIFICATION OF ILLEGAL ALIENS

_____, ("Contractor" herein) acknowledges that Contractor has been notified of the immigration compliance requirements of C.R.S. § 8-17.5-101, *et. seq.* (House Bill 06-1343), and hereby **CERTIFIES** that:

1. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services; or
2. Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services;
3. The Contractor has verified or attempted to verify through participation in the basic pilot program that the Contractor does not employ any illegal aliens and, if the Contractor is not accepted into the basic pilot program prior to entering into a public contract for services, that the Contractor shall apply to participate in the basic pilot program every three months until the Contractor is accepted or the public contract for services has been completed, whichever is earlier. This provision shall not be required or effective in a public contract for services if the basic pilot program is discontinued;
4. The Contractor acknowledges that the Contractor is prohibited from using basic pilot program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed;
5. If the Contractor obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:
 - (A) Notify the subcontractor and the contracting state agency or political subdivision within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (B) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subparagraph (A) of this Section 5 the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
6. Contractor is required to comply with any reasonable request by the State Department of Labor and Employment ("Department" herein) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).
7. If Contractor violates a provision of the public contract for services required herein may terminate the contract for a breach of the contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to RFTA.
8. RFTA is obligated to notify the office of the secretary of state if a Contractor violates a provision of this Addendum and RFTA terminates the contract for such breach. Based on this notification, the secretary

of state shall maintain a list that includes the name of the Contractor, the state agency or political subdivision that terminated the public contract for services, and the date of the termination. A Contractor shall be removed from the list if two years have passed since the date the contract was terminated, or if a court of competent jurisdiction determines that there has not been a violation of the provision of the public contract for services required pursuant to Section I. An agency or political subdivision shall notify the office of the secretary of state if a court has made such a determination. The list shall be available for public inspection at the office of the secretary of state and shall be published on the internet on the website maintained by the office of the secretary of state.

9. The Department may investigate whether a Contractor is complying with the provisions of a public contract for services required pursuant to Section I. The Department may conduct on-site inspections where a public contract for services is being performed, request and review documentation that proves the citizenship of any person performing work on a public contract for services, or take any other reasonable steps that are necessary to determine whether a Contractor is complying with the provisions of a public contract for services required pursuant to Section I. The Department shall receive complaints of suspected violations of a provision of a public contract for services (this Addendum) and shall have discretion to determine which complaints, if any, are to be investigated. The results of any investigation shall not constitute final agency action. The Contractor is hereby notified that the Department is authorized to promulgate rules in accordance with article 4 of title 24, C.R.S., to implement the provisions of C.R.S. § 8-17.5-101, *et. seq.*

Dated this _____ day of _____, 20____.

By _____
[Signature]



FINANCIAL & EXCEPTION STATEMENT

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. You may submit any additional information you desire, but the total number of pages for this attachment should not exceed five (5) pages.

Name of Respondent:	
Permanent main office address and phone number:	
When Organized:	
If a corporation, where incorporated:	
How many years have you been engaged in the business under your present firm or trade name?	
Give bank references:	
What type of liability insurance, and what coverage limits do you currently carry for your organization, and give the name of the insurance carrier:	

The undersigned Offeror acknowledges the right of RFTA to reject any and all Proposals submitted and to waive informalities therein. All participating Offerors, by their signature hereunder, shall agree to comply with all conditions, requirements, and instructions of this RFP as stated or implied herein.

FINANCIAL & EXCEPTION STATEMENT (cont'd)

Print the words "No Exceptions" here _____ if there are no exceptions taken to any of the terms, conditions, or specifications of these solicitation documents. If there are exceptions taken to any of these terms, conditions or specifications of these solicitation documents, they must be clearly stated on a separate sheet of paper, attached to this sheet and returned with your Proposal. Should RFTA omit anything from this RFP package, which is necessary to a clear understanding of the requirements, or should it appear that various instructions are in conflict, then the Contractor shall secure instruction from Collina Washington, RFTA Procurement Manager, cwashington@rfta.com, prior to the date and time of the deadline for questions shown in the RFP.

The Offeror agrees that no Proposal may either be changed or withdrawn, without the consent of the RFTA for a period of ninety (90) days after the scheduled time for opening the Proposals.

The Offeror shall certify (a) that his/her Proposal is genuine and is not made in the interest of, or on behalf of, any undisclosed person, firm, or corporation; (b) that he/she has not directly or indirectly induced or solicited any other Offeror to put in a false or sham Proposal; (c) that he/she has not solicited or induced any other person, firm, or corporation from proposing; and (d) that he/she has not sought by collusion to obtain for himself/herself any advantage over any other Offerors or over the RFTA.

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the RFTA in verification of the recitals comprising this Statement of Respondent's Qualifications:

Dated at: _____

This _____ day of _____, 20____.

By: _____

Title: _____

State of _____

County of _____

Being duly sworn deposes and says that he/she is the _____ of

_____ and that the answers to the foregoing questions and all statements therein contained are true and correct.

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

_____ My Commission Expires _____, 20____.

(Notary Public)

Request for Taxpayer Identification Number and Certification

Give form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name, if different from above	
	☐ Check appropriate box: Individual/Sole proprietor ☐ Corporation ☐ Partnership Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ♦ -----	
	☐ Other (see instructions) ♦	
	☐ Exempt payee	
Address (number, street, and apt. or suite no.)		Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
or
Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ♦	Date ♦

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,