

South Central Regional Transit District



**Production of Metal Bus Shelters for Las Cruces, Anthony, Chaparral, and
Santa Teresa, New Mexico**

REQUEST FOR PROPOSALS #2024-01

September 22, 2024

Proposals are Due Wednesday, October 16, 2024, by 4:00 PM MT

REQUEST FOR PROPOSALS (RFP)

RFP Number: 2024-01

Issue Date: 09/22/2024

Title: Production of Metal Bus Shelters for Las Cruces, Anthony, Chaparral, and Santa Teresa, New Mexico

Closing Date: October 16, 2024

Contact: Sara Vasquez

Phone: 575-777-5851

Email: Vasquez@scrtd.org

I. INTRODUCTION

The South Central Regional Transit District invites proposals from qualified vendors to design, manufacture, and deliver up to 50 metal bus shelters for installation in Las Cruces, Anthony, Sunland Park, Hatch, Elephant Butte, Chaparral, and. These shelters are for narrow public right-of-way spaces and must withstand graffiti and vandalism, such as broken glass.

II. SCOPE OF WORK

A. Overview

The selected contractor will be responsible for the following:

1. Design:
 - - Create a metal bus shelter design that can be installed within public right-of-way. Specific examples with measurements include:

Small Bus Shelter:

Dimensions: Typically, around 4 feet by 8 feet (1.2m x 2.4m).

Capacity: Designed to accommodate 3-5 people, suitable for areas with low foot traffic.

The proposal requires prices for 25 small bus shelters.

Medium Bus Shelter:

Dimensions: Typically, around 5 feet by 10 feet (1.5m x 3m).

Capacity: It accommodates 6-8 people and is more appropriate for moderate foot traffic areas.

The proposal requires prices for 25 medium bus shelters.

The exact dimensions may vary based on the manufacturer's design and specific requirements from the transportation authority or city planning guidelines. The size selected depends on factors like anticipated foot traffic, weather conditions, and available space.

- - Ensure the design is resistant to graffiti, easy to clean, and durable in various weather conditions.
- - Incorporate shelter features, including seating, roofing, and display areas for transit information.
- - Shelters must comply with the Americans with Disabilities Act (ADA) requirements.

2. 2. Manufacturing:

- - Manufacture up to 50 bus shelters with pricing for each listed under design according to the approved design.
- - Use high-quality, durable materials that withstand frequent use and weather elements.
- - Ensure that shelters are modular and easily installable with minimal disruption to the surrounding area.

3. 3. Delivery:

- - Coordinate the delivery of completed shelters to various locations within Las Cruces, Anthony, Chaparral, and Santa Teresa, New Mexico.
- —Work with SCRTD to deliver a number of small or medium shelters within the timetable provided in the procurement.

B. Technical Specifications

- - Materials: Heavy-duty metal with anti-graffiti coating.
- Dimensions: These must be determined based on design proposals but fit within narrow right-of-way spaces.
- - Color: As specified by the transit authority.
- - Optional Features: Solar-powered lighting, integrated seating, trash receptacles, and advertising panels.

C. Compliance and Standards

- - All designs and installations must comply with local, state, and federal regulations, including ADA requirements.

III. PROPOSAL SUBMISSION REQUIREMENTS

Proposals must include the following:

4. 1. Cover Letter: Introduce your company, including key personnel and contact information.
5. 2. Technical Proposal: Detailed description of the proposed shelter design, materials, and manufacturing process.
6. 3. Cost Proposal: Itemized costs for designing, manufacturing, and delivering up to 50 bus shelters, both small and medium. Delivery of shelters spread out over three years, with the price for each shelter type to be purchased annually.

7. 4. Timeline: Proposed timeline for completing the project, including critical milestones.
8. 5. Experience: Provide examples of similar projects completed by your company, including references.
9. 6. Warranty Information: Details on product warranties and post-installation support.

IV. EVALUATION CRITERIA

Proposals will be evaluated based on the following criteria:

10. 1. Design Quality: Innovation, functionality, and compliance with RFP requirements.
11. 2. Cost: Reasonableness and competitiveness of the proposed cost.
12. 3. Experience: Proven track record of successful similar projects.
13. 4. Timeline: Ability to meet the proposed project timeline.
14. 5. References: Positive feedback from previous clients.

V. CONTRACT TERMS

The selected contractor must formally contract with the SCRTD. The agreement will outline payment terms, project milestones, and performance expectations.

VI. SUBMISSION INSTRUCTIONS

Proposals must be submitted electronically or in hard copy by 4:00 PM on October 16, 2024, to:

Sara Vasquez
South Central Regional Transit District
830 Anthony Dr
Anthony, NM 88021
Vasquez@scrtcd.org

VII. QUESTIONS

A Pre RFP-Conference call will be provided on October 1, 2024, at 10:00 am. Link information below. Questions regarding this RFP must be submitted in writing to SCRTD by October 9, 2024. Responses will be provided to all prospective bidders by October 11, 2024.

Topic: Pre-RFP Conference Call
Time: Oct 1, 2024, 10:00 AM Mountain Time (US and Canada)

Join Zoom Meeting
<https://us06web.zoom.us/j/84559658174?pwd=nb29lVaELnRZSfz0WNHUnApHtfUfrs.1>

Meeting ID: 845 5965 8174
Passcode: 285581

One tap mobile

+17193594580,,84559658174#,,,,*285581# US
+17207072699,,84559658174#,,,,*285581# US (Denver)

Dial by your location

- +1 719 359 4580 US
- +1 720 707 2699 US (Denver)
- +1 253 205 0468 US
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 646 931 3860 US
- +1 689 278 1000 US
- +1 301 715 8592 US (Washington DC)
- +1 305 224 1968 US
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 360 209 5623 US
- +1 386 347 5053 US
- +1 507 473 4847 US
- +1 564 217 2000 US
- +1 646 558 8656 US (New York)

Meeting ID: 845 5965 8174

Passcode: 285581

Find your local number: <https://us06web.zoom.us/j/kd08lZBOah>

We look forward to receiving your proposal.

VIII SEQUENCE OF EVENTS

The CPO will make every effort to adhere to the schedule below. All dates are subject to change by addendum of the CPO where a change in the timeline or extension is in the best interest of the District.

Action	Responsible Party	Due Dates & Time Frames
RFP Release	SCRTD	September 22, 2024
Pre- RFP Conference Call	All Parties	October 1, 2024
Deadline to Submit Questions	Potential Offerors	October 9, 2024
Submission of Organizational References	Potential Offerors	October 10, 2024
Written Response to Questions Due	SCRTD	October 11, 2024
Submission of RFPs	Potential Offerors	October 16, 2024
Evaluation of Proposals	SCRTD	October 17, 2024
Selection of Finalist	SCRTD	October 18, 2024
Protest Period Ends	SCRTD/Finalist Offerors	November 6, 2024
Recommend Contract Award to Board Notice of Intent to Award Posted	SCRTD	11/27/ 2024
Finalize Contractual Agreements	SCRTD/Finalist Offerors	November 28, 2024
Commencement of Work	Vendor	November 29, 2024

REQUIRED FORMS AND CERTIFICATIONS

ADDENDA

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

Addendum No. Dated _____

Addendum No. Dated _____

Addendum No. Dated _____

Failure to acknowledge receipt of all addenda may cause the bid to be considered non-responsive to the solicitation. Acknowledged receipt of each addendum must be established and included with the offer.

The undersigned understands that any conditions stated above, clarifications made to above, or information submitted on or with this form other than requested will render the bid unresponsive.

(Name of Individual, Partnership, or Corporation)

(Address)

(Authorized Signature)

(Title)

(Date)

(Telephone)

Lobbying Certification

The undersigned Contractor certifies, to the best of their knowledge and belief, that:

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

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

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

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

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

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

BUY AMERICA CERTIFICATION FOR COMPLIANCE WITH BUY AMERICA REQUIREMENTS FOR STEEL, IRON, OR MANUFACTURED PRODUCTS

The Bidder/Proposer certifies that it will comply with Title 49 USC § 5323(j)(1) requirements and the applicable regulations in 49 CFR Part 661.

Date _____

Signature of Authorized Official _____

Company _____

Name _____

Title _____

BUY AMERICA CERTIFICATION FOR NON-COMPLIANCE WITH BUY AMERICA REQUIREMENTS FOR STEEL, IRON, OR MANUFACTURED PRODUCTS

The Bidder/Proposer hereby certifies that it cannot comply with the requirements of Title 49 USC § 5323(j), but it may qualify for an exception pursuant to Title 49 USC § 5323(j)(2) as amended and the applicable regulations in 49 CFR 661.7.

Date _____

Signature of Authorized Official _____

Company _____

Name _____

Title _____

AGREEMENT OF GOODS and SERVICES

To: South Central Regional Transit District
300 Lohman Avenue, Suite 115 Las Cruces, NM 88005

The undersigned hereby agrees to furnish the goods and services listed below in accordance with the attached specifications, which have been carefully examined.

Signed: _____

Printed Name: _____

_____ Title: _____

Date: _____ Telephone: _____

For (Company): _____

Address:

CERTIFICATE OF NON COLLUSION

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

1. That I am the Proposer or an officer or employee of the proposing corporation having authority to sign on its behalf (if the Proposer is a corporation);
2. That the attached proposal has been arrived at by the Proposer independently and has been submitted without collusion and without any agreement, understanding, or planned course of action with any other vendor of materials, supplies, equipment, or service described in the Request for Proposal, designed to limit independent bids or competition;
3. That the contents of the proposal 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 Proposer, and will not be communicated to any such person before the official opening of the Proposals; and,
4. That I have fully informed myself regarding the accuracy of the statement made in this affidavit.

Signed _____

Firm Name _____

Subscribed and sworn to before me this _____ day of _____
2019

Notary Public

My commission expires _____,

Proposer's E.I. Number _____

(Number used on employer's Quarterly Federal Tax Return)

AFFIRMATIVE ACTION PLAN CERTIFICATION

The undersigned hereby certifies that the business complies with all federal affirmative action requirements applicable to the business.

Signature: _____

Typed Name: _____

Company: _____

Title: _____

Date: _____

Bidder's firm is: (check or complete all applicable boxes)

individual

a partnership

a non-profit organization

a corporation incorporated under the laws of the State of

_____ a limited liability corporation (LLC)

other, _____

Attachment "A"

Bus Shelter Examples

When designing or selecting bus shelters, the size and materials used are crucial, especially in areas where vandalism or graffiti might be a concern. Here's a breakdown of different bus shelter sizes and the use of metal materials with anti-graffiti features:

1. Small Bus Shelter

- **Dimensions:** Typically, around 5-7 feet wide, 4-5 feet deep, and 7-8 feet high.
- **Capacity:** Accommodates 2-3 seated passengers, with space for 2-3 standing.
- **Materials:**
 - **Structure:** Powder-coated steel or aluminum.
 - **Roofing:** Metal or polycarbonate with UV protection.
 - **Walls:** Tempered glass or metal mesh panels.
- **Anti-Graffiti Features:**
 - Anti-graffiti coatings on metal surfaces.
 - Use of perforated metal panels that are difficult to tag.
 - Easily replaceable or cleanable glass panels.

2. Medium Bus Shelter

- **Dimensions:** Around 10-12 feet wide, 5-6 feet deep, and 7-8 feet high.
- **Capacity:** Accommodates 4-6 seated passengers, with space for 3-4 standing.
- **Materials:**
 - **Structure:** Galvanized steel with a powder-coated finish.
 - **Roofing:** Metal with additional insulation for temperature control.
 - **Walls:** Combination of tempered glass and perforated metal panels.
- **Anti-Graffiti Features:**
 - Use of anti-graffiti paint or film on glass and metal.
 - Durable, scratch-resistant glass.
 - Modular design for easy maintenance and replacement.

3. Large Bus Shelter

- **Dimensions:** 15-20 feet wide, 6-8 feet deep, and 8-9 feet high.
- **Capacity:** Accommodates 8-12 seated passengers, with space for 6-8 standing.
- **Materials:**
 - **Structure:** Heavy-duty, powder-coated steel or aluminum frame.
 - **Roofing:** Corrugated metal or reinforced polycarbonate.
 - **Walls:** Laminated glass with embedded anti-graffiti coating or full-metal panels.
- **Anti-Graffiti Features:**
 - All exposed surfaces were treated with anti-graffiti coatings.
 - Smooth metal surfaces that can be easily cleaned.
 - Integrated lighting that deters vandalism and enhances security.

4. Custom or Modular Bus Shelter

- **Dimensions:** Vary based on requirements, typically modular to expand or contract as needed.
- **Capacity:** Flexible, depending on configuration.
- **Materials:**
 - **Structure:** Modular steel frames with customizable finishes.
 - **Roofing:** Modular metal panels or integrated solar panels for energy efficiency.
 - **Walls:** Modular metal or glass panels with anti-graffiti treatments.
- **Anti-Graffiti Features:**
 - Customizable anti-graffiti coatings based on local needs.
 - Replaceable panel systems for easy maintenance.
 - Use of graffiti-resistant materials such as stainless steel or treated aluminum.

Anti-Graffiti Features in Detail:

- **Anti-Graffiti Coatings:** These are clear or tinted coatings applied to surfaces to make graffiti more difficult to adhere to. They also allow for easier cleaning with basic solvents or pressure washing.
- **Perforated Metal Panels:** These panels provide ventilation and reduce the surface area that can be defaced, making them less appealing targets for graffiti.
- **Modular Design:** This allows for damaged or defaced parts of the shelter to be easily replaced without replacing the entire structure.

These examples should give you a good understanding of the variety and considerations in designing bus shelters with metal materials and anti-graffiti features.

Attachment "B"

PROTESTS, APPEALS, AND REMEDIES

1. Authority to resolve protested solicitations and awards.

The Purchasing Agent is responsible to address, process, and exercise the following:

- (a) *Protests of bid or RFP specifications or scope of work.* Any vendor aggrieved in connection with the specifications or scope of work in a solicitation may protest to the Purchasing Agent. The protest shall be submitted in writing no later than 7 calendar days prior to the deadline for receipt of the bid or proposal. No protest bond will apply to such a protest. The Purchasing Agent shall issue a determination in writing within 2 workdays of receipt of such protest and either proceed with the solicitation, modify it, or cancel it
- (b) *Right to protest; protest bond.* Any actual or prospective bidder, offeror or contractor aggrieved in connection with the solicitation or award of a contract may protest to the Purchasing Agent. The protest shall contain all the grounds for such protest. It must be submitted in writing within 15 calendar days after such aggrieved person knows or should have known of the facts giving rise thereto, along with a bond provided by a surety company authorized to do business in the state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the SCRTD. The bond amount shall not exceed the estimated cost to the SCRTD of processing and defending a protest. Only one protest per person per solicitation is permitted.
- (c) *Authority to resolve protests.* The Purchasing Agent 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 bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract.
- (d) *Decision.* Suppose the protest is not resolved by agreement. In that case, the Purchasing Agent shall promptly issue a decision in writing stating the reason for the action taken and informing the protestant of its right to appeal the decision to the SCRTD Board. A copy of the decision of the Purchasing Agent shall be mailed, and a return receipt requested or hand-delivered to the protestant or the address provided in the protest.
- (e) *Appeal.* Any appeal to the SCRTD Board of an adverse decision shall be filed with the Executive Director's office within 15 calendar days after the decision has been delivered to the aggrieved person. The proceeding before the Board shall be de novo. The Board shall decide whether the solicitation or award was in accordance with this Policy, procedures, and the terms and conditions of the solicitation.
- (f) *Decisions final.* A decision of the SCRTD Board under this Section shall be final and conclusive. The aggrieved person may seek judicial review in the state
First

Judicial District Court within 30 days of the receipt of notice of the decision of the SCRTD Board.

- (g) *Stay of procurements during protests.* In the event of a timely protest under subsection (a) of this section, the Purchasing Agent shall not proceed further with the solicitation or with the award of the contract unless the Purchasing Agent, after consultation with the Executive Director, makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the SCRTD.
- (h) *Entitlement to costs.*
 - (1) When a protest is sustained, and the protesting bidder or offeror should have been awarded the contract under the solicitation but was not, then the protesting bidder or offeror shall be entitled, in addition to any other relief, to the reasonable costs incurred in connection with the protest or appeal costs other than attorney's fees.
 - (2) Should the protest be denied, the SCRTD shall be entitled to recover reasonable costs for processing and adjudicating the protest and for costs associated with an unreasonable delay of the contract. Recovery of these costs shall not be limited to the proceeds from the protest bond. Excess bond proceeds shall be returned to the person.

2. *Contract Claims.*

Claims include, without limitation, disputes arising under a contract and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission. Within 15 calendar days of the time the contractor knows or should have known of the facts and circumstances giving rise to a claim, the following procedure shall apply:

- (a) *Notice of claim to the Purchasing Agent.* All claims by a contractor against the SCRTD relating to a contract, except bid protests, shall be submitted in writing to the Purchasing Agent for decision. The contractor may request a conference with the purchasing agent regarding the claim.
- (b) *Notice to the contractor of the Purchasing Agent's decision.* The Purchasing Agent's decision shall be issued in writing within 15 calendar days of the claim notice and immediately mailed, or otherwise furnished, to the contractor. The decision shall state the reasons for the decision reached and shall inform the contractor of its appeal rights under subsection (d) of this section.
- (c) *Failure to render a timely decision.* Suppose the Purchasing Agent does not issue a written decision regarding any contract controversy within 15 days after the written request for a final decision or within such longer period as may be agreed upon between the parties. In that case, the aggrieved party may proceed as if an adverse decision had been received.

- (d) *Appeal.* Any appeal to the SCRTD Board of an adverse decision shall be filed with the Executive Directors' office within 15 calendar days after the decision has been received by the aggrieved person. The proceeding before the SCRTD Board shall be de novo.
- (e) *Decisions by Board final; exception.* A decision of the SCRTD Board under this section shall be final and conclusive unless a protestant seeks judicial review in the state First Judicial District Court within 30 days of receiving notice of the decision of the SCRTD Board.

3. Remedies for solicitations or awards in violation of law.

- (a) *Before bid opening or closing date for receipt of Proposals.* If, before the bid opening or the closing date for receipt of Proposals, the Purchasing Agent, after consultation with the SCRTD Attorney, determines that a solicitation violates applicable law or regulation then the solicitation shall be canceled by the Purchasing Agent or revised to comply with applicable law.
- (b) *Before award.* If, after bid opening or the closing date for receipt of Proposals, the Purchasing Agent, after consultation with the SCRTD's Legal Counsel, determines that a solicitation or a proposed award of a contract violates applicable law, then the solicitation or proposed award shall be canceled by the Purchasing Agent.
- (c) *After award.* If, after an award, the Purchasing Agent, after consultation with the SCRTD's Legal Counsel, determines that a solicitation or award of a contract violated applicable law, then:

If neither the purchaser nor the person awarded the contract has acted fraudulently or in bad faith:

- a. The contract or invoice may be ratified and affirmed or approved for payment by the Board for any amount or the Executive Director, as applicable, for amounts under \$100,000.00, provided that it is determined that doing so is in the best interests of the SCRTD; or
- b. The contract may be terminated, and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, plus a reasonable profit, before the termination or

If either the purchaser or the person awarded the contract has acted fraudulently or in bad faith, the Purchasing Agent may declare the contract null and void if such action is in the best interests of the SCRTD.

FEDERAL CLAUSES

(where applicable)

1. No Government Obligation to Third Parties

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

b. 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.

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

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

b. The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. Chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) or other applicable federal law on the CONTRACTOR, to the extent the Federal Government deems appropriate.

c. 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.

3. Access to Records

The CONTRACTOR agrees to provide PURCHASER, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. 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. In accordance with 2 CFR 200.333, the CONTRACTOR agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

4. Federal Changes

The 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 Department of Transportation, Federal Transit Administration, Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. The CONTRACTOR's failure to so comply shall constitute a material breach of this contract.

5. Civil Rights

The following requirements apply to the underlying contract:

a. 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.

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

(i) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment

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

(ii) 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 age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

(iii) 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.

c. 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.

6. Disadvantaged Business Enterprises

a. It is the policy of the Department of Transportation and PURCHASER that Disadvantaged Business Enterprises (DBEs) as defined in 49 C.F.R. part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with federal funds under this contract. Consequently, the DBE requirement of 49 C.F.R. applies to this contract.

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

c. The CONTRACTOR agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each

payment the prime contractor receives from PURCHASER. The prime contractor agrees further to return retainage payments to each subcontractor within ten (10) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the PURCHASER. This clause applies to both DBE and non-DBE subcontractors.

d. The CONTRACTOR or its subcontractors agrees to ensure that DBEs as defined in 49 C.F.R. have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or part with federal funds provided under this contract. In this regard, all contractors shall take all necessary and reasonable steps in accordance with 49 C.F.R. Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform under this contract. Contractors shall not discriminate on the basis of race, creed, color, age, sex or national origin in the award and performance of DOT-assisted contracts.

e. DBEs will be encouraged and afforded full opportunity to actively solicit information concerning this project and to submit bids and or proposals.

7. Incorporation of FTA Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by U.S. DOT, as set forth in FTA Circular 4220, 2 CFR 200.318, and subsequent revisions are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any PURCHASER request, which would cause PURCHASER to be in violation of the FTA terms and conditions.

8. 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, 42 U.S.C. §§ 6321 *et seq.*

9. Termination

a. Termination for Convenience: PURCHASER may terminate this contract, in whole or in part, at any time by written notice to the CONTRACTOR. The CONTRACTOR shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to PURCHASER to be paid the CONTRACTOR. If the CONTRACTOR has any property in its possession belonging to PURCHASER, the CONTRACTOR will account for the same, and dispose of it in the manner PURCHASER directs.

b. Termination for Cause: If the CONTRACTOR does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the CONTRACTOR fails to

perform in the manner called for in the contract, or if the CONTRACTOR fails to comply with any other provisions of the contract, PURCHASER may terminate this contract for default. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by PURCHASER that the CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or beyond the control of the CONTRACTOR, PURCHASER, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure: PURCHASER in its sole discretion may, in the case of a termination for breach or default, allow the CONTRACTOR ten (10) business days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

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

10. Seat Belt Use

The CONTRACTOR agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by: 90 (1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles.

11. Safe Operation of Motor Vehicles

The CONTRACTOR agrees to comply with: (1) Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225); (2) U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and (3) The following U.S. DOT Special Provision pertaining to Distracted Driving: (i) Safety. The CONTRACTOR agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle CONTRACTOR owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award; (ii) Recipient Size. The CONTRACTOR

agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving; and (iii) Extension of Provision. The CONTRACTCOR agrees to encourage its subcontractors to comply with this Special Provision, and include this Special Provision in each third party subcontract at each tier supported with federal assistance.

12. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

[Public Law 115-232](#), section 889, prohibits entering into a contract (or extending or renewing a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

13. Governmentwide Debarment and Suspension

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

The certification in this clause is a material representation of fact relied upon by PURCHASER. If it is later determined that the bidder or offeror knowingly rendered an erroneous certification, in addition to remedies available to PURCHASER, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or offeror agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer.

The bidder or offeror further agrees to include a provision requiring such compliance in its lower tier covered transactions.

14. Notification Related to Fraud, Waste, Abuse, or Other Legal Matters

If a current or prospective legal matter that may affect the Federal Government emerges, the CONTRACTOR must promptly notify PURCHASER so that it can notify the Federal Government. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

The CONTRACTOR agrees to include a similar notification requirement in subcontracts exceeding \$25,000 financed in whole or in part with federal assistance provided by FTA and must require each subcontractor to include an equivalent provision in its federally assisted subcontracts exceeding \$25,000.

15. Lobbying Restrictions

The CONTRACTOR agrees to:

- a. Refrain from using Federal assistance funds to support lobbying,
- b. Comply and assure the compliance of each SUBCONTRACTOR at any tier, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352.
- c. Comply with Federal statutory provisions to the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence Congress or a State legislature on legislation or appropriations, except through proper, official channels.

16. Buy America

The CONTRACTOR agrees to comply with 49 U.S.C. §5323(j) and 49 C.F.R. Part 661 which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. §661.7, and includes microcomputer equipment, software, and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 70 percent domestic content.

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

17. Recycled Products

To the extent applicable, the CONTRACTOR agrees to comply with U.S. EPA regulations, "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 C.F.R. Part 247, implementing section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and otherwise provide a competitive preference for products and services that conserve natural resources and protect the environment and are energy efficient.

Attachment “C”

PROFESSIONAL SERVICES AGREEMENT BETWEEN Contractor and SOUTH CENTRAL REGIONAL TRANSIT DISTRICT

This agreement (“Agreement”) is entered into as of the _____ day of 2024 by and between _____ (“Contractor”) and the South Central Regional Transit District (“SCRTD”).

WHEREAS, the SCRTD is a political subdivision of the State of New Mexico, and,

WHEREAS, the SCRTD wishes to retain the Contractor to perform the work described below;

and,

WHEREAS, the SCRTD has adopted its procurement code pursuant to the powers and authority granted to it under the Regional Transit District Act and

WHEREAS, pursuant to the SCRTD’s Procurement Regulations, the Contractor has held itself out as possessing the personnel, experience, and knowledge necessary to perform the services described in implementing the Scope of Work as attached (Exhibit “A”) and contained within the RFP; and

WHEREAS, the SCRTD has selected the Contractor as the offeror most advantageous to the SCRTD and

WHEREAS, the procurement regulations are available to all vendors and contractors by and through the SCRTD. The most current version of the regulations, adopted by Resolution No. 2012-21, is entitled “South Central Regional Transit District Procurement Regulations.”

NOW, THEREFORE: in consideration of the mutual agreements of the parties herein and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties to this Agreement agree as follows:

1. SCOPE OF WORK

The Contractor shall provide the following services to the SCRTD. All services listed below shall be inclusive of work product and shall be interpreted consistent with any solicitation or procurement documents promulgated by the SCRTD:

A. Provide all services in their response to the RFP and the Scope of Work Attached hereto as Exhibit “A” and any and all addenda as described in the SCRTDs RFP and as outlined in the project proposal.

B. Deliver the completed project promptly. All work will be done in cooperation with the SCRTD’s project coordinator and in accordance with the Plan timeline.

C. Submit invoices as outlined in the Contractor’s proposal, containing a detailed report of work performed. Invoices shall be substantially in the form outlined in the Contractor’s proposal and shall

contain a detailed report of work performed enough to meet the New Mexico Department of Transportation's requirements contained in the Memorandum of Agreement with the SCRTD which is attached hereto as Exhibit "B." Contractor recognizes and acknowledges that the SCRTD must make quarterly reports of progress including actual costs and expenses incurred as of the reporting date. The contractor's failure to submit enough information in a timely manner for this purpose may compromise the SCRTD's ability to obtain federal funds. It may, in turn, compromise payments by SCRTD to the Contractor for amounts otherwise compensable under this Agreement.

D. The Contractor may be required to attend SCRTD Board meetings and provide advice to the full SCRTD Board if the Executive Director requests it. The contractor may be required to perform such acts and render such services reasonably necessary to complete the work contemplated under this Agreement.

E. The Contractor understands and agrees that the professional services covered by this scope of work are to be performed and delivered by the principal professionals within the Contractor's firm and that the substitution of subcontractors or delegation of critical work to subordinates does not meet the demands and expectations of SCRTD.

F. All deliverables required under this Agreement, including material, products, reports, policies, procedures, software improvements, databases, and any other products and processes, whether in written or

electronic form, shall remain the exclusive property of and shall inure to the benefit of SCRTD as works for hire. The contractor shall not use, sell, disclose, or obtain any other compensation for such works for hire. In addition, Contractor may not, with regard to all work, work product, deliverables, or works for hire required by this Agreement, apply for, in its name or otherwise, any copyright, patent, or other property right and acknowledges that any such property, right created or developed remains the exclusive right of SCRTD. The contractor shall not use deliverables in any manner for any other purpose without the express written consent of the SCRTD.

2. STANDARD OF PERFORMANCE; LICENSES

A. The Contractor represents that it possesses the personnel, experience, and knowledge necessary to perform the services described under this Agreement.

B. The Contractor agrees to obtain and maintain, throughout the term of this Agreement, all applicable professional and business licenses required by law for itself, its employees, agents, representatives, and subcontractors.

3. COMPENSATION

A. The SCRTD shall pay to the Contractor \$_____ for services referred to above,

excluding gross receipts tax. The aforementioned amount is inclusive of Contractor expenses anticipated to be incurred in performing services in the Agreement, such as copying, mileage, printing, travel, and per diem, telephone,

and computer research charges at the normal rate for such expenses charged by the Contractor to its other clients. Per diem and mileage, expenses shall not exceed the amounts provided in the Per Diem and Mileage Act or as set forth below.

B. Payment shall be made upon receipt from the Contractor of statements in accordance with the deliverable tasks outlined in the Contractor's proposal attached hereto as Exhibit "C." All statements shall contain a detailed report of work performed and expenses incurred. Prepayment by public entities is generally not permitted under New Mexico law. Therefore, service delivery and timely billing after that is a condition precedent to any payment by SCRTD to the Contractor.

C. The Contractor's sole responsibility for paying taxes on any money received under this Agreement is the New Mexico gross receipts tax levied on the amounts payable under this Agreement. The SCRTD will pay the New Mexico gross receipts tax to the Contractor.

D. The Contractor agrees to refund the SCRTD in the same proportion as was paid to the Contractor. The expenditures under this agreement, when determined by the independent audit, are to be ineligible for payment.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the SCRTD for the

performance of this Agreement. If the SCRTD does not make enough appropriations and authorization, this Agreement shall terminate upon written notice given by the SCRTD to the Contractor. The Contractor shall accept the SCRTD's decision as to whether enough appropriations are available. They shall be final. By executing this Agreement, the SCRTD represents that it will make reasonable faith efforts to ensure enough money is budgeted and appropriated to make the payments that may become due for the work performed under this Agreement. However, by signing this Agreement, the Contractor acknowledges and agrees that SCRTD is not responsible for ensuring that budgeted amounts will be appropriated enough to pay any amendment, extension, or other charges beyond those outlined in Section 3 above.

5. TERM AND EFFECTIVE DATE

This agreement shall not become effective until the South Central Regional Transit District approves. It shall terminate at 4:00 p.m. on Wednesday, October 16, 2024, unless terminated pursuant to paragraph 6 below or extended by agreement in writing for up to six (6) additional months.

6. TERMINATION

A. The SCRTD may terminate this Agreement upon ten (10) days' written notice. Upon such termination, the Contractor shall be paid for Services completed to the satisfaction of SCRTD. The

Contractor shall render a final report of the Services performed to the date of termination and turn over to SCRTD the originals of all materials prepared pursuant to this Agreement.

(1) The Contractor shall render a final report of the services performed up to the date of termination and shall turn over to the SCRTD original copies of all work product, research, or papers prepared under this Agreement.

(2) If compensation is not based upon hourly rates for services rendered, the SCRTD shall pay the Contractor for the reasonable value of services satisfactorily performed through the date the Contractor receives notice of such termination and for which compensation has not already been paid.

(3) If compensation is based upon hourly rates and expenses, then the Contractor shall be paid for services rendered and costs incurred through the termination date.

7. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Contractor and its agents and employees are independent contractors performing professional services for the SCRTD and are not employees of the SCRTD. As a result of this Agreement, the Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of SCRTD vehicles, or any other benefits afforded to employees of the SCRTD.

B. The Contractor shall be solely responsible for paying wages, salaries, and benefits to all employees or contractors retained by the Contractor to perform the services under this Agreement.

C. The Contractor is not an agent or employee of SCRTD and will not be considered an employee of SCRTD for any purpose. The contractor, its agents, or employees shall make no representation that they are SCRTD employees, nor shall they create the appearance of being employees by using a job or position title on a nameplate, business cards, or in any other manner bearing the SCRTD's name or logo.

D. Contractor shall have no authority to bind SCRTD to any agreement, contract, duty, or obligation. The contractor shall make no representations intended to, or create the appearance of, binding the SCRTD to any agreement, contract, duty, or obligation. The contractor shall have full power to continue any outside employment or business, to employ and discharge its employees or associates as it deems appropriate without interference from the SCRTD provided, however, that the Contractor shall at all times during the term of this Agreement maintain the ability to perform the obligations in a professional, timely, and reliable manner.

8. CONFIDENTIALITY

A. Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the SCRTD, except as otherwise provided

by law. Notwithstanding the preceding agreement to keep materials confidential, the Contractor hereby acknowledges and agrees that the SCRTD may provide copies of all documents required to be made available for inspection and copying pursuant to the New Mexico Inspection of Public Records Act. The contractor is not required to provide SCRTD with any documents that are not work product or are not otherwise required to perform the scope of work or to comply with state and federal laws. Nothing herein shall be deemed to waive any claim of confidentiality by SCRTD or Contractor nor to compel the production of documents or information other than as required by this Agreement or law.

B. Some documents may be subject to the requirements of the Privacy Act of 1974, 5

U.S.C. §552a. The Contractor agrees that it will always comply with and assist the SCRTD in complying with that law.

9. CONFLICT OF INTEREST

The contractor warrants that it presently has no direct or indirect interest and shall not acquire any interest that would conflict in any manner or degree with the performance or services required under this Agreement. The contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18 NMSA 1978, regarding contracting with a public officer, SCRTD employee, or former SCRTD employee have been followed.

10. ASSIGNMENT: SUBCONTRACTING

The Contractor shall not assign or transfer any rights, privileges, obligations, or other interest under this Agreement, including any claims for money due, without the prior written consent of the SCRTD. The contractor acknowledges that the SCRTD is a SUBGRANTEE under Exhibit B and is expressly bound to seek the approval of any subcontracts under that agreement from the New Mexico Department of Transportation. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the SCRTD. The contractor agrees that its principal officers and employees are to perform the scope of work under this agreement and that it will not unreasonably delegate work to subordinates.

11. RELEASE

Upon acceptance of the final payment of the amount due under this Agreement, the Contractor releases the SCRTD, its officers, and employees from all liabilities, claims, and obligations arising from or under this Agreement. The Contractor agrees not to purport to bind SCRTD to any obligation not assumed herein by the SCRTD unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

12. INSURANCE

A. The Contractor shall obtain and maintain adequate insurance at

its own expense at all times during its performance of this Agreement.

B. The contractor shall obtain and maintain the Workers' Compensation insurance required by law to provide coverage for the Contractor's employees throughout the term of this Agreement. Upon request, the Contractor shall provide the SCRTD with evidence of its compliance with such requirements.

C. Contractor shall maintain professional liability insurance throughout this agreement and provide a minimum coverage of one million dollars (\$1,000,000) per occurrence.

D. Automobile Liability Insurance shall be an amount at least equal to the minimum required by state law on any owned and/or non-owned motor vehicles used in performing Services under this Agreement,

E. General Liability Insurance shall be for \$1,000,000 combined single limit and per occurrence shall name the SCRTD as an additional insured and shall provide that the SCRTD will be notified no less than thirty (30) days in advance of cancellation;

F. The SCRTD retains the right to require that the Contractor obtain or provide proof of insurance, certificates of insurance, riders, or addenda, including documents listing SCRTD as an additional named insured if, in the SCRTD's opinion, the Contractor's work creates a risk or liability for the SCRTD that can be covered and insured without excessive cost or expense to the Contractor.

G. Waiver of insurance requirements may only be performed in writing by the SCRTD's Executive Director and only if he is satisfied that the

waiver will not result in substantial or unreasonable liability for the SCRTD.

13 INDEMNIFICATION

Contractor agrees to indemnify SCRTD to the extent permitted by law for the Contractor's acts and omissions under this Agreement and other liabilities that may be incurred by the SCRTD due to the Contractor's performance or failure to perform the services outlined in this Agreement.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the SCRTD in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA

1978, as amended. The SCRTD and its "employees," as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense, and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

A. By entering into this Agreement, the parties do not intend to create any right, title, or interest in or for the benefit of any person other than the SCRTD and the Contractor. No person shall claim any right, title, or interest under this Agreement or seek to enforce this Agreement as a third-party beneficiary of this Agreement.

B. In compliance with the requirements set forth in Exhibit B, the Contractor acknowledges and agrees to the following:

“The New Mexico Department of Transportation and SUBGRANTEE acknowledge and agree that, notwithstanding any concurrence by the Federal government in or approval of the solicitation or award of the AGREEMENT, absent the express written consent by the Federal government, the Federal government is not a party to this AGREEMENT and shall not be subject to any obligations or liabilities to the DEPARTMENT, SUBGRANTEE, or any other party (whether or not a party to the AGREEMENT) pertaining to any matter resulting from the AGREEMENT.”

16. RECORDS AND AUDIT

A. The Contractor shall maintain, throughout the term of this Agreement and for Contractor shall maintain throughout the term of this Agreement and for a period of six (6) years thereafter, records that indicate the date, time, and nature of the services rendered. The contractor shall make available for inspection by SCRTD all records, books of account, memoranda, and other documents pertaining to SCRTD at any reasonable time upon request. These records shall be subject to inspection by the SCRTD, the Department of Finance and Administration, and the State Auditor. The SCRTD shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the SCRTD to recover

excessive illegal payments.

B. Contractor acknowledges and agrees to maintain all records for a period in excess of five (5) years from the date of the last expenditure report submitted to the Federal government under Exhibit B to ensure the SCRTD can comply with the requirements under that agreement.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

The contractor shall abide by all applicable federal and state laws and regulations as well as all ordinances, rules, and regulations of the City of Santa Fe. In any action, suit, or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the State of New Mexico courts shall be brought in the First Judicial SCRTD.

18. AMENDMENT

This Agreement shall not be altered, changed, or modified except by an amendment in writing executed by the parties hereto.

19. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants, and understandings have been merged into this Agreement. This Agreement

expresses the entire Agreement and understanding between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein, and any other application thereof shall not in any way be affected or impaired thereby.

22. NOTICES

Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses. Notices may also be provided by electronic

transmissions such as facsimiles or e-mails. However, the burden of proof to establish that notice was received shall be on the party electing to utilize electronic transmissions of notifications. Notice under this Agreement shall be deemed given on the day personally delivered or three (3) days after deposit in the United States Mail, first-class postage prepaid, or on the date sent and received if sent by electronic mail. Notices by regular mail shall be sent to a party at the address set forth below:

**South Central Regional Transit District
David Armijo
Executive Director
830 Anthony Dr
Anthony, NM 88021**

Contractor

An address may be changed by notification to the other party in writing, delivered as specified for notices hereunder. Unless such notice is made, a party is entitled to rely on the address stated above.

23. COMPLIANCE WITH FEDERAL RESTRICTIONS

The Contractor acknowledges and agrees that contracts such as this Agreement, which are funded with or implicate federal laws, grant requirements, and restrictions, are subject to state and federal requirements and compliance above and beyond the express terms outlined in this Agreement and that Contractor has made independent inquiry and satisfied itself that it may perform the work required under this Agreement while, at

all times, maintaining compliance with said restrictions. Express requirements and regulations include but are not limited to:

- A. All requirements of 49 U.S.C. §5304 whether express or implied;
- B. Federal Funds received by the SCRTD shall be used solely for activities described in the Scope of Work outlined in Exhibit B.
- C. Federal Funds shall only be allocated to pay eligible costs as outlined in Exhibit B and as detailed in 2 Code of Federal Regulations (CFR) parts 200 and 1201, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."
- D. Compliance and certification of compliance with Program Fraud Civil Remedies Act of 1986, 31 U.S.C. §§ 3801 et seq. and associated regulations, including 49 C.F.R. Part 31. Penalties may be imposed under 18 U.S.C. §1001 and 49 U.S.C. 5307(n) (1). The full text of the clauses are as follows:

"The SUBGRANTEE acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 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 Program. The SUBGRANTEE certifies or affirms the truthfulness and accuracy of any statement it makes pertaining to the AGREEMENT or the FTA-assisted Program for which this work is being performed. The SUBGRANTEE 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 SUBGRANTEE to the extent the Federal government deems appropriate.

The SUBGRANTEE 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 program that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C.

§ 5307, the Federal government reserves the right to impose the penalties of 18 U.S.C.

§1001 and 49 U.S.C. §5307 (n)(1) on the SUBGRANTEE, to the extent the Federal government deems appropriate.”

E. Compliance and assistance with compliance with the Privacy Act of 1974 requirements, 5 U.S.C. §552a.

F. Title VI and Title VII of the Civil Rights Act of 1964 the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, the New Mexico Human Rights Act, Executive Order 11246 as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations 41 C.F.R. part 60 and 49 C.F.R. part 21.

G. Federal Transit Laws, including 49 U.S.C. §5332 and all implementing regulations.

H. All contractual provisions required by FTA Circulars 4220.1F and 8100.1C.

I. Compliance and assistance with Title VII of the Civil Rights Act, 42 U.S.C. §2000e, and Federal Transit Laws at 49 U.S.C. §5332, 41 C.F.R. Parts 60 et seq. and implementing regulations. The specific provision of Exhibit B is as follows:

“The following equal opportunity requirements apply to the AGREEMENT: Race, Color, Creed, National Origin, Sex – in accordance with Title VII of the Civil Rights Act, 42 U.S.C. §2000e, and Federal Transit Laws at 49 U.S.C.

§5332, the SUBGRANTEE agrees to comply with all applicable equal employment opportunity requirements of the U.S.

Department of Labor regulations: Office of Federal Contracts 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. §20003 note), and with

any applicable Federal statutes, executive orders, regulation

and Federal policies that may in the future affect construction

activities undertaken in the course of the Program. The SUBGRANTEE agrees to take affirmative action to ensure that applicants are employed and that employees are treated during the 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 SUBGRANTEE agrees to comply with any implementing requirements FTA may issue.”

J. Compliance and assistance with the Age Discrimination in Employment Act of 1967, 29 U.S.C. §623, and Federal Transit Laws at 48 U.S.C. §5332. The specific provision of Exhibit B is as follows:

“The following equal opportunity requirements apply to the AGREEMENT: Age – In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, 29 U.S.C. §623 and Federal Transit Laws at 49 U.S.C. §5332, the SUBGRANTEE agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the SUBGRANTEE agrees to comply with any implementing requirements FTA may issue.”

K. Compliance and assistance with Section 102 of the Americans with Disabilities Act, 42 U.S.C. §12112 and 29 C.F.R. Part 1630. The specific provision of Exhibit B is as follows:

“The following equal opportunity requirements apply to the AGREEMENT: Disabilities – In accordance with Section 102 of the Americans with Disabilities Act, 42 U.S.C. §12112, the SUBGRANTEE agrees that it will comply with the requirement of the U.S. Equal Employment Commissions, “Regulation to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630. In addition, the SUBGRANTEE agrees to comply with any implementing requirements FTA may issue.”

L. Compliance with all applicable standards, orders, or regulations and assistance in reporting any violations relating to the Federal Water Pollution Control Act, 33 U.S.C. §§1251 et seq., and the Clean Air Act, 42 U.S.C. §§7401 et seq.

M. Compliance with Executive Order 12549, as implemented by 49 C.F.R. Part 29 regarding non-employment of suspended and debarred contractors.

N. Compliance and compliance certification with 49 C.F.R. Part 29, particularly Subpart “C” by Contractor and any subcontractors.

O. 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.

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

IN WITNESS WHEREOF, the parties have executed this Agreement on the date below.

CONTRACTOR

By: _____ Its: _____ Date: _____

**SOUTH CENTRAL REGIONAL
TRANSIT DISTRICT:**

David Armijo,
Executive Director

Date:

Approved as to form:

Vice Chair