



# **Morongo Basin Transit Authority**

*Notice to Contractors, Instructions to Bidders, Special Provisions,  
Proposal & Contract for:*

## **BUS STOPS AND SHELTERS**

AT

**VARIOUS LOCATIONS**

**(IFB 12-04)**

# MORONGO BASIN TRANSIT AUTHORITY

## Bus Stops and Shelters

### INDEX TO DOCUMENTS

	Section
Notice Inviting Sealed Bids	A-1 to A-2
Instructions To Bidders	B-1 to B-4
Special Provisions	C-1 to C-16
Proposal	D-1 to D-32
Performance Bond	E-1
Payment Bond	F-1 to F-2
Worker's Compensation Certificate of Insurance	G-1
Insurance Requirements	H-1
Instructions for Execution of Instruments	I-1
Contract	J-1 to J-4
Appendix	
Bus Shelter Plans and Details	
Caltrans Encroachment Permit	

## NOTICE INVITING SEALED BIDS MORONGO BASIN TRANSIT AUTHORITY

IFB 2012-04

**BIDS MUST BE RECEIVED BY:** 10:00 a.m. on October 4, 2012

**BIDS TO BE OPENED BY:** 10:00 a.m. on October 4, 2012

**PLACE OF BID RECEIPT:** General Manager  
Morongo Basin Transit Authority  
62405 Verbena Road  
Joshua Tree, CA 92252

**NOTICE IS HEREBY GIVEN** that the Morongo Basin Transit Authority, County of San Bernardino, California, will receive up to, but not later than the time set forth above, sealed contract bids for the award of a contract for the above project. All bids shall be made on the form furnished by the Morongo Basin Transit Authority and shall be opened and publicly read aloud at the above-stated time at the place of bid receipt identified above.

Bids must be placed in a sealed package with the project name and identification number typed or clearly printed on the lower left corner of the package.

**PROJECT IDENTIFICATION NAME:** Bus Stops and Shelters

**DESCRIPTION OF WORK:** Provide necessary labor, equipment and materials to construct concrete bus pads, sidewalks, install BMTA furnished shelters, and associated works at various locations, as specified on the drawings, and in these specifications and special provisions, and as directed by the General Manager.

**ENGINEER'S ESTIMATE:** \$50,000

**COMPLETION OF WORK:** All work shall be completed within 45 working days following written notice to proceed from the Morongo Basin Transit Authority.

**OBTAINING BID DOCUMENTS:** Contract documents for the above referenced project may be obtained at the Office of the General Manager, Morongo Basin Transit Authority, 62405 Verbena Road, Joshua Tree, California 92252, upon payment of **\$20.00** for each set if picked up in person, or **\$40.00** if mailed. Requests for mailing shall be made two weeks minimum prior to bid opening date to the Morongo Basin Transit Authority at (760) 366-2986. This amount is not refundable.

**BID BOND:** Each bid response shall be accompanied by the bid securities and attachments as required in Section B – Instructions to Bidders, in an amount not less than ten percent (10%) of the amount named in the bid.

**PREVAILING WAGE RATES:** Bidders are advised that this project is funded with federal funds and other public funds. The federal requirements of the Davis-Bacon Act will apply to this project and those requirements will be enforced. The prime contractor and subcontractor are required to pay their laborers and mechanics employed under this contract a wage not less than the minimum wage for the work classifications specified in both the Federal and State wage decisions, when the prime contract amount exceeds \$2,000. The higher of the two wage classifications, State or Federal, Prevailing Wage will be enforced for all work under this contract. The prime contractor is responsible for ensuring subcontractor compliance with Davis-Bacon and Related Act requirements. The Federal Labor Standards Provisions (HUD 4010) apply.

**CERTIFIED PAYROLL:** A weekly certified payroll is required during the term of construction. Payment of contractor's invoice may be delayed when certified payrolls are not submitted weekly. The District shall make

Morongo Basin Transit Authority – Bus Stops and Shelters

progress payments on any properly completed payment request submitted by the contractor. The payment request shall not be deemed properly completed unless certified payrolls WH-347 have been properly completed and submitted on a weekly basis for each week worked.


**CONTRACTOR'S LICENSE:** In accordance with the Provisions of California Public Contract Code Section 3300, the Morongo Basin Transit Authority has determined that the Contractor shall possess a valid Class [A] General Engineering contractor's license at the time that the contract is awarded. Failure to possess the specified license shall render the bid as non-responsive and shall act as a bar to award of the contract to any bidder not possessing said license at the time of award.

**SUBSTITUTE SECURITIES FOR RETENTION MONEYS:** In accordance with Part 5 (Section 22300), Division 2 of the Public Contract Code, a contractor may substitute securities for retention moneys withheld by a public agency to ensure performance under this contract. At the request and expense of the contractor, securities equivalent to the amount withheld shall be deposited with the Morongo Basin Transit Authority, or with a state or federally chartered bank, as the escrow agent, who shall then pay such moneys to the contractor, and upon satisfactory completion of the contract, the securities shall be returned to the Contractor.

**REJECTION OF BIDS:** The Morongo Basin Transit Authority reserves the right to reject any or all bids or any parts thereof and waive any irregularities or informalities in any bid or in the bidding and to make awards in all or part in the best interest of the Morongo Basin Transit Authority.

**WITHDRAWAL OF BID:** No bidder may withdraw his bid for a period of sixty (60) days after the date set for the opening bids.

**MORONGO BASIN TRANSIT AUTHORITY**

By:  \_\_\_\_\_ Date: September 13, 2012  
Danny Chow  
Project Engineer

## INSTRUCTION TO BIDDERS

**FORM OF PROPOSAL:** The proposal shall be made on the bidding schedule ("Proposal") herein. The proposal shall be enclosed in a sealed envelope bearing the name of the bidder and the name of the project as described under Section "A".

**DELIVERY OF PROPOSALS:** The proposal shall be delivered by the time and to the place stipulated in the Notice Inviting Sealed Bids. It is the bidder's sole responsibility to see that his proposal is received in proper time. Any proposal received after the scheduled closing time for receipt of proposals may be returned to the bidder unopened unless an extension has been granted by the Morongo Basin Transit Authority. Bidders or their authorized agents are invited to be present.

**MODIFICATIONS AND ALTERNATIVE PROPOSALS:** Unauthorized conditions, limitations or provisos attached to a proposal will render it informal and may be cause for rejection. The complete proposal forms shall be without inter-lineations, alterations or erasures, unless each such correction is suitably authenticated by affixing in the margin immediately opposite the correction the surname or surnames of the person or persons signing the bid. No oral, telegraphic or telephonic proposals or modifications will be considered.

**WITHDRAWAL OF PROPOSAL:** The proposal may be withdrawn upon request by the bidder without prejudice to himself prior to, but not after the time fixed for opening of bids, provided that the request is in writing, has been executed by the bidder or his duly authorized representative, and is filed with the General Manager. No proposal may be withdrawn during the period of sixty (60) calendar days after the opening of proposals.

**BIDDER'S SECURITY:** Each bid shall be accompanied by a certified or cashier's check payable to the Morongo Basin Transit Authority or a satisfactory bid bond in favor of the Morongo Basin Transit Authority executed by the bidder as principal and a satisfactory surety company as surety, in an amount not less than ten percent (10%) of the amount named in the bid. The check or bid bond shall be given as a guarantee that the bidder shall execute the contract if it is awarded to him in conformity with the contract documents and shall provide the evidence of insurance and furnish the necessary bonds as specified in the contract documents, within fifteen (15) calendar days after written notice of the award. In case of the bidder's refusal or failure to do so, the check or bond, as the case may be, shall be forfeited to the Morongo Basin Transit Authority. No bidder's bond will be accepted unless it conforms substantially to Section "D".

**APPROXIMATE ESTIMATE:** The quantities shown in the proposal form, and in the estimate included in the Special Provisions, shall be considered as approximate only, being listed therein for the purpose of serving as a general indication of the amount of work or materials to be performed or furnished, and as a basis for the comparison of bids; and the Morongo Basin Transit Authority does not guarantee nor agree, either expressly or by implication, that the actual amount required will correspond therewith, but reserves the right to increase or decrease the amount of any item or portion of work or material to be performed or furnished, or to omit any such item or portion, in accordance with the Special Provisions or Standard Specifications, under which the work is to be constructed, without any way invalidating the contract, should such increase, decrease or omission be deemed necessary or expedient.

**ADDENDA:** The General Manager may, from time to time, issue addenda to the contract documents during the period of advertising for bids, for the following purposes: (a) revising Prevailing Wage Scales, or (b) clarifying, correcting or otherwise amending quantities of work under Special Provisions, plans or bid proposal.

Securers of contract documents shall be notified of, and furnished with, copies of such addenda, either by certified mail or personal delivery, during the period of advertising at no additional cost.

**DISCREPANCIES IN PROPOSALS:** The bidder shall set forth each item of work, in clearly legible figures, a unit or line item bid for the item in the respective spaces provided for this purpose.

## Morongo Basin Transit Authority – Bus Stops and Shelters

In case of discrepancy between the unit price and the total set forth for the item, the unit price shall prevail, provided, however, if the amount set forth as a unit price is ambiguous, unintelligible or uncertain for any cause, or is omitted, or in the case where the unit price is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail in accordance with the following:

(1) As to lump sum items, the amount set forth in the "Total" column shall be the unit price.

(2) As to unit price items, the amount set forth in the "Total" column shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price.

In case of discrepancy between words and figures, the words shall prevail.

**COMPETENCY OF BIDDERS:** In selecting the lowest responsible bidder, consideration will be given not only to the financial standing, but also to the general competency of the bidder for the performance of the work covered by the proposal. To this end each proposal shall be supported by a statement of the bidder's experience on the form entitled "Information Required of Bidder" bound herein. No agreement for the work will be executed with a contractor who is not licensed in accordance with the laws of the State of California under applicable provisions of the Business and Professions Code. The licensing requirements for contractors shall apply also to subcontractors.

**BIDDER'S EXAMINATION OF SITE AND CONTRACT DOCUMENTS:** Bidders must satisfy themselves by personal examination of the location of the proposed work and by such other means as they may prefer as to the proposal, plans, specifications, contract form and actual conditions and requirements of the work, and shall not at any time after submission of the bid, dispute, complain, or assert that there was any misunderstanding in regard to the conditions to be encountered, the character, quality, and quantities of work to be performed and materials to be furnished, and the requirements of the proposal, plans, specifications, and the contract form. The submission of a proposal shall be considered conclusive evidence that the bidder has made such examination.

**DISQUALIFICATION OF BIDDERS:** No person, firm, or corporation shall be allowed to make, file or be interested in more than one bid for the same work, unless alternate bids are specifically called for. A person, firm or corporation that has submitted a subproposal to a bidder, or that has quoted prices of materials to a bidder is not hereby disqualified from submitting a subproposal or quoting prices to other bidders or making a prime proposal. If there is a reason to believe that collusion exists among the bidders, all bids will be rejected.

**RETURN OF BID SECURITY:** The successful bidder's proposal guarantee shall be held until the contract is executed. Bid security shall be returned to unsuccessful bidders within twenty (20) calendar days after the successful bidder has signed the contract.

**AWARD OF CONTRACT:** The Morongo Basin Transit Authority reserves the right to reject any or all bids or any parts thereof or to waive any irregularities or informalities in any bid or in the bidding. The award of the contract, if made by the Morongo Basin Transit Authority, will be to the lowest responsible and qualified bidder. The award, if made, will be within sixty (60) calendar days after the opening of the proposals; provided that the award may be made after said period if the successful bidder has not given the Morongo Basin Transit Authority written notice of the withdrawal of his bid.

**ALTERNATES:** In accordance with Public Contract Code Section 20103.8(b), the lowest bid shall be the lowest total of the bid price on the base bid plus any alternative bid item(s), and also providing that pursuant to that Section, the City reserves the right to deduct from the contract any alternative bid item(s).

**LISTING SUBCONTRACTORS:** Each bidder shall submit a list of the proposed subcontractors on this project, as required by the Subletting and Subcontracting Fair Practices Act (Public Contract Code Sections 4100, et seq.). Forms for this purpose are furnished with the contract documents.

**EXECUTION OF AGREEMENT:** The bidder to whom award is made shall execute a written contract with the

Morongo Basin Transit Authority – Bus Stops and Shelters

Morongo Basin Transit Authority in the form included in these contract documents and shall secure all insurance and bonds as herein provided within fifteen (15) calendar days from the date of mailing of written notice of the award. Failure or refusal to enter into the agreement or to conform to any of the stipulated requirements shall be just cause for the annulment of the award and forfeiture of the bidder's security. In the event the bidder to whom an award is made fails or refuses to execute the Agreement within said time, the Morongo Basin Transit Authority may declare the bidder's security forfeited, and it may award the work to the next lowest bidder, or may call for new bids.

If the successful bidder refuses or fails to execute the contract, the Morongo Basin Transit Authority may award the contract to the second lowest responsible bidder. If the second lowest responsible bidder refuses to execute the contract, the Morongo Basin Transit Authority may award the contract to the third lowest responsible bidder to execute the contract; such bidder's securities shall be likewise forfeited to the Morongo Basin Transit Authority.

**INSURANCE AND BONDS:** The Contractor shall not begin work under the Agreement until it has given the Morongo Basin Transit Authority evidence of comprehensive public liability insurance and Workers' Compensation Insurance coverage as provided in the General Provisions and Sections "G" and "H" and provided Faithful Performance and Labor and Material bonds as described in General Provisions and Sections "E" and "F".

**TELEPHONES:** Bidders are hereby notified that Morongo Basin Transit Authority will not provide telephones for their use at the time of receipt of bids.

**MATERIAL SUPPLIER:** If the firm who is signatory on the contract is supplying materials only, a payment bond need not be furnished.

**INTERPRETATION OF PLANS AND DOCUMENTS:** If any person contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any part of the drawings, specifications or other contract documents, or finds discrepancies in or omissions from the drawings and specifications, he may submit to the General Manager a written request for an interpretation or correction. The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the contract document will be made only by an Addendum duly issued, and a copy of such Addendum will be mailed or delivered to each person receiving a set of the contract documents. No oral interpretation of any provision in the contract documents shall be binding.

**SALES AND/OR USE TAXES:** Except as may be otherwise specifically provided herein, all sales and/or use taxes assessed by federal, state or local authorities on materials used or furnished by the Contractor in performing the work hereunder shall be paid by the Contractor.

**PROTEST PROCEDURES:** All protests must be in writing, stating the name and address of protestor, a contact person, Contract number and title. Protests shall specify in detail the grounds of the protest and the facts supporting the protest.

**ADDRESS:**

All protests must be addressed as follows:

Agency Contact: Mr. Joe Meer  
For U.S. Mail, special delivery or hand delivery:  
Morongo Basin Transit Authority  
62405 Verbena Road  
Joshua Tree, CA 92252

Protests not properly addressed to the address shown above may not be considered by the Agency. Copies of the Agency's protest procedures and the protest provisions of FTA Circular 4220.1F or its successor may be obtained from Mr. Joe Meer, General Manager, Morongo Basin Transit Authority, 62405 Verbena Road, Joshua Tree, CA 92252, [760-366-2986](tel:760-366-2986). Proposals shall be opened and a Notice of Award shall be issued by the Agency in accordance with the Agency's protest procedures and the protest provisions

## Morongo Basin Transit Authority – Bus Stops and Shelters

of FTA Circular 4220.1F or its successor.

### PRE-PROPOSAL PROTESTS:

Pre-Proposal protests are protests based upon the content of the solicitation documents. Three copies of Pre-Proposal protests must be received by the Agency's office no later than ten (10) calendar days after the RFP is first advertised. Protests shall be considered and either denied or sustained in part or in whole, in writing, in a manner that provides verification of receipt, prior to the Due Date for Proposals. A written decision specifying the grounds for sustaining all or part of or denying the protest shall be transmitted to the protestor prior to the Due Date for Proposals in a manner that provides verification of receipt prior to the Due Date for Proposals. If the protest is sustained, the Proposal Due Date may be postponed and an addendum issued to the solicitation documents or, at the sole discretion of the Agency, the solicitation may be canceled. If the protest is denied, Proposals shall be received and opened on the scheduled date unless a protest is filed with FTA. See "FTA Review," below.

### PROTESTS ON THE RECOMMENDED AWARD:

All proposers shall be notified of the recommended award. This notice shall be transmitted to each proposer at the address contained in its Proposal form in a manner that provides verification of receipt. Any Proposer whose Proposal has not lapsed may protest the recommended award on any ground not specified in "Pre-Proposal Protests," above. Three (3) copies of a full and complete written statement specifying in detail the grounds of the protest and the facts supporting the protest must be received by the Agency at the appropriate address in "Address," above, no later than fifteen (15) calendar days after the date such notification is received. Prior to the issuing of the Notice of Award, a written decision stating the grounds for allowing or denying the protest shall be transmitted to the protestor and the proposer recommended for award in a manner that provides verification of receipt.

### CALTRANS REVIEW:

After such administrative remedies have been exhausted, an interested party may file a protest with the California Department of Mass Transportation pursuant to the procedures provided in the FTA C 4220.1F or its successor. Caltrans review is limited to the alleged failure of the Agency to have written protest procedures, the alleged failure of the Agency to follow those procedures, the alleged failure of the Agency to review a protest or the alleged violation of federal law or regulation.

The protest filed with Caltrans shall:

- 1) Include the name and address of the protester.
- 2) Identify Morongo Basin Transit Authority as the party responsible for the RFP process.
- 3) Contain a statement of the grounds for protest and any supporting documentation. (The grounds for protest filed with Caltrans must be fully supported to the extent feasible. Additional materials in support of an initial protest will only be considered if authorized by the FTA regulations.)
- 4) Include a copy of the protest filed with Morongo Basin Transit Authority, and a copy of Morongo Basin Transit Authority's decision, if any.
- 5) Indicate the ruling or relief desired from Caltrans.

Such protests should be sent to:

California Department of Transportation  
Division of Mass Transportation  
PO BOX 942874 – M.S. 39,  
Sacramento, CA 942874-0001

A copy of such protests should also be sent to the General Manager.



# SPECIAL PROVISIONS

## Sub - Section 1. General Provisions

The general provisions which shall apply to this contract shall be those set forth in the Standard Specifications for Public Works Construction, latest edition, published by Building News, Inc., 3055 Overland Avenue, Los Angeles, California 90034, hereinafter referred to as "Standard Specifications." The Standard Specifications are referred to and by this reference made a part hereof as though set forth at length. The Contractor is required to comply with the Standard Specifications in addition to the conditions set forth in these General Provisions, Specific Project Provisions and as stated in the Special Provisions of these contract documents.

### I. AWARD OF BID AND EXECUTION OF CONTRACT

**I-A. DECISION AS TO WHICH CONTRACTOR IS THE LOWEST AND BEST BIDDER** - All bidders must submit with their proposals satisfactory evidence that they are capable of performing the work in accordance with plans and specifications. The General Manager may require any bidder bidding on any public improvement to submit experience records covering a three-year period. The Morongo Basin Transit Authority Board may reject the bid of any bidder who has been delinquent or unfaithful in the performance of any previous contract work. The decision of the Morongo Basin Transit Authority Board as to which bidder is considered the "lowest responsible bidder" will be based not only on the actual amount of the bid, but also on the relative competence and experience of the bidders, with particular regard to the quality performance of any work done by them for the Morongo Basin Transit Authority in the past, and such decisions shall be final and binding upon all parties.

**I-B. EXECUTION OF THE CONTRACT** - The contract, in the form set forth in Section "J" shall be executed by the successful bidder in accordance with the Instruction for Execution of Instruments, and returned to the Morongo Basin Transit Authority for execution by the Morongo Basin Transit Authority, and shall be accompanied by bonds as described in Paragraph I-C and the evidence of insurance required by Paragraph I-D, all within fifteen (15) calendar days from the date written notice of the award is mailed to bidder. No bidder proposal shall be considered binding upon the Morongo Basin Transit Authority until such time as it has been executed by the Morongo Basin Transit Authority.

**I-C. CONTRACT BONDS** - The successful bidder shall furnish to the Morongo Basin Transit Authority at his own expense two surety bonds. One bond shall be in the amount of 100% of the contract price in the form set forth in Section "E" to guarantee faithful performance of the contract work. The other bond, in an amount not less than 100% of the contract price in the form set forth in Section "F" shall be furnished to secure payment of those supplying labor and materials as required by the California Civil Code. Each bond shall be executed in accordance with the instructions set forth in Section "I" and each bond shall be executed by a corporate surety acceptable to, and approved by the Morongo Basin Transit Authority.

**I-D. INSURANCE** - The Contractor shall at all times, during the term of this contract, carry, maintain and keep in full force and effect, a policy or policies of comprehensive public liability insurance with an insurance company acceptable to, and approved by, the General Manager and Morongo Basin Transit Authority, within minimum limits of One Million Dollars (\$1,000,000.00) combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the Contractor, together with an endorsement in substantially the form set forth in Section "H" attached hereto. The Contractor shall also at all times during the term of this contract carry, maintain and keep in full force and effect a policy or policies of Workers' Compensation insurance and shall provide to the Morongo Basin Transit Authority evidence of such coverage in the form set forth in Section "G" attached hereto.

**I-E. COMPLIANCE WITH PROVISIONS OF THE PUBLIC CONTRACT CODE** - All Contracts shall conform with the provisions of Sections 4100 through 4114, inclusive, of the Public Contract Code, as amended, concerning subcontractors and subcontracts.

**I-F. REJECTION OF BIDS** - Proposals may be rejected by the Morongo Basin Transit Authority Board where,

upon evidence of a prior performance of the bidder, the Morongo Basin Transit Authority Board has made a finding that the bidder is not a responsible contractor because of unsatisfactory performance within the past three (3) years with the Morongo Basin Transit Authority or with other public entities. The Morongo Basin Transit Authority reserves the right to reject any or all bids and to waive any irregularity or informality in any bid to the extent permitted by law.

## **II. LEGAL RELATIONS AND RESPONSIBILITY TO THE MORONGO BASIN TRANSIT AUTHORITY**

**II-A. LAWS TO BE OBSERVED** - The Contractor shall keep himself fully informed on all existing and pending State and national laws and all municipal ordinances and regulations of the Morongo Basin Transit Authority, which in any manner affect those employed in the work, or the material used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having jurisdiction or authority over the same. The Contractor shall particularly observe all ordinances of the Morongo Basin Transit Authority in relations to the obstruction of streets or conduct of the work, keeping open passageways and protecting the same where they are exposed or dangerous to traffic.

**II-B. SOCIAL SECURITY REQUIREMENTS** - The Contractor shall furnish to the Morongo Basin Transit Authority satisfactory evidence that he and all subcontractors working for him are complying with all requirements of the Federal and State Social Security legislation. The Contractor, at any time on request, shall satisfy the Morongo Basin Transit Authority that the Social Security and Withholding tax are being properly reported and paid.

**II-C. PREVAILING WAGES** - Bidders are advised that this project is funded with federal funds and other public funds. The federal requirements of the Davis-Bacon Act will apply to this project and those requirements will be enforced. The prime contractor and subcontractor are required to pay their laborers and mechanics employed under this contract a wage not less than the minimum wage for the work classifications specified in both the Federal and State wage decisions, when the prime contract amount exceeds \$2,000. The higher of the two wage classifications, State or Federal, Prevailing Wage will be enforced for all work under this contract. The prime contractor is responsible for ensuring subcontractor compliance with Davis-Bacon and Related Act requirements. The Federal Labor Standards Provisions (HUD 4010) apply.

A copy of prevailing wage rates is on file and may be inspected in the office of the General Manager. The Contractor shall post a copy of the prevailing wage rates at each job site.

**II-D. PENALTIES** - The Contractor shall comply with Labor Code Section 1775 and he shall forfeit, as a penalty to the Morongo Basin Transit Authority, the sum of not more than fifty dollars (\$50.00) as determined by the labor commissioner, for each calendar day or portion thereof during which the Contractor or any subcontractor under him has paid to any workman employed in the project an amount less than that required by the provisions of the preceding Paragraph II-C.

**II-E. WORKING HOURS** - The Contractor shall forfeit, as penalty to the Morongo Basin Transit Authority, the sum of twenty-five dollars (\$25.00) for each workman employed in the execution of the contract by him or by any subcontractor under him for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, in violation of the provisions of Labor Code Section 1813.

**II-F. APPRENTICES** - Attention is directed to the provisions of Sections 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under him. It shall be Contractor's responsibility to ensure that all persons shall comply with the requirements of said sections in the employment of apprentices.

Information relative to apprenticeship standards and administration of the apprenticeship program may be obtained from the Department of Industrial Relations, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

**II-G. REGISTRATION OF CONTRACTORS** - Only a Contractor licensed in accordance with the provisions of

Chapter 9, Division 3, of the Business and Professions Code, beginning at Section 7000, shall be permitted to enter into a contract with the Morongo Basin Transit Authority for any public improvements.

**II-H. PERMITS AND LICENSES** - The Contractor shall procure all permits and licenses, (including a business license of the City or Town in which the project is located, if required), pay all charges and fees and give all notices necessary and incidental to the due and lawful prosecution of the work.

**II-I. PATENTS** - The Contractor shall assume all responsibility arising from the use of any patented, or allegedly patented materials, equipment, devices or processes used on or incorporated in the work, and shall defend, indemnify, and hold harmless the Morongo Basin Transit Authority, and each of its officers, agents, and employees from and against any and all liabilities, demands, claims, damages, losses, costs, and expenses, of whatsoever kind or nature, arising from such use.

**II-J. INDEMNITY** - The Contractor agrees to defend, indemnify, and save harmless the Morongo Basin Transit Authority and each of its officers, agents, and employees and agents including but not limited to the firm, its officers and employees of Charles Abbott Associates, Inc. who are providing services to the Morongo Basin Transit Authority from and against any and all liabilities, demands, claims, damages, losses, costs, and expenses, of whatsoever kind or nature, including, but not limited to, any and all direct and indirect consequence of entering into this contract or of injury, sickness, or disease, including death, to persons or injury to, or destruction of, property, including, but not limited to, the loss of use of property, resulting directly or indirectly from or in any manner connected with or pertaining to any and all operations, and any and all activities, omissions and conditions in any manner connected therewith or pertaining thereto, of the Contractor under the contract, subject to any limitations imposed by Civil Code Section 2782.

**II-K. NOTICE** - The address given in the Contractor's proposal is the place to which all notices to the Contractor shall be mailed or delivered. The mailing to or delivering at the above named place of any notice shall be deemed sufficient service thereof upon the Contractor, and the date of that service shall be the date of such mailing or delivery. Such address may be changed at any time by written notice signed by the Contractor and delivered to the General Manager.

**II-L. CONTRACTOR'S RESPONSIBILITY FOR WORK** - Until the final acceptance of the work by the Morongo Basin Transit Authority, by written action of the General Manager, the Contractor shall have the charge and care thereof and shall bear the risk of injury or damage to any part of the work by the action of the elements or any other cause. The Contractor shall rebuild, repair, restore and make good all injuries or damages to any portion of the work occasioned by any cause before its completion and acceptance and shall bear the expense thereof, except for such injuries or damages arising from the sole negligence of willful misconduct of the Morongo Basin Transit Authority, its officers, agents or employees. In the case of suspension of work from any cause whatever, the Contractor shall be responsible for all materials and the protection of work already completed and shall properly store and protect them if necessary and shall provide suitable drainage and erect temporary structures where necessary.

**II-M. MAINTENANCE AND GUARANTEE -**

(1) The Contractor hereby guarantees that the entire work constructed by him under the contract will meet fully all requirements as to quality of workmanship and materials. The Contractor hereby agrees to make at his own expense any repairs or replacements made necessary by defects in materials or workmanship that become evident within one year after the date of the final payment, and to restore to full compliance with the requirements of these specifications including any test requirements set forth herein for any part of the constructed hereunder, which during said one-year period is found to be deficient with respect to any provisions of the specifications. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for the same from the General Manager.

(2) The guarantees and agreements set forth in Subsection 1 shall be secured by a surety bond which shall be delivered by the Contractor to the Morongo Basin Transit Authority before the Notice of Completion and acceptance of the work, by the General Manager, as provided in Subsection 6-8 of the Standard Specifications. Said bond shall be in the form approved by the Morongo Basin Transit Authority and executed

by a surety company or companies satisfactory to the Morongo Basin Transit Authority, in the amount of 100% of the contract. Said bond shall remain in force for a period of one year after the date of Notice of Completion and acceptance. Alternatively, the Contractor may provide for the Faithful Performance Bond furnished under the contract to remain in force and effect for said amount until the expiration of said one-year period.

### **III. PROSECUTION AND PROGRESS OF THE WORK**

**III-A. WORK SCHEDULE** - As soon as notified of the award of the contract, the Contractor shall prepare and submit to the General Manager a work schedule for accomplishing the work. Said schedule must show the dates of the expected start and completion of the various items of the contract work. During a scheduling conference between the Contractor and the General Manager, the work schedule will be discussed and modified, if necessary, by mutual agreement. Should it become necessary for the Morongo Basin Transit Authority to delay temporarily the work schedule agreed upon during the scheduling conference, every effort will be made to permit a new work schedule at the time most convenient to the Contractor, thus permitting the project to proceed with the shortest intramural movement of the equipment.

**III-B. SUBLETTING AND ASSIGNMENT** - The Contractor shall give his personal attention to the fulfillment of the contract and shall keep the work under his control. The Contractor shall not assign, transfer nor sublet any part of the work without the written consent of the Morongo Basin Transit Authority by the General Manager and of the surety of the Contractor's bond, and such consent of Surety, together with a copy of the subcontract, shall be filed with the General Manager. No assignment, transfer or subletting, even though consented to, shall relieve the Contractor of his liabilities under the contract. Subcontractors shall not be recognized as such, and all persons engaged in the project will be considered as employees of the Contractor, their work being subject to the provisions of the contract and the specifications. Should any subcontractor fail to perform the work undertaken by him to the satisfaction of the General Manager, said subcontractor shall be removed immediately from the project upon request by the General Manager, shall not again be employed on the work, and the Contractor shall be held liable for the deficient work.

The Contractor shall submit to the Morongo Basin Transit Authority a list with the names, addresses and telephone numbers of all subcontractors who will work under him.

**III-C. CHARACTER OF WORKMAN** - The Contractor shall employ none but competent foremen, laborers and mechanics. Any overseer, superintendent, laborer or other person employed on the work by the Contractor who is intemperate, incompetent, troublesome or otherwise undesirable, or who fails or refuses to perform the work in the manner specified herein, shall be discharged immediately and such person shall not again be employed on the work.

**III-D. AGENTS OR FOREMAN** - In the absence of the Contractor from the site of the project, even if such is only of a temporary duration, he must provide and leave at the site a competent and reliable English-speaking agent or foreman in charge. All notices, communications, orders or instructions given, sent to, or served upon, such agent or foreman by the General Manager shall be considered as having been served upon the Contractor.

**III-E. TEMPORARY STOPPAGE OF CONSTRUCTION ACTIVITIES** - The General Manager shall have the authority to suspend the contract work, wholly or in part, for such a period of time as he may deem necessary, due to unsuitable weather, or to such other conditions as he considered unfavorable for the proper prosecution of the work, or for such time as he may deem necessary due to failure on the part of the Contractor or his workmen to carry out orders or to perform any of the requirements of the contract. The Contractor shall immediately comply with such an order from the General Manager and shall not resume operations until so ordered in writing.

**III-F. TIME OF COMPLETION AND LIQUIDATED DAMAGES** - If all the contract work is not completed in all parts and requirements within the time specified in the contract documents, the Morongo Basin Transit Authority shall have the right to grant or deny an extension of time for completion, as may seem best to serve the interest of the Morongo Basin Transit Authority. The Contractor shall not be assessed with liquidated

damages during any delay in the completion of the work caused by acts of God or of the Public Enemy, acts of the State, fire not due to acts of contractors, of subcontractors, floods, epidemics, quarantine, restrictions, strikes, freight embargo or unusually severe weather, or delays of subcontractors due to such causes, provided that the Contractor shall, within ten (10) days from the beginning of such delay, notify the Morongo Basin Transit Authority, in writing, of the cause of the delay. The Morongo Basin Transit Authority will ascertain the facts and the extent of the delay, and the finding thereon shall be final and conclusive. If the Morongo Basin Transit Authority deems it appropriate to assess the contractor liquidated damages, such damages shall be of a minimum amount of \$250.00 per day.

**III-G. SUSPENSION OF CONTRACT** - If at any time, in the opinion of the General Manager, the Contractor fails to supply an adequate working force, manufactured articles, or material of proper quality, or has failed in any other respect to prosecute the work with the diligence and force specified and intended in any by the terms of the contract, notice thereof in writing will be served upon him, and should he neglect or refuse to provide means for a satisfactory compliance with the contract within the time specified in said notice and as directed by the General Manager, the General Manager shall have the power to suspend the operation of the contract and discontinue all work or any part thereof, subject to review by the Morongo Basin Transit Authority Board. Thereupon the Contractor shall discontinue such work, or such part thereof as the Morongo Basin Transit Authority may designate, and the Morongo Basin Transit Authority may thereupon, by contract or otherwise, as it may determine, complete the work or such part thereof, and charge the entire expense of so completing the work or any part thereof to the Contractor, and for such completion the Morongo Basin Transit Authority itself or its Contractors may take possession of and use, or cause to be used in the completion of the work, or any part thereof, any such materials, implements and tools of every description as may be found at the place of such work. All expense charged under this paragraph shall be deducted and paid for by the Morongo Basin Transit Authority out of any moneys then due or to become due the Contractor under the contract, or any part thereof, and in such accounting the Morongo Basin Transit Authority shall not be held to obtain the lowest figure for the work for completing the contract, or any part thereof, or for ensuring its proper completion, but all sums paid therefore shall be charged to the Contractor. In case the expenses so charged are less than sum which would have been payable under the contract, if the same had been completed by the Contractor, the Contractor shall be entitled to receive the difference, and in case such expense shall exceed the amount payable under the contract, then the Contractor shall pay the amount of the excess to the Morongo Basin Transit Authority, upon completion of the work, without further demand being made therefore. In the determination of the question as to whether or not there has been any such noncompliance with the contract as to warrant the suspension or annulment thereof, the decision of the Morongo Basin Transit Authority Board shall be binding on all parties to the contract.

#### **IV. MEASUREMENT AND PAYMENT**

**IV-A. MEASUREMENT AND PAYMENT** - Measure of the quantities of work and payments therefore shall be in accordance with Section 9 of the Standard Specifications. In accordance with Subsection 9.2 of the Standard Specifications, the monthly payment date shall be the last calendar day of each month. A measurement of work performed and a progress estimate of the value thereof based on the contract and of the monthly payment shall be prepared by the Contractor and submitted to the General Manager before the tenth day of the following month for verification and payment consideration.

#### **IV-B. FINAL INVOICE AND PAYMENT –**

(1) Whenever in the opinion of the General Manager, the Contractor shall have completely performed the contract on his part, the General Manager shall notify the Morongo Basin Transit Authority that the contract has been completed in its entirety. The Contractor shall then submit to the General Manager for approval, a written statement of the final quantities of contract items for inclusion in the final invoice. Upon receipt of such statement, the General Manager shall check the quantities included therein and shall authorize the Contractor to submit an invoice which in the General Manager's opinion shall be just and fair, covering the amount and value of the total amount of work done by the Contractor, less ten percent (10%) of the total work done. The General Manager shall then request that the Morongo Basin Transit Authority accept the work and that the General Manager be authorized to file, on behalf of the Morongo Basin Transit Authority in the office of the San Bernardino County Recorder, a Notice of Completion of the work herein agreed to be done by the

Contractor.

(2) On the expiration of thirty-five (35) days after the date of recording the Notice of Completion, the Morongo Basin Transit Authority shall pay to the Contractor the amount remaining after deducting from the amount of value stated in the invoice all prior payments to the Contractor and all amounts to be kept and retained under the provisions of the contract, and shall release the Faithful Performance Bond and Labor and Material Bond.

(3) Substitution of Securities for Retention: In accordance with Public Contract Code Section 22300, the Contractor may substitute securities for retention moneys to be withheld to ensure performance under this contract. At the request and expense of the Contractor, securities equivalent to the amount withheld may be deposited with the Morongo Basin Transit Authority, or with an approved state or federally chartered bank as the escrow agent, who shall then pay such moneys to the Contractor, and upon satisfactory completion of the contract, the securities shall be returned to the contractor. It is the Contractor's obligation to secure the services of a state or federally chartered bank to act as escrow agent. Securities eligible for investment include those listed in Government Code Section 16430 or bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit or any other security mutually agreed to by the Contractor and the Morongo Basin Transit Authority. Contractor shall be the beneficial owner of any securities for retention moneys withheld and shall receive any interest earned by the securities.

**IV-C. EXTRA WORK** - Extra work, when ordered in writing by the General Manager and accepted by the Contractor, shall be paid for under written work order in accordance with the terms therein provided. Payment for extra work will be made at the unit price or lump sum previously agreed upon between the Contractor and the General Manager. All extra work shall be adjusted daily upon report sheets prepared by the General Manager, furnished by the Contractor, and signed by both parties, and said daily report shall be considered thereafter the true records of extra work done.

**IV-D. UNPAID CLAIMS** - If upon or before the completion of the work herein agreed to be performed or at any time prior to the expiration of the period within which claims of lien may be filed for record as prescribed by the Code of Civil Procedure of the State of California, any person or persons claiming to have performed any labor or furnished any materials, supplies or services towards the performance of completion of this contract or if they have agreed to do so, shall file with the Morongo Basin Transit Authority a verified statement of such claim, or if any person shall bring against the Morongo Basin Transit Authority or any of its agents any action to enforce such claim, the Morongo Basin Transit Authority shall until the discharge thereof, withhold from the moneys that are under its control, as much as shall be sufficient to satisfy and discharge the amount in such notice or under such action claimed to be due, together with the cost thereof; provided, that if the Morongo Basin Transit Authority shall in its discretion permit the Contractor to file such additional bond as is authorized by the Code of Civil Procedure in a penal sum equal to one and one-quarter times the amount of said claim, said money shall not thereafter be withheld on account of such claim.

**IV-E. ACCEPTANCE** - The parties agree that no certificate given shall be conclusive evidence of the faithful performance of the contract, either in whole or in part, and that no payment shall be construed to be in acceptance of any defective work or improper materials. Further, the certificate or final payment shall not terminate the Contractor's obligations under his warranty hereinabove. The Contractor agrees that payment of the amount due under the contract and the adjustments and payments due for any work done in accordance with any alterations of the same, shall release the Morongo Basin Transit Authority, the Morongo Basin Transit Authority Board and its officers and employees from any and all claims or liability on account of work performed under the contract or any alteration thereof. (Section 7100, Public Contract Code)

## **V. CONTROL OF WORK**

**V-A. AUTHORITY OF THE GENERAL MANAGER** - The General Manager shall decide any and all questions that may arise as to the quality and acceptability of materials furnished and work performed as to the manner of performance and rate of progress of the work, and any and all questions which may arise as to the interpretation of the plans and specifications. The General Manager shall likewise decide any and all questions as to the acceptable fulfillment of the contract on the part of the Contractor, and all questions as to claims and compensations. The decision of the General Manager shall be final, and he shall have relative

authority to enforce and make effective such decisions and actions as the Contractor fails to carry out promptly.

**V-B. CONFORMITY WITH PLANS AND ALLOWABLE VARIATION** - Finished surfaces shall in all cases conform with the lines, grades, cross-sections and dimensions shown on the plans. Minor deviations from approved plans, whenever required by the exigencies of construction, shall be determined in all cases by the General Manager and authorized in writing.

**V-C. PROGRESS OF THE WORK** - The Contractor shall begin work on the date agreed upon following the scheduling conference mentioned in Paragraph III-A hereof, and shall diligently prosecute the same to completion before the expiration of the time limit appearing in the specifications.

**V-D. SAMPLES** - The Contractor shall furnish all products and materials required to complete the work. All materials and products must be of the specified quality and fully equal to samples, when samples are required. Whenever required, the Contractor shall submit to the General Manager for test, and free of charge, samples of any one of the materials or products proposed to be used in the work. Said samples shall be delivered by the Contractor to the place within the Morongo Basin Transit Authority designated by the General Manager. Rejected material must be immediately removed from the work by the Contractor and shall not again be brought back to the site.

**V-E. TRADE NAMES AND ALTERNATIVES** - For convenience in designation on the plans or in the specifications, certain equipment or articles or materials to be incorporated in the work may be designated under a trade name of manufacturer and his catalog information. The use of an alternative equipment or an article or equipment which is of equal quality and of the required characteristics for the purpose intended will be permitted, subject to the approval of the General Manager, in accordance with the following required by Section 3400 of the Public Contract Code of the State of California.

The burden of proof as to the comparative quality and suitability of alternative equipment or articles or materials shall be upon the Contractor, and he shall furnish, at his own expense, all information necessary or related thereto as required by the General Manager. The General Manager shall be the sole judge as to the comparative quality and suitability of alternative equipment or articles or materials and his decision shall be final. All requests for substitution shall be submitted seven (7) days in advance of bid opening to permit, if the request is approved, an addendum to be issued to all bidders.

**V-F. PROTECTION OF WORK** - The Contractor shall continuously maintain adequate protection of all his work from damage, and the Morongo Basin Transit Authority will not be held responsible for the care or protection of any material, equipment or parts of work, except as expressly provided for in the specifications.

**V-G. CONFLICT OF TERMS** - The notice to bidders, proposal, plans, specifications and General Provisions are essential parts of the contract for a given project. These documents, together with the necessary bonds and bidder's guarantee, constitute the contract as defined herein, and a requirement included in one document shall be as binding as though included in all, as they are intended to be cooperative and to provide a description of the work to be done. Should there be any conflict or discrepancy between terms used, then the specifications shall govern over plans, and change orders and supplemental agreements shall govern over any other contract document.

**V-H. INTERPRETATION OF PLANS AND SPECIFICATIONS** - Should it appear that the work to be done, or any matter relative thereto, is not sufficiently detailed or explained on the plans or in the specifications, the Contractor shall request the General Manager for such further explanation as may be necessary, and shall conform to such explanation or interpretation as part of the contract, so far as may be consistent with the intent of the original specifications. In the event of doubt of questions relative to the true meaning of the specifications, reference shall be made to the Morongo Basin Transit Authority Board, whose decision thereon shall be final.

**V-I. ALTERATIONS, INCREASES AND DECREASES OF WORK TO BE DONE** - The Morongo Basin Transit Authority reserves the right to increase or decrease the quantity of any item or portion of the work

described on the plans, the specifications or the proposal form or to omit portions of the work so described, as may be deemed necessary or expedient by the General Manager and the Contractor shall agree not to claim or bring suit for damages, whether for loss of profits or otherwise, on account of any decrease or omission of any kind of work to be done. By mutual consent of the parties signatory to the contract, alterations, modifications or deviations from the type of work may be described on the plans, specifications or on the proposal form may be made without in any way making the contract void. The price to be paid by the Morongo Basin Transit Authority to the Contractor for such altered or modified work shall be agreed upon in writing, endorsed upon the original contract and signed by the proper parties to said contract.

Whenever, during the progress of the work, such changes or modifications are deemed necessary by the General Manager and agreed upon, as aforesaid, said deviations shall be considered and treated as though originally contracted for, and shall be subject to all the terms, conditions and provisions of the original contract.

**V-J. EXTRA WORK** - New and unforeseen work will be classed as extra work only when said work is not covered and cannot be paid for under any of the various items or combination of items for which a bid price appears on the proposal form. The Contractor shall not do any extra work except upon written order from the General Manager. Compensation for such extra work shall be previously agreed upon in writing between the Contractor and the General Manager.

**V-K. LINES AND GRADES** - Except when, as per orders from the General Manager, minor changes in the work are to be made by the Contractor, all work shall, during its progress and upon completion, conform to the lines, grades and elevations shown on the plans. All distances and measurements are given thereon and will be made in a horizontal plane. Three (3) consecutive points shown on the same rate of slope must be used in common in order to detect any variation from a straight line, and in case any such discrepancy exists, it must be reported to the General Manager. Failure to make this report shall make the Contractor responsible for any error in the finished work.

**V-L. PUBLIC UTILITIES** -

(1) All of the existing utility facilities except those to be relocated as shown on the plans will remain in place and the contractor will be required to work around said facilities. In case it should be necessary to remove the property of a public utility or franchise, such owner will, upon proper application by the Contractor, be notified by the General Manager to move such property within a reasonable time, and the Contractor shall not interfere with said property until after the expiration of the time specified. The right is reserved to the owners of public utilities or franchises to enter upon the streets for the purpose of making repairs or changes in their property which may be necessary as a result of the work. Employees and agents of the Morongo Basin Transit Authority shall likewise have the privilege of entering upon the street for the purpose of making any necessary repairs or replacements.

(2) The Contractor shall employ and use only qualified persons, as hereinafter defined, to work in proximity to Southern California Edison secondary, primary and transition facilities. The term "qualified person" shall mean one, who by reason of experience or instruction, is familiar with the operation to be formed and the hazards involved, as more specifically defined in Section 2700 of Title 8 of the California Administrative Code. The Contractor shall take such steps as are necessary to assure compliance by any subcontractors.

**V-M. REMOVAL OF INTERFERING OBSTRUCTIONS** - The Contractor shall remove and dispose of all debris, abandoned structures, tree roots and obstructions of any character met during the process of excavation, it being understood that the cost of said removals are made a part of the unit price bid by the Contractor under the item for excavation or removal of existing work.

**V-N. PROCEDURE IN CASE OF DAMAGE TO PUBLIC PROPERTY** - Any portions of curb, gutter, sidewalk or any other Morongo Basin Transit Authority improvement damaged by the Contractor during the course of construction shall be replaced by the Contractor at his own cost, free of charges to the Morongo Basin Transit Authority. The cost of additional replacement of curb, gutter or sidewalk in excess of the estimated quantities shown in the proposal form and specifications, and found necessary during the process



of construction, (but not due to damage resulting from carelessness on the part of the Contractor during his operation), shall be paid to the Contractor at the unit prices submitted in his bid.

**V-O. AVOIDANCE OF DUST NUISANCE** - During the process of breaking, excavating and removing any material from the site of the project and until completion of the work, the Contractor shall take every precaution to avoid the nuisance of unnecessary dust by using any measures advocated by the General Manager.

**V-P. REMOVAL OF DEFECTIVE OR UNAUTHORIZED WORK** - It is the intent of the specifications that only first-class work, materials and workmanship will be acceptable. All work which is defective in its construction or deficient in any of the requirements of the specifications shall be remedied, or removed and replaced by the Contractor in an acceptable manner, and no compensation will be allowed for such correction. Any work done beyond the lines shown on the plans or established by the General Manager, or any extra work done without written authority will be considered as unauthorized and will not be paid for. Upon failure on the part of the Contractor to comply forthwith with any order of the General Manager made under the provisions of this paragraph, the General Manager shall have authority to cause defective work to be remedied or removed and replaced, and unauthorized work to be removed, and to deduct the costs thereof from any moneys due or to become due the Contractor. If the work is found to be in compliance with these specifications, the General Manager will furnish the Contractor with a certificate to that effect.

**V-Q. SUPERVISION** - All manufactured products, materials and appliances used and installed and all details of the work shall at all times be subject to the supervision, test and approval of the General Manager or his authorized representatives. The General Manager or his authorized representatives shall have access to the work at all times during construction, and shall be furnished with every reasonable facility for securing full knowledge with regard to the progress, workmanship and character of the materials used or employed in the work.

Whenever the Contractor varies the period during which work is carried on each day, he shall give adequate notice to the General Manager so that proper inspection may be provided. Any work done in the absence of the General Manager or the General Manager's agent will be subject to rejection. The inspection of the work shall not relieve the Contractor of any of his obligations to fulfill the contract as prescribed. Defective work shall be made good, and unsuitable materials may be rejected, notwithstanding the fact that such defective work and unsuitable materials have previously been accepted or estimated for payment.

The Contractor shall prosecute work on any State highway or with any railroad right-of-way only in the presence of an inspector representing the State Division of Highways or the railroad company, and any work done in the absence of such inspectors will be subject to rejection. The Contractor shall make the appropriate notification according to the instructions given on the State Encroachment Permit or railroad permit for all inspections, and shall post all bonds and certificates required by the permit. The permit shall be acquired by the Contractor at the Contractor's expense. The Contractor shall pay for all testing and inspections required by a State Encroachment Permit or railroad permit.

**V-R. QUALITY OF MATERIAL** - Materials shall be new, and of specified kind and quality, and fully equal to samples when samples are required. When the quality or kind of material or articles shown required under the contract is not particularly specified, the Contractor shall estimate that the Morongo Basin Transit Authority will require articles and materials representing the best of their class or kind or at least equal to the class or quality of similar articles or materials when specified. Materials shall be furnished in such quantities and kinds and at such times as to ensure uninterrupted progress for the work. They shall be stored properly and protected as required. The Contractor shall be entirely responsible for damage or loss by weather or any other cause.

**V-S. DEFECTIVE MATERIALS** - All materials not conforming to the requirements of these specifications shall be considered as defective, and all such materials shall be removed immediately from the site of the work unless otherwise permitted by the General Manager. Upon failure on the part of the Contractor to comply with any order by the General Manager made under the provisions of this article, the General Manager shall have the authority to remove and replace defective material and to deduct the cost of removal and replacement

from any moneys due or to become due to the Contractor.

**V-T. SOUND AND VIBRATION CONTROL REQUIREMENTS** - The Contractor shall comply with all local sound control and noise level rules, regulations and ordinances. No internal combustion engine shall operate on the project without a muffler of the type recommended by the manufacturer. Should any muffler or other control device sustain damage, the Contractor shall promptly remove the equipment and shall not return said equipment to the job until the device is repaired or replaced. Said noise and vibration level requirements shall apply to all equipment on the job or related to the job, including, but not limited to truck, transit mixers or transit equipment that may or may not be owned by the Contractor.

**V-U. AIR POLLUTION CONTROL** - Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes. All containers of paint, thinner, during compound, solvent or liquid asphalt shall be labeled to indicate the contents, fully complying with the applicable material requirements.

**V-V. FINAL CLEANING UP** - Upon completion of the project and before making application to the General Manager for acceptable of the work, the Contractor shall clean all the streets and ground occupied by him in connection with the project, of all rubbish, debris, excess material, temporary structures and equipment, leaving the entire site of the work in a neat and presentable condition.

## **SPECIAL PROVISIONS (cont.)**

### **Sub - Section 2. Specific Project Provisions**

#### **MORONGO BASIN TRANSIT AUTHORITY PROJECT: Bus Stops and Shelters at Various Locations**

**A. THE REQUIREMENTS:** All work embraced herein shall be accomplished in accordance with the applicable portions of the "Standard Specifications for Public Works Construction," the latest edition, and all subsequent supplements herein referred to as "Standard Specifications," except as modified by these Special Provisions and the Project Plans.

In addition to the above, the Contractor shall comply with the requirements of the following:

- (a) Notice Inviting Sealed Bids
- (b) Instructions to Bidders
- (c) Proposal
- (d) Bid Bond
- (e) Information Required of Bidders
- (f) Faithful Performance Bond
- (g) Labor and Material Bond
- (h) Contract Agreement

**B. DEFINITION OF TERMS:** Wherever in the "Standard Specifications" terms are used, they shall be understood to mean and refer to the following:

Agency & Owner - Morongo Basin Transit Authority

Board - Board of Directors, Morongo Basin Transit Authority

General Manager - The General Manager of the Morongo Basin Transit Authority

Engineer - The engineer, acting either directly or through the properly authorized agents, such agents acting within the scope of the particular duties entrusted to them.

Notice to contractors - Notice Inviting Sealed Bids

**C. PROJECT PLANS:** The location of the work, its general nature, extent, form and detail of the various features are listed as a part of these specifications.

**D. SCOPE OF WORK:** Provide necessary labor, equipment and materials to construct concrete bus pads, sidewalks, install BMTA furnished shelters, and associated works at various locations, as specified on the drawings, and in these specifications and special provisions, and as directed by the General Manager.

**E. NOTICE TO PROCEED:** Upon award of this contract and signing the contract documents, the Morongo Basin Transit Authority shall issue the Contractor a Notice to Proceed.

The work on this project shall commence within 10 calendar days of the Notice to Proceed and be completed within **45** working days. **Working days will be counted from the date of the Notice to Proceed.** Working days are defined as any day that Morongo Basin Transit Authority offices are open for business.

The Morongo Basin Transit Authority will not authorize any work to be done under this specifications before the contract agreement has been fully executed; and any work that is done by the contractor in advance of such time shall be considered as being done at his own risk and responsibility, and as a consequence will be subject to rejection by not having been done in the presence of an Engineer or Inspector as provided in Section 2-10 of the Standard Specifications.

In the event that the General Manager shall be of the opinion that the work is being inadequately or improperly executed in any respect, he/she may demand that the Contractor improve or change the execution of the work in such manner as to assure proper and timely completion.

**F. UTILITIES:** It is anticipated that these existing utilities will not interfere with the Contractor's construction operations. However, the Contractor shall exercise due care to ensure that these utility facilities are not damaged during his operations. When in doubt, the Contractor shall contact the utility concerned before proceeding further.

**G. NOTIFICATION:** The Contractor shall give written and reasonable notice to occupants or owners of property adjacent to the construction site at least forty-eight (48) hours prior to the beginning of construction in their respective areas. The notification shall include the date and time of street closures, parking and traffic access information and requirements, and precautionary information regarding the work to be done. A copy of all notifications shall be submitted to the General Manager for approval.

At least four (4) working days in advance of street closures, all emergency services, public transportation services, garbage collections services, and school bus services shall be notified by the Contractor in writing of the locations, time and date of the closure. In case of schedule changes, the emergency services, etc., shall be notified by telephone at least two (2) days in advance of the street closure.

**H. ACCESS TO DRIVEWAYS:** The Contractor shall notify in writing residents of property adjoining the location of the work at least forty-eight (48) hours before the start of construction on that street. The Contractor is responsible for posting "temporary no-parking" signs at least forty-eight (48) hours before using the parking lane for construction purposes. In the case of work requiring excavation of the roadway which may interfere with the use by residents or businesses of their driveways, suitable provisions shall be made by the Contractor at such time as the exigencies of construction may demand a temporary blocking of said driveways. Efforts shall be made by the Contractor to minimize the duration of said blocking and to notify the residents of this need well in advance. Further, the Contractor shall provide access to each residential or commercial establishment each evening.

**I. STREET CLOSURES:** No closure of any street shall be allowed unless prior written permission is obtained from the General Manager. If permission to close a street is granted then the Contractor is required to notify in writing at least four (4) working days in advance, all emergency services, public transportation services, garbage collection services, and school bus services of the location, time and date of the closure.

**J. CONFERENCE:** The Contractor shall arrange a pre-construction meeting with the General Manager, which shall be held a minimum of five (5) working days prior to commencement of any work. The Contractor shall have his equipment available for inspection by the General Manager at the time of the pre-construction meeting.

**K. PUBLIC CONVENIENCE AND SAFETY:**

a) Attention is directed to Section 7-10 of the Standard Specifications and the Manual of Warning Signs, Lights and Devices for Use in Performing Work Upon Highways, published by the California Department of Transportation.

Full compensation for conforming to the requirements of Section 7-10 of the Standard Specifications, the above referenced Caltrans Manual and these Special Provisions not otherwise provided for, shall be considered as included in the prices paid for the various contract items of work and no additional compensation will be allowed therefore.

b) **WARNING AND PROTECTION DEVICES:** The Contractor will be responsible for providing, placing and maintaining approved signs, barricades, pedestals, flashers, delineators, fences, barriers and flagmen where needed, and other necessary facilities in the vicinity of the construction area and where any dangerous conditions may be encountered as a result thereof, for the protection of the motoring public. The Contractor will not be allowed to proceed with the work until such time that a sufficient number of these protection

devices have been delivered to the project site. Where parked vehicles are likely to interfere with the proposed work, the Contractor will supply and post at no less than 200-foot intervals on each side of the street "Temporary No Parking" signs twenty-four (24) hours before the start of construction and to report the time of posting to the Police Department for the purpose of establishing "Tow Away" provisions. The Contractor shall be responsible for the removal of the temporary signs upon the completion of the work.

Should the Contractor appear neglectful or negligent in furnishing warning and protection devices as outlined above, the General Manager may direct attention to the existence of a hazard and the necessity of additional or different measures which shall be furnished and installed by the Contractor at his own expense, free of any cost to the Morongo Basin Transit Authority. Should the Contractor refuse or fail to act in a timely manner to correct a hazardous condition, the General Manager may direct Morongo Basin Transit Authority forces to provide the necessary protective and warning devices as deemed appropriate by the General Manager.

The cost accrued by the Morongo Basin Transit Authority in connection therewith will be deducted from the Contractor's contract payment. Any action or inaction on the part of the Morongo Basin Transit Authority in directing attention to the inadequacy of warning and protective measures or in providing additional protective and warning devices shall not relieve the Contractor from responsibility for public safety or abrogate his obligation to furnish and pay for these devices.

The Contractor shall submit his work schedule and traffic control plans to the General Manager for approval at the pre-construction conference. This schedule shall allow residents, on the streets to be improved, ample "on street" parking within an 800-foot distance from their homes.

**L. SANITARY CONVENIENCE:** Necessary sanitary facilities for the use of workman on the job shall be provided and maintained in an approved manner by the Contractor, properly secluded from public observation and in compliance with health ordinances and laws, and their use shall be strictly enforced by the Contractor.

**M. CONSTRUCTION YARD:** It shall be the Contractor's responsibility to locate any storage sites for materials and equipment needed and such sites either located on public or private property must be approved in advance by the General Manager.

When storage sites are to be on located upon private property, the Contractor shall be required to submit to the General Manager, written approval from the record owner authorizing the use of the property by the Contractor.

**N. CONSTRUCTION STAKING:** The Contractor shall be required to provide any and all necessary construction survey staking required in constructing the project. Full compensation for performing any needed construction survey staking, not otherwise provided for, shall be considered as included in the prices paid for the various contract items of work and no additional compensation will be allowed therefore.

**O. CONSTRUCTION METHODS:**

**General Requirements:**

(a) Utilities--The Contractor shall contact the affected utility companies for information regarding identification, location, and depth of underground utilities.

(b) Preservation of Property--Existing improvements in areas adjoining the property whereon demolition and removal is being performed shall be protected from injury or damage resulting from operations of the Contractor and the Contractor shall be responsible for such damage. In like manner any building, structure, tree, shrub, landscaping, or other item designated for preservation on the property where demolition and removal is being performed shall be similarly protected and preserved.

(c) Dust Control--The Contractor shall provide such dust laying equipment and methods as may be required to protect adjacent property from annoyance or damage from dust caused by his operations, and failure to control such dust shall be cause for the Engineer to stop the work until said dust is controlled, and

the Contractor shall have no recourse to collect from the Morongo Basin Transit Authority for any loss of time or expense sustained by him due to such suspension of work.

(d) Selected Materials--Existing materials excavated within the project limits that meet the specifications for trench backfill, topsoil, or other selected materials may be used to fulfill all or a portion of the requirements for such materials. No additional compensation will be allowed for excavation, stockpiling, overhaul, or placing selected materials encountered in the excavation.

(e) Surplus Materials--The Contractor shall furnish written consent from the owner of the property where it is intended to dispose of the surplus material. Surplus excavation shall become the property of the Contractor.

(f) Furnishing and Applying Water--Furnishing and applying water shall be considered as included in the bid price paid for the various contract items of work requiring such water and no additional compensation will be made therefore.

(g) Compaction Testing: – The expense of the initial testing shall be borne by MBTA. The expense of any re-testing required by MBTA, if the initial compaction does not meet the required specifications shall be borne by the Contractor. All other material testing shall be borne by the Contractor.

(h) Construction Methods--The improvement work shall consist of providing necessary labor, equipment and materials to construct concrete bus pads, sidewalks, install BMTA furnished shelters, and associated works at various locations, as specified on the drawings, and in these specifications and special provisions, and as directed by the General Manager.

(i) Measurement and Payment--The Cost of all work as described above in (a) through (h) shall be included in the contract unit prices bid for the various items of work requiring such work, and no additional compensation will be allowed.

### **Bid Item No. 1 – Grading:**

(a) General – All work shall conform to Sections 300 and 301 of the Standard Specifications. The work shall consist of clearing and grubbing, import borrow material, export surplus material, excavation, embankment, removing necessary shrubs, fences, posts, and stakes, protecting existing improvements, erosion control, controlling nuisance water, sweeping, and watering.

When import is required, contractor shall provide location of borrow site, obtain MBTA approval of the material prior to import, and obtain MBTA approval of a haul route.

When export is required, contractor shall coordinate with MBTA for location of a disposal site for all excavated material. All excavated material shall become property of the contractor unless notified otherwise.

Contractor shall provide full access to properties adjacent to project site with the minimum amount of interruption to access as possible.

(b) Measurement and Payment – The Cost of all work described above and also including all costs of materials, labor, tools, equipment, and incidentals, and for doing all the work involved, complete in place, not otherwise paid for by other bid items, shall be included in the contract lump sum price bid for Bid Item No. 1 – Grading, and no additional compensation will be allowed.

### **Bid Item No. 2 – Relocate Existing Landscape and Irrigation:**

(a) General – All work shall conform to Section 308 of the Standard Specifications. The work shall consist of relocate landscape and irrigation including removal and re-planting of landscaping, disconnect and reconnect sprinkler heads and irrigation lines, trenching, backfill, compaction, reinstate disturbed areas to

their original conditions, and all other work necessary to complete the relocation of existing landscape and irrigation.

(b) Measurement and Payment – The Cost of all work described above and also including all costs of materials, labor, tools, equipment, and incidentals, and for doing all the work involved, complete in place, shall be included in the contract lump sum price bid for Bid Item No. 2 – Relocate Existing Landscape and Irrigation, and no additional compensation will be allowed.

**Bid Item No. 3 – 4” Thick Concrete Sidewalk:**

(a) General – All work shall conform to Sections 300, 301, and 303 of the Standard Specifications and the San Bernardino County Standard Plans. The work shall consist of preparation of new subgrade by scarifying and re-compacting, set and remove forms, placing concrete, installing joints, and all other work necessary to complete the sidewalk.

(b) Measurement and Payment – The cost of all work described above and also including all costs of materials, labor, tools, equipment, and incidentals, and for doing all the work involved, complete in place, shall be included in the contract unit price bid for Bid Item No. 3 – 4” Thick Concrete Sidewalk, and no additional compensation will be allowed.

**Bid Item No. 4 – 6” Thick Concrete Bus Shelter Pad:**

(a) General -- All work shall conform to Sections 301 and 303 of the Standard Specifications. The work shall consist of set and remove forms, placing steel reinforcement, placing concrete, installing joints, and all other work necessary to complete the concrete bus shelter pad.

(b) Measurement and Payment -- The cost of all work described above and also including all costs of materials, labor, tools, equipment, and incidentals, and for doing all the work involved, complete in place, shall be included in the contract unit price bid for Bid Item No. 4 – 6” Thick Concrete Bus Shelter Pad, and no additional compensation will be allowed.

**Bid Item No. 5 – Assemble and Install MBTA Furnished Bus Shelter, Bench, and Trash Receptacle:**

(a) General – All work shall conform to manufacturer’s recommendations. The work shall consist of coordination with Tolar Manufacturing Company for delivery, assemble and install MBTA furnished bus shelter, bench, trash receptacle, anchor to concrete pad, and all other work necessary to complete the installation of bus shelter, bench, and trash receptacle.

(b) Bus shelter, bench, and trash receptacle will be manufactured and delivered to job site by Tolar Manufacturing Company (Patrick Merrick 800-339-6165), contractor shall coordinate with Tolar for scheduling and delivery.

(c) Measurement and Payment – The cost of all work described above and also including all costs of materials, labor, tools, equipment, and incidentals, and for doing all the work involved, complete in place, shall be included in the contract unit price bid for Bid Item No. 5 – Assemble and Install MBTA Furnished Bus Shelter, Bench, and Trash Receptacle, and no additional compensation will be allowed.

**Bid Item No. 6 – Coordination with Caltrans, Obtain Caltrans Double Permit, and Traffic Control:**

(a) General – All work shall conform to the Caltrans Traffic Control Plan and Caltrans requirements. The work shall consist of coordination with Caltrans for a pre-construction meeting, inspection, and all other activities throughout the construction period; obtain and pay for a Caltrans double permit at Caltrans District 8 Permit Division; furnish, install, maintain, relocate, and remove traffic control devices, including flashing arrow

Morongo Basin Transit Authority – Bus Stops and Shelters

and flashing beacon, throughout the construction period.

(b) Measurement and Payment – The cost of all work described above and also including all costs of materials, labor, tools, equipment, and incidentals, and for doing all the work involved, complete in place, shall be included in the contract lump sum price bid for Bid Item No. 6 – Coordination with Caltrans, Obtain Caltrans Double Permit, and Traffic Control, and no additional compensation will be allowed.



**PROPOSAL**

**FOR**

**MORONGO BASIN TRANSIT AUTHORITY**

**BUS STOPS AND SHELTERS**

# MORONGO BASIN TRANSIT AUTHORITY

## Bus Stops and Shelters

### INDEX

	Page
Proposal	D-3
Proposal Pay Items and Bid Price Schedule	D-4
Equal Employment Opportunity Certification	D-6
List of Subcontractors	D-7
Public Contractor Code 10285.1 Statement	D-8
Public Contractor Code 10232 Statement	D-8
Public Contractor Code 10162 Questionnaire	D-8
Noncollusion Affidavit	D-9
Debarment and Suspension Certification	D-10
Nonlobbying Certification for Federal-Aid Contracts	D-11
Disclosure of Lobbying Activities	D-12
Instructions for Completion of SF-LLL Disclosure of Lobbying Activities	D-13
Buy America	D-15
Energy Conservation	D-16
Clean Water	D-16
Access to Records and Reports	D-16
Federal Changes	D-18
Clean Air	D-18
Recycled Products	D-18
Davis-Bacon and Copeland Anti-Kickback Acts	D-18
Contract Work Hours and Safety Standards Act	D-23
No Government Obligation to Third Parties	D-23
Program Fraud and False or Fraudulent Statements and Related Acts	D-24
Termination	D-24
Privacy Act	D-25
Civil Rights Requirements	D-25
Breaches and Dispute Resolution	D-26
Disadvantaged Business Enterprises (DBE)	D-27
Incorporation of Federal Transit Administration (FTA) Terms	D-28
Seismic Safety	D-28
Subcontractor and DBE Records	D-28
Performance of Subcontractors	D-28
Prompt Progress Payment to Subcontractors	D-28
Certification for Federal-Aid Contracts	D-29
Local Agency DBE Participation Information	D-30
Bidder's Bond to Accompany Proposal	D-31
Information Required of Bidder	D-32

# PROPOSAL

TO THE BOARD OF DIRECTORS OF THE MORONGO BASIN TRANSIT AUTHORITY

For the Construction of

## BUS STOPS AND SHELTERS

NAME OF BIDDER \_\_\_\_\_

BUSINESS ADDRESS

STREET \_\_\_\_\_

CITY, STATE, ZIP \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

FAX NO. \_\_\_\_\_

CONTRACTOR LICENSE NO. \_\_\_\_\_

The work for which this proposal is submitted is for construction in conformance with the special provisions (including the payment of not less than State general prevailing wage rates or Federal minimum wage rates), the project plans described below, including any addenda thereto, the contract annexed hereto, and also in conformance with the County of San Bernardino Standard Plans, California Department of Transportation Standard Plans, and the Labor Surcharge and Equipment Rental Rates in effect on the date the work is accomplished.

The project plans for the work to be done were approved and are entitled:

### MORONGO BASIN TRANSIT AUTHORITY — BUS STOPS AND SHELTERS

NOTE: A bid is required for this entire work, the estimated quantities set forth in this Bid Schedule are solely for the purpose of comparing bids, and final compensation under the contract will be based upon the actual quantities of work satisfactorily completed. The unit and/or lump sum prices bid shall include all appurtenant expenses, taxes, royalties, and fees.

**DISCREPANCIES IN PROPOSALS:** The bidder shall set forth each item of work, in clearly legible figures, a unit or line item bid for the item in the respective spaces provided for this purpose.

In case of discrepancy between the unit price and the total set forth for the item, the unit price shall prevail, provided, however, if the amount set forth as a unit price is ambiguous, unintelligible or uncertain for any cause, or is omitted, or in the case where the unit price is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail in accordance with the following:

- (1) As to lump sum items, the amount set forth in the "Total" column shall be the unit price.
- (2) As to unit price items, the amount set forth in the "Total" column shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price.

In case of discrepancy between words and figures, the words shall prevail.

# PROPOSAL

## PAY ITEMS AND BID PRICE SCHEDULE

To the Board of Directors of the Morongo Basin Transit Authority:

In compliance with the Notice Inviting Sealed Bids, the undersigned hereby agrees to enter into a contract to furnish all labor, materials, equipment and supplies for BUS STOPS AND SHELTERS in accordance with the specifications and plans in the Contract Documents which are on file in the office of the General Manager of the Morongo Basin Transit Authority to the satisfaction and under the direction of the General Manager at the following prices:

Item	Description	Qty.	Unit	Unit Price	Extended Amount
1	Grading (See page C-14 for description)	1	LS	\$ _____	\$ _____
2	Relocate Existing Landscape and Irrigation (See page C-14 for description)	1	LS	\$ _____	\$ _____
3	4" Thick Concrete Sidewalk (See page C-15 for description)	540	SF	\$ _____	\$ _____
4	6" Thick Concrete Bus Shelter Pad (See page C-15 for description)	168	SF	\$ _____	\$ _____
5	Assemble and Install MBTA Furnished Bus Shelter, Bench, and Trash Receptacle (See page C-15 for description)	4	EA	\$ _____	\$ _____
6	Coordination with Caltrans, Obtain Caltrans Double Permit, and Traffic Control (See page C-15 for description)	1	LS	\$ _____	\$ _____

**TOTAL BID FOR ITEMS 1 TO 6:** \$ \_\_\_\_\_  
(Figure)

**TOTAL BID FOR ITEMS 1 TO 6:** \_\_\_\_\_  
(Words)

Bidder acknowledges receipt of the following Addendum:

Addendum No. \_\_\_\_\_ Date: \_\_\_\_\_

Morongo Basin Transit Authority – Bus Stops and Shelters

Addendum No. \_\_\_\_\_ Date: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date: \_\_\_\_\_

Attached to this Proposal is cash, a cashiers check, or certified check in favor of the Morongo Basin Transit Authority, in an amount equal to at least ten percent (10%) of the total bid, or a bid bond for said amount in the form furnished by the Morongo Basin Transit Authority, with the understanding that said security shall be held by the Morongo Basin Transit Authority until the agreement for doing the work has been entered into, that said security shall be forfeited to the Morongo Basin Transit Authority as liquidated damages should the undersigned fail to enter into a contract and furnish the required bonds and insurance within the time specified in the Contract Documents, if awarded the contract, and the undersigned agrees that in the event of such failure, the actual amount of damages to the Morongo Basin Transit Authority would be impractical and extremely difficult to determine.

Dated: \_\_\_\_\_

FIRM NAME \_\_\_\_\_

SIGNATURE \_\_\_\_\_

Title \_\_\_\_\_

SIGNATURE \_\_\_\_\_

Title \_\_\_\_\_

SIGNATURE \_\_\_\_\_

Title \_\_\_\_\_

If a partnership, names of partners. If a corporation, names of President and Vice President, and the Secretary or Assistant Secretary.

NAME & ADDRESS:

\_\_\_\_\_

TELEPHONE \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CONTRACTOR'S LICENSE NO. \_\_\_\_\_

\_\_\_\_\_

Please indicate whether proprietorship, corporation, or partnership and any use of fictitious business name:

Corporation \_\_\_\_ Partnership \_\_\_\_ Proprietorship \_\_\_\_

Fictitious Name \_\_\_\_\_

*(THE BIDDER'S EXECUTION ON THE SIGNATURE PORTION OF THIS PROPOSAL SHALL ALSO CONSTITUTE AN ENDORSEMENT AND EXECUTION OF THOSE CERTIFICATIONS WHICH ARE A PART OF THIS PROPOSAL)*

## EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder \_\_\_\_\_, proposed subcontractor \_\_\_\_\_, hereby certifies that he has \_\_\_\_\_, has not \_\_\_\_\_, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he has \_\_\_\_\_, has not \_\_\_\_\_, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

\_\_\_\_\_  
Company

By: \_\_\_\_\_

\_\_\_\_\_  
Title

Date: \_\_\_\_\_

**Note:** The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts or \$10,000.00 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.



## **PUBLIC CONTRACT CODE 10285.1 STATEMENT**

In conformance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the bidder, hereby declares under penalty of perjury under the laws of the State of California that the bidder has \_\_\_\_\_, has not \_\_\_\_\_ been convicted within the preceding three years of any offences referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the bidding upon , award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1101, including the Regents of the University of California or the Trustees of the California State University. The term “bidder” is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

Note: The bidder must place a check mark after “has” or “has not” in one of the blank spaces provided. The above Statement is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

## **PUBLIC CONTRACT CODE 10232 STATEMENT**

In conformance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the Labor Relations Board.

Note: The above Statement and Questionnaire are part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

## **PUBLIC CONTRACT CODE 10162 QUESTIONNAIRE**

In conformance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the bidder, or any employee of the bidder who has a proprietary interest in the bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes  No

If the answer is yes, explain the circumstances in the following space:



## **NONCOLLUSION AFFIDAVIT**

(Title 23 United States Code Section 112 and  
Contract Code Section 7106)

To the Morongo Basin Transit Authority

In accordance with Title 23 United States Code Section 112 and Public Contract Code 7106 the bidder declares that the bid is not made in the interest of or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure, any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Note: The above Non-collusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of the Non-collusion Affidavit.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

## **DEBARMENT AND SUSPENSION CERTIFICATION**

### TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The bidder, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- has not currently under suspension, debarment, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions.

The above certification is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Certification.

## **NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS**

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or 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 any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of 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 of Lobbying Activities," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000.00 and that all such sub-recipients shall certify and disclose accordingly.

## DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

<p><b>1. Type of Federal Action:</b></p> <p><input type="checkbox"/> a. contract  <input type="checkbox"/> b. grant  <input type="checkbox"/> c. cooperative agreement  <input type="checkbox"/> d. loan  <input type="checkbox"/> e. loan guarantee  <input type="checkbox"/> f. loan insurance</p>	<p><b>2. Status of Federal Action:</b></p> <p><input type="checkbox"/> a. bid/offer/application  <input type="checkbox"/> b. initial award  <input type="checkbox"/> c. post-award</p>	<p><b>3. Report Type:</b></p> <p><input type="checkbox"/> a. initial  <input type="checkbox"/> b. material change</p> <p style="text-align: right;"><b>For Material Change Only:</b>                  year _____ quarter _____                  date of last report _____</p>
<p><b>4. Name and Address of Reporting Entity</b></p> <p><input type="checkbox"/> Prime                      <input type="checkbox"/> Subawardee                  Tier _____, if known</p> <p style="text-align: center;">Congressional District, if known</p>	<p><b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b></p> <p style="text-align: center;">Congressional District, if known</p>	
<p><b>6. Federal Department/Agency:</b></p>	<p><b>7. Federal Program Name/Description:</b></p> <p style="text-align: right;">CFDA Number, if applicable _____</p>	
<p><b>8. Federal Action Number, if known:</b></p>	<p><b>9. Award Amount, if known:</b></p>	
<p><b>10. a. Name and Address of Lobby Entity</b>                  (If individual, last name, first name, MI)</p>	<p><b>b. Individuals Performing Services</b> (including address if different from No. 10a)                  (last name, first name, MI)</p>	
(attach Continuation Sheet(s) if necessary)		
<p><b>11. Amount of Payment (check all that apply)</b></p> <p>\$ _____ <input type="checkbox"/> actual                      <input type="checkbox"/> planned</p>	<p><b>13. Type of Payment (check all that apply)</b></p> <p><input type="checkbox"/> a. retainer  <input type="checkbox"/> b. one-time fee  <input type="checkbox"/> c. commission  <input type="checkbox"/> d. contingent fee  <input type="checkbox"/> e. deferred  <input type="checkbox"/> f. other, specify _____</p>	
<p><b>12. Form of Payment (check all that apply):</b></p> <p><input type="checkbox"/> a. cash  <input type="checkbox"/> b. in-kind; specify: nature _____                  value _____</p>		
<p><b>14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:</b></p> <p style="text-align: center;">(attach Continuation Sheet(s) if necessary)</p>		
<p><b>15. Continuation Sheet(s) attached:    Yes <input type="checkbox"/>    No <input type="checkbox"/></b></p>		
<p><b>16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b></p>		
		<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>
<p>Authorized for Local Reproduction                  Standard Form - LLL</p>		

**Federal Use Only:**

## **INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to Title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying officer or employee of Congress or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and for has been secured to influence, the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the first tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Sub-awardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identification in Item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP- DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influenced the covered Federal action. (b) Enter the full names of the individual(s) performing services and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

Morongo Basin Transit Authority – Bus Stops and Shelters

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spend in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503

## BUY AMERICA

**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 include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

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

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

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

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

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

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

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

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

## ENERGY CONSERVATION

**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.

## CLEAN WATER

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

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

## ACCESS TO RECORDS AND REPORTS

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

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

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

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

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



Morongo Basin Transit Authority – Bus Stops and Shelters

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

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

**Requirements for Access to Records and Reports by Types of Contract**

<b>Contract Characteristics</b>	<b>Operational Service Contract</b>	<b>Turnkey</b>	<b>Construction</b>	<b>Architectural Engineering</b>	<b>Acquisition of Rolling Stock</b>	<b>Professional Services</b>
<b>I State Grantees</b>						
a. Contracts below SAT (\$100,000)	None	Those imposed on state pass thru to Contractor	None	None	None	None
b. Contracts above \$100,000/Capital Projects	None unless <sup>1</sup> non-competitive award		Yes, if non-competitive award or if funded thru <sup>2</sup> 5307/5309/5311	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award
<b>II Non State Grantees</b>						
a. Contracts below SAT (\$100,000)	Yes <sup>3</sup>	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
b. Contracts above \$100,000/Capital Projects	Yes <sup>3</sup>		Yes	Yes	Yes	Yes

Sources of Authority:

<sup>1</sup> 49 USC 5325 (a)

<sup>2</sup> 49 CFR 633.17

<sup>3</sup> 18 CFR 18.36 (i)

## FEDERAL CHANGES

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

## CLEAN AIR

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

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

## RECYCLED PRODUCTS

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

## DAVIS-BACON AND COPELAND ANTI-KICKBACK ACT

(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

Morongo Basin Transit Authority – Bus Stops and Shelters

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

Morongo Basin Transit Authority – Bus Stops and Shelters

(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** - The [ *insert name of grantee* ] shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the [ *insert name of grantee* ] 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 MBTA for transmission to the Federal Transit Administration. The payrolls submitted shall set out

Morongo Basin Transit Authority – Bus Stops and Shelters

accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes

within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

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

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

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

## **CONTRACT WORK HOURS AND SAFETY STANDARD ACT**

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

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

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

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

## **NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

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

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

## PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

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

Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

## TERMINATION

**a. Termination for Convenience:** The MBTA may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to MBTA to be paid the Contractor. If the Contractor has any property in its possession belonging to the MBTA, the Contractor will account for the same, and dispose of it in the manner the MBTA directs.

**b. Termination for Default [Breach or 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, the MBTA 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 the MBTA 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 are beyond the control of the Contractor, the MBTA, 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** The MBTA in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 30 days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to MBTA '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 MBTA



setting forth the nature of said breach or default, MBTA shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude MBTA from also pursuing all available remedies against Contractor and its sureties for said breach or default.

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

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

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

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. the contractor, within [10] days from the beginning of any delay, notifies the MBTA in writing of the causes of delay. If in the judgment of the MBTA, the delay is excusable, the time for completing the work shall be extended. The judgment of the MBTA shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

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

## **PRIVACY ACT**

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

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

## **CIVIL RIGHTS REQUIREMENTS**

**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 Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

## **BREACHES AND DISPUTE RESOLUTION**

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

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

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

time after the first observance of such injury of damage.

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

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

## **DISADVANTAGED BUSINESS ENTERPRISES (DBE)**

**Morongo Basin Transit Authority Assurance.** Morongo Basin Transit Authority shall not discriminate on the basis of race, color, creed, national origin, sex, age, religion, marital status, ancestry, physical or mental disability, medical condition, sexual orientation, or any other consideration made unlawful by federal state, or local laws in the award and performance of any Federal Transit Administration (FTA) assisted contract, or in the administration of its Disadvantaged Business Enterprise (DBE) Program, or the requirements of 49 CFR part 26.

Morongo Basin Transit Authority will take all necessary and reasonable steps under 49 CFR part 26 to ensure non discrimination in the award and administration of FTA-assisted contracts.

It is the policy of MORONGO BASIN TRANSIT AUTHORITY to ensure nondiscrimination in the award and administration of FTA-assisted contracts and to create a level playing field on which DBEs can compete fairly for contracts and subcontracts relating to MORONGO BASIN TRANSIT AUTHORITY's construction, procurement and professional services activities.

**Contractor Assurance.** Pursuant to 49 CFR part 26, the Contractor is required to make the following assurance in its agreement with MORONGO BASIN TRANSIT AUTHORITY and to include this assurance in any agreements it makes with subcontractors in the performance of this contract:

“The Contractor or Subcontractor shall not discriminate on the basis of race, color, creed, national origin, sex, age, religion, marital status, ancestry, physical or mental disability, medical condition, sexual orientation, or any other consideration made unlawful by federal state, or local laws in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of FTA assisted contracts. Failure of the Contractor or Subcontractor to carry out these requirements is a material breach of contract, which may result in the termination of contract by Morongo Basin Transit Authority, or any other such remedy Morongo Basin Transit Authority may deem appropriate”.

Morongo Basin Transit Authority's DBE Program, as required by 49 CFR part 26, as approved by FTA, is incorporated by reference in this section. MBTA also advises that participation of DBE's in the specified percentage is not a condition of award.

Implementation of this DBE Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this contract. Upon notification of failure to carry out its approved program, the FTA may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq).

DBE firms are encouraged to submit Bids/Proposals as prime contractors for this project, and non-DBE firms are encouraged to pursue every effort to secure DBE participation through joint venture, or sub-contractor relationships.

## **INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

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

## **SEISMIC SAFETY**

**Seismic Safety** - The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

## **SUBCONTRACTOR AND DBE RECORDS**

The Contractor shall maintain records showing the name and business address of each first-tier subcontractor. The records shall also show the name and business of every DBE subcontractor, DBE vendor of materials and DBE trucking company, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all of these firms. DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

## **PERFORMANCE OF SUBCONTRACTORS**

The subcontractors listed by the Contractor shall perform the work and supply the materials for which they are listed, unless the Contractor has received prior written authorization to perform the work with other forces or to obtain the materials from other sources.

## **PROMPT PROGRESS PAYMENT TO SUBCONTRACTORS**

A prime contractor or subcontractor shall pay any subcontractor not later than 10 days of receipt of each progress payment in accordance with the provisions in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors.

## **CERTIFICATION FOR FEDERAL-AID CONTRACTS**

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL\*, "Disclosure of Lobbying Activities," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

The perspective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000.00 and that all such sub-recipients shall certify and disclose accordingly.

*(THE BIDDER'S EXECUTION ON THE SIGNATURE PORTION OF THIS PROPOSAL SHALL ALSO CONSTITUTE AN ENDORSEMENT AND EXECUTION OF THOSE CERTIFICATIONS WHICH ARE A PART OF THIS PROPOSAL.)*

## LOCAL AGENCY DBE PARTICIPATION INFORMATION

The following stated dollar (\$) amount will be the compensation paid to DBE Firms certifiable or certified under the provisions of the "Morongo Basin Transit Authority "Disadvantaged Business Enterprise Program".

\$ \_\_\_\_\_ Firm Name: \_\_\_\_\_

Firm Address: \_\_\_\_\_

Telephone Number \_\_\_\_\_

Description of Work \_\_\_\_\_

\$ \_\_\_\_\_ Firm Name: \_\_\_\_\_

Firm Address: \_\_\_\_\_

Telephone Number \_\_\_\_\_

Description of Work \_\_\_\_\_

\$ \_\_\_\_\_ Firm Name: \_\_\_\_\_

Firm Address: \_\_\_\_\_

Telephone Number \_\_\_\_\_

Description of Work \_\_\_\_\_

Total DBE percentage participation \_\_\_\_\_ %

Total dollar value of DBE participation \$ \_\_\_\_\_

The undersigned hereby certifies that the foregoing statements and information are true and correct.

Name of Bidder: \_\_\_\_\_

Company Name: \_\_\_\_\_

# BIDDER'S BOND TO ACCOMPANY PROPOSAL

## MORONGO BASIN TRANSIT AUTHORITY STATE OF CALIFORNIA

KNOWN ALL PERSONS BY THESE PRESENTS:

That we, \_\_\_\_\_ as Principal, and \_\_\_\_\_ as Surety, are held and firmly bound unto the Morongo Basin Transit Authority in the sum of \_\_\_\_\_ (\$\_\_\_\_\_) dollars, to be paid to the said Morongo Basin Transit Authority or its certain attorneys, its successors and assigns; for the payment of which sum, well and truly made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH

That if the certain proposal of the above bounded \_\_\_\_\_ to \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_, is accepted by the Morongo Basin Transit Authority, and if the above bounded \_\_\_\_\_ his heirs, executors, administrators, successors and assigns, shall duly enter into and execute a contract for such construction, and shall execute and deliver the two bonds described within fifteen (15) calendar days, from the date of the mailing of a notice to the above bounden \_\_\_\_\_ by and from the said Morongo Basin Transit Authority that said contract is ready for execution, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

IN WITNESS WHEREOF, we hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Principal

By \_\_\_\_\_  
Title:

"corporate seal"

By \_\_\_\_\_  
Title:

\_\_\_\_\_  
Surety

"corporate seal"

By \_\_\_\_\_  
Attorney-in-Fact

PLEASE ATTACH NOTARY ACKNOWLEDGEMENT

## INFORMATION REQUIRED OF BIDDERS

The bidder is required to supply the following information. Additional sheets may be attached if necessary.

- (1) Name: \_\_\_\_\_
- (2) Address: \_\_\_\_\_
- (3) Telephone: \_\_\_\_\_
- (4) Type of firm - Individual, Partnership, or Corporation: \_\_\_\_\_
- (5) Corporation organized under the laws of the State of: \_\_\_\_\_
- (6) Contractor's license no. and class: \_\_\_\_\_
- (7) List the names and addresses of all members of the firm or names and titles of all officers of the corporation:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(8) Number of years experience as a contractor in construction work: \_\_\_\_\_

(9) List at least three projects completed as of recent date:

<u>Contract Amount</u>	<u>Class of Work</u>	<u>Date Completed</u>	<u>Name &amp; Address of Owner</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(10) List the name of the person who inspected the site of the proposed work for your firm:  
\_\_\_\_\_

(11) NOTE: Upon request of the MBTA, the bidder shall furnish evidence showing a notarized financial statement, financial data, construction experience, or other information.



# PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: THAT

WHEREAS, the Morongo Basin Transit Authority, in the County of San Bernardino, State of California, by Council action of \_\_\_\_\_, has awarded to \_\_\_\_\_ hereinafter designated as the "Principal," a contract for construction of the \_\_\_\_\_ together with appurtenances thereto, and

WHEREAS, said Principal is required under the terms of said Contract to furnish a bond for the faithful performance of said Contract.

NOW, THEREFORE, we \_\_\_\_\_ as Principal, and \_\_\_\_\_ as Surety, are held and firmly bound unto the Morongo Basin Transit Authority, hereinafter called the "Contracting Morongo Basin Transit Authority" in the penal sum of one hundred percent (100%) of the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), lawful money of the United States of America, for payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH that, if the hereby bounded Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by and well and truly keep and perform all the undertakings, terms, covenants, conditions and agreements in said Contract and any alteration thereof, made as therein provided all within the time and in the manner therein designated and in all respects according to their true intent and meaning, then this obligation shall become null and void, otherwise it shall be and remain in full force and virtue.

FURTHER, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or modification of the Contract Documents or of the work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or modification of the Contract Documents or of work to be performed thereunder.

IN WITNESS WHEREOF, three (3) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety herein named on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. The name and corporate seal of each corporate party being hereto affixed and these presents fully signed by its undersigned representative pursuant to authority of its governing body.

\_\_\_\_\_  
Principal  
By \_\_\_\_\_  
Title:

"corporate seal"

By \_\_\_\_\_  
Title:

\_\_\_\_\_  
Surety

"corporate seal"

By \_\_\_\_\_  
Attorney-in-Fact

PLEASE ATTACH NOTARY ACKNOWLEDGEMENT

# PAYMENT BOND

(BOND FOR LABOR AND MATERIAL)

KNOW ALL MEN BY THESE PRESENTS: THAT

WHEREAS, the Morongo Basin Transit Authority, in the County of San Bernardino, State of California, by Board action of \_\_\_\_\_, has awarded to \_\_\_\_\_ hereinafter designated as the "Principal," a contract for construction of the \_\_\_\_\_ together with appurtenances thereto, and

WHEREAS, said Principal is required to furnish a bond in connection with said contract providing that if said Principal, or any of his or its subcontractors shall fail to pay for any materials, provisions, provender, fuel, or other supplies or equipment used in, upon, or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, the Surety of this bond will pay the same to the extent hereinafter set forth;

NOW, THEREFORE, we \_\_\_\_\_ as Principal, and \_\_\_\_\_ as Surety, are held and firmly bound unto the Morongo Basin Transit Authority, hereinafter called the contracting Authority, in the penal sum of one hundred percent (100%) of the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT if said Principal, his or its heirs, executors, administrators, successors, or assigns, shall fail to pay for any materials, provisions, provender, rented or hired teams, implements, or machinery, or other supplies or equipment of any kind used in, upon, for or about the performance of the work contracted to be done, including, but not limited to, that part of water, gas, power, light, heat, oil, gasoline, or telephone service directly applicable to the contract, or for any work or labor thereon of any kind, or for any amounts due under the California Unemployment Insurance Code with respect to such work or labor, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of the employees of said Principal and subcontractors pursuant to Section 13020 of the California Unemployment Insurance Code with respect to such work and labor, and provided that any person, so furnishing said supplies or equipment therefore shall have complied with the provisions of Chapter 7 of Title 15 of Part 4 of Division 3 of the California Civil Code, as amended, or any successor thereto, then said Surety shall pay the same in or to an amount not exceeding the amount hereinabove set forth and also shall pay in case suit is brought upon this bond, such reasonable attorney's fees as shall be fixed by the court.

The bond shall inure to the benefit of any and all persons, companies, and corporations named in California Civil Code Section 3181, as amended, or any successor thereto, so as to give a right of action to them or their assigns in any suit brought upon this bond.

FURTHER, the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or modifications of the Contract Documents or of the work to be performed thereunder shall in any way affect its obligations of this bond and it does hereby waive notice of such change, extension of time, alteration, or modification of the Contract Documents or of work to be performed thereunder.

Notices, papers and other documents required by Chapter 2 of Title 14 of Part 2 of Code of Civil Procedure, or by any other law, regulation, or requirement of the Contract may be served upon Principal at this address:

\_\_\_\_\_  
\_\_\_\_\_

Morongo Basin Transit Authority – Bus Stops and Shelters

and upon Surety at this address:

---

---

---

IN WITNESS WHEREOF, three (3) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety herein named, under penalty of perjury, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

\_\_\_\_\_  
Principal

By \_\_\_\_\_  
Title:

"corporate seal"

By \_\_\_\_\_  
Title:

\_\_\_\_\_  
Surety

"corporate seal"

By \_\_\_\_\_  
Attorney-in-Fact

PLEASE ATTACH NOTARY ACKNOWLEDGEMENT

## WORKER'S COMPENSATION CERTIFICATE OF INSURANCE

WHEREAS, the Morongo Basin Transit Authority has required certain insurance to be provided by

---

NOW THEREFORE, the undersigned insurance company does hereby certify that it has issued the policy or policies described below to the following named insureds and that the same are in force at this time.

1. This certificate is issued to: Morongo Basin Transit Authority, 62405 Verbena Road, Joshua Tree, California 92252.
2. The insureds under such policy or policies are: \_\_\_\_\_
3. Worker's Compensation Policy or Policies in a form approved by the Insurance Commissioner of California covering all operations of the named insureds, as follows:

POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Said policy or policies shall not be canceled, nor shall there be any reduction in coverage or limits of liability, unless and until thirty (30) days' written notice thereof has been served upon the General Manager of the Morongo Basin Transit Authority.

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Authorized Representative

## **INSURANCE REQUIREMENTS FOR THE MORONGO BASIN TRANSIT AUTHORITY**

### **PUBLIC WORKS CONTRACT**

The Contractor shall at all times during the terms of the contract carry, maintain, and keep in full force and effect, a policy or policies of comprehensive Public Liability Insurance with an insurance company acceptable to, and approved by, the General Manager and Attorney, with minimum limits of One Million Dollars (\$1,000,000.00), combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the Contractor, together with an endorsement in substantially the form set forth below.

### **ENDORSEMENT**

It is hereby understood and agreed that the Morongo Basin Transit Authority, its Board of Directors and each member thereof, and every officer, agent (including but not limited to employees of Charles Abbott Associates, Inc. and all other Morongo Basin Transit Authority consultants) and employees of the Morongo Basin Transit Authority shall be named as jointly and severally insured as respects any and all claims arising out of the following project:

#### **BUS STOPS AND SHELTERS**

It is further agreed that the following indemnity agreement between the Morongo Basin Transit Authority and the named insured is covered under the policy: Contractor agrees to indemnify, hold harmless and defend (with attorneys of the Morongo Basin Transit Authority's choice) the Morongo Basin Transit Authority, its Board of Directors and each member thereof and every officer, agent (including but not limited by this reference to employees of Charles Abbott Associates, Inc.) and employee of the Morongo Basin Transit Authority from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all cost and expenses of litigation brought against the Morongo Basin Transit Authority, its Board of Directors and each member thereof and any officer, agent (including but not limited by this reference to employees of Charles Abbott Associates, Inc.) or employee of the Morongo Basin Transit Authority which results directly or indirectly from the wrongful or negligent actions of the Contractor or the Contractor's officers, employees, agents or others employed by the Contractor while engaged by the Contractor in the performance of this agreement.

It is further agreed that the inclusion of more than one insured shall not operate to increase the limit of the company's liability and that insurers waive any right of contribution with insurance which may be available to the Morongo Basin Transit Authority, the Contractor's insurance being primary and not contributing with any other insurance available to the Morongo Basin Transit Authority and other above identified insureds.

In the event of cancellation or material change in the above coverage the company will give thirty (30) days written notice of cancellation or material change to the certificate holder (the Morongo Basin Transit Authority).



## CONTRACT

### MORONGO BASIN TRANSIT AUTHORITY

THIS AGREEMENT is made and entered into this \_\_\_\_\_, by and between the MORONGO BASIN TRANSIT AUTHORITY, hereinafter referred to as "Morongo Basin Transit Authority," and \_\_\_\_\_ hereinafter referred to as "Contractor."

WITNESSETH:

WHEREAS, Contractor and Contractor's Surety are providing the bonds attached hereto as Exhibit B and incorporated by this reference, and

WHEREAS, Morongo Basin Transit Authority desires to contract with Contractor to perform the services detailed in this contract, including the Proposal, and

WHEREAS, Contractor has represented that it is fully qualified to assume and discharge such responsibility;

NOW, THEREFORE, the parties hereto do agree as follows:

1. **Scope of Services.** Morongo Basin Transit Authority hereby employs Contractor to perform the work and provide the services and materials as described in Exhibit A, attached hereto and incorporated herein by this reference, including miscellaneous appurtenant work. Such work shall be performed in a good and workmanlike manner, under the terms as stated herein and in the Notice to Contractors, Instructions to Bidders, Special Provisions and the Proposal, and in accordance with the latest edition of the Joint Cooperative Committee, Southern California Chapters of the American Public Works Association and the Associated General Contractors of America, document entitled "Standard Specifications." In the event of any conflict between the terms of this agreement and any of the above-referenced documents, the terms of this agreement shall be controlling.

2. **Compensation.** In consideration of the services rendered hereunder, Contractor shall be paid according to the prices as submitted on Schedule A of the Proposal, attached hereto as a part of Exhibit A and in accordance with the Special Provisions.

3. **Hold Harmless; Insurance.** It is specifically understood and agreed by all parties hereto that Contractor is, for the purposes of this Agreement, an independent contractor and not an employee of the Morongo Basin Transit Authority. Accordingly, Contractor shall not be deemed the Morongo Basin Transit Authority's employee for any purpose whatsoever. Contractor shall not incur or have the power to incur any debt, obligation or liability whatever for or against Morongo Basin Transit Authority and shall hold harmless, indemnify and defend with the attorneys of the Morongo Basin Transit Authority's choice, the Morongo Basin Transit Authority its officers, employees, agents and representatives, from and against any and all obligations, claims, liens, or causes of actions, arising out of or related to Contractor's services hereunder. Contractor shall file and maintain with Morongo Basin Transit Authority at all times during the term of this Agreement, a copy or certificate of general liability insurance with an insurance company acceptable to, and approved by, the General Manager and Attorney of the Morongo Basin Transit Authority, with minimum limits of One Million Dollars (\$1,000,000.00) combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts or omissions by the Contractor. Such insurance shall not be canceled without thirty (30) days' prior written notice to Morongo Basin Transit Authority, shall name the Morongo Basin Transit Authority and its officers and employees as additional insureds, shall include all automobiles utilized by Contractor's personnel in the performance of this Agreement, and shall be primary and not contributing with other insurance available to the Morongo Basin Transit Authority.

4. Assignment. This agreement may not be assigned by Contractor, in whole or in part, without the prior written consent of Morongo Basin Transit Authority.

5. Termination. This Agreement may be canceled by Morongo Basin Transit Authority at any time without penalty upon thirty (30) days' written notice. In the event of termination without fault of Contractor, Morongo Basin Transit Authority shall pay Contractor for all services rendered prior to date of termination, and such payment shall be in full satisfaction of all services rendered hereunder.

6. Worker's Compensation Insurance. In accordance with the provisions of Division 2, Part 7, Chapter 1, Article 5 (commencing with Section 1860) and Division 4, Part 1, Chapter 4 (commencing with Section 3700) of the Labor Code of the State of California, the Contractor is required to secure the payment of compensation to his employees and shall for that purpose obtain and keep in effect adequate Workers Compensation Insurance.

The undersigned Contractor is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for worker's compensation or to undertake self insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this contract.

7. General Rate of Per Diem Wages. Pursuant to the Labor Code of the State of California, the Director of Industrial Relations has determined the general prevailing rate of wages and employer payments for health and welfare, vacation, pension and similar purposes applicable to the work to be done. This rate and scale are on file with the General Manager and copies will be made available to any interested party on request. The Contractor to whom the contract is awarded, and the subcontractors under him must pay not less than these rates for this area to all workers employed in the execution of this contract.

8. Retention. In accordance with Part 5 (Section 2230), Division 2 of the Public Contract Code, a contractor may substitute securities for retention moneys withheld by a public agency to ensure performance under this contract. At the request and expense of the contractor, eligible securities equivalent to the amount withheld shall be deposited with the Morongo Basin Transit Authority, or with a state or federally chartered bank, as the escrow agent, who shall then pay such moneys to the contractor, and upon satisfactory completion of the contract, the securities shall be returned to the Contractor.

9. Suit; Recovery of Attorney Fees & Costs. Should either party bring any action to protect or enforce its rights hereunder, the prevailing party in such action shall be entitled to recover, in addition to all other relief, its reasonable attorney fees and court costs.

10. Morongo Basin Transit Authority Approval. All labor, materials, tools, equipment and services shall be furnished and work performed and completed under the direction and supervision and subject to the approval of Morongo Basin Transit Authority or its authorized representatives.

11. Gratuities. Contractor warrants that neither it nor any of its employees, agents, or representatives has offered or given any gratuities or promises to Morongo Basin Transit Authority's employees, agents, or representatives with a view toward securing this Contract or securing favorable treatment with respect thereto.

12. Conflict of Interest. Contractor warrants that he is and will continue to be in compliance with all applicable conflict of interest laws.

13. Contractor's Affidavit. After the completion of the work contemplated by this Contract, Contractor shall file with the General Manager his affidavit stating that all workmen and persons employed, all firms supplying materials, and all subcontractors upon the Job have been paid in full, and that there are no claims outstanding against the Project for either labor or materials, except certain items, if any, to be set forth in an affidavit covering disputed claims or items in connection with a Stop Notice which has been filed under the provisions



of the laws of the State of California.

14. Notice to Morongo Basin Transit Authority of Labor Disputes. Whenever Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of the Contract, Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to Morongo Basin Transit Authority.

15. Books and Records. Contractor's books, records, and plans or such part thereof as may be engaged in the performance of this Contract, shall at all reasonable times be subject to inspection and audit by any authorized representative of the Morongo Basin Transit Authority.

16. Legal Day's Work. Eight (8) hours labor constitutes a legal day's work.

17. Inspection. The work shall be subject to inspection and testing by Morongo Basin Transit Authority and its authorized representatives.

18. Discrimination. Contractor represents that it has not, and agrees that it will not, discriminate in its employment practices on the basis of race, creed, religion, national origin, color, sex, age or handicap.

19. Governing Law. This Contract and any dispute arising hereunder shall be governed by the law of the State of California.

20. Written notice. Any written notice required to be given in any part of the Contract Documents shall be performed by depositing the same in the U.S. Mail, postage prepaid, directed to the address of the Contractor as set forth in the Contract Documents, and to the Morongo Basin Transit Authority addressed as follows:

Mr. Joe Meer, General Manager  
Morongo Basin Transit Authority  
62405 Verbena Road  
Joshua Tree, California 92252

21. Clayton/Cartwright Acts Assignment. The Contractor agrees to assign to the Morongo Basin Transit Authority all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Profession Code), arising from purchases of goods, services, or materials pursuant to the Public Works Contract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgement by the parties.

22. Morongo Basin Transit Authority Claims. Morongo Basin Transit Authority does not waive any claims against Contractor by making any payment. The time limit for the Morongo Basin Transit Authority to assert claims against Contractor shall not be limited by the Contract Documents but shall be in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed the within Agreement the day and year first above written.

Morongo Basin Transit Authority – Bus Stops and Shelters

MORONGO BASIN TRANSIT AUTHORITY

CONTRACTOR:

\_\_\_\_\_  
Chairman of the Board of Directors

ATTEST:

\_\_\_\_\_  
General Manager

\_\_\_\_\_

By: \_\_\_\_\_  
Title:

By: \_\_\_\_\_  
Title:

"Corporate seal"

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney

APPROVED AS TO CONTENT:

\_\_\_\_\_  
General Manager

## APPENDIX