NOTICE OF AWARD OF CONTRACT

TO: ALTA BICYCLE SHARE, INC.
5008 15TH STREET NORTH
ARLINGTON, VIRGINIA

DATE ISSUED: 05/31/2011
CURRENT REFERENCE NO: 270-11
CONTRACT TITLE: BIKESHARING PROGRAM
PRIOR REFERENCE NO: 56-09

THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

Your firm is awarded the above referenced contract. The contract term covered by this Notice of Award is effective JUNE 1, 2011 and expires on MAY 31, 2012.

This is the SECOND year award notice of a possible SIX year contract.

The contract documents consist of the terms and conditions of Agreement No. 56-09, including any exhibits, attached or amendments thereto.

CONTRACT PRICING:

1) REFER TO AGREEMENT NO. 56-09 (ATTACHED)

2) FOR INFORMATION ON PRICE ADJUSTMENTS OF EXTENSION OPTIONS REFER TO THE ATTACHED AGREEMENT

EMPLOYEES NOT TO BENEFIT:
NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

VENDOR CONTACT: ERIC GILLILAND
VENDOR TEL. NO.: 202-215-5249
VENDOR PAYMENT TERMS: NET 30 DAYS
VENDOR FAX. NO.: 202-554-2347
TAX IDENTIFICATION NUMBER (EIN/SSN): 27-1439188
EMAIL ADDRESS: ericgilliland@altabicycleshare.com

COUNTY CONTACT: CHRIS HAMILTON
COUNTY TEL. NO.: 703-228-3725

__________________________ __________________________
DATE CONTRACT AUTHORIZATION DISTRIBUTION
MAY 31, 2011 VENDOR: 1
MARYAM JAHORY, CRP.F BID FOLDER: 1
PROCUREMENT OFFICER
ARLINGTON COUNTY, VIRGINIA
AGREEMENT NO. 56-09

AMENDMENT NUMBER 1

This Amendment Number 1 ("Amendment") is made on the date of execution of the Amendment by the County and amends Agreement Number 56-09 ("Main Agreement") and made between Alta Bicycle Share, Inc., 5008 15th Street North, Arlington, Virginia ("Contractor") and the County Board of Arlington County, Virginia ("County").

Whereas the County and the Contractor desire to amend the Work called for and the amounts to be paid under the Main Agreement, the Contractor and the County, in consideration of the promises and other good and valuable consideration specified in this Amendment, amend the Main Agreement as follows.

REPLACE EXHIBIT C WITH THE ATTACHED AMENDED EXHIBIT C

Terms and Conditions
The work and payment called for under this Amendment shall be subject to all terms and conditions of the Main Agreement. All terms and conditions of the Main Agreement shall remain in full force and effect for the work covered by this Amendment unless specifically changed by the terms and conditions of this Amendment.

WITNESS THESE SIGNATURES:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

SIGNED

BY: [Signature]

PRINT NAME: RICHARD D. WARREN, JR.

AND TITLE: PURCHASING AGENT

DATE: 2/23/11

ALTA BICYCLE SHARE, INC.

SIGNED

BY: [Signature]

PRINT NAME: GEORGE M. HUDSON

AND TITLE: PRINCIPAL

DATE: 2/23/11
AGREEMENT NO. 56-09
AMENDED EXHIBIT C
ANNUAL BUDGET FOR INITIAL CONTRACT TERM

<table>
<thead>
<tr>
<th>INITIAL CONTRACT TERM - NOT-TO-EXCEED AMOUNT</th>
<th>AMOUNT</th>
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<tbody>
<tr>
<td>Bikesharing Stations:</td>
<td>$1,700,000</td>
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<tr>
<td>Estimated Station Installation (Labor) Cost:</td>
<td>$240,000</td>
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<tr>
<td>Estimated Annual Operating (Labor) Cost:</td>
<td>$220,000</td>
</tr>
<tr>
<td>TOTAL INITIAL CONTRACT TERM - NOT-TO-EXCEED AMOUNT:</td>
<td>$2,160,000</td>
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THIS AGREEMENT ("Agreement" or "Contract") is made, on the date of execution by the County, between Alta Bicycle Share, Inc., 5008 15th Street North, Arlington, Virginia ("Contractor"), a state of Oregon corporation authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("County"). The County and the Contractor are sometimes hereinafter jointly referred to as "Parties" and individually as "Party". The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS
The Contract Documents consist of this Agreement, Exhibit A (Scope of Work), Exhibit B (Capital Equipment and Operating Costs), Exhibit C (Annual Budget for Initial Contract Term), Exhibit D (Metropolitan Washington Council of Governments Rider Clause), Exhibit E (Federal Highway Administration and Federal Transit Administration Clauses), and Exhibit F (Bill of Sale). Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement shall prevail over the other Contract Documents except that, as between the Agreement and Exhibit E, where provisions of the Agreement and such Exhibit address the same subject, the most stringent provisions shall prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no employee, representative, or agent of either Party has made any representation or promise with respect to the Contract Documents which is not contained therein, and that all terms and conditions with respect to the Contract Documents are expressly contained therein. The Contract Documents constitute the Contract.

2. SCOPE OF WORK
The Contractor agrees to perform the services described in the Contract Documents (alternatively, the "Work"). The primary purpose of the Work is for the Contractor to create and provide a bike-sharing service to the public at large at locations acceptable to the County ("Project"). The Contract Documents set forth the minimum Work estimated by the County and the Contractor to be necessary to complete the Work. It shall be the Contractor's responsibility, at the Contractor's sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents shall be construed to limit the Contractor's responsibility to manage the details and execution of its Work.

3. ADJUSTMENTS OR CHANGES IN SCOPE OF WORK
The County may order adjustments or changes in work within the general scope of the Work consisting of additions, deletions, or other revisions. No claim may be made by the Contractor that the scope of the Project or of the Contractor's services has been changed requiring adjustments to the amount of compensation due the Contractor, unless such adjustments first have been made by a written amendment to the Contract signed by the County and the Contractor. If the Contractor believes that any particular work
is not within the scope of the Project, or is a material change, or otherwise will call for more compensation to the Contractor, then the Contractor shall immediately notify the Project Officer in writing of this belief. Within ten (10) days after any change or event which the Contractor believes calls for more compensation, the Contractor shall provide to the Project Officer a written proposal which sets forth: a complete description of the particular work which the Contractor believes is not within the scope of the Project; the amount of additional compensation claimed; the basis for such claimed additional compensation; and all supporting documentation for the amount. The Contractor will not be compensated for performing any work unless: a written proposal complying with this section has been submitted within the time specified above; a written amendment has been signed by the County and the Contractor; and a County Purchase Order is issued covering the cost of the services to be provided under the amendment. Notwithstanding the Contractor’s notification to the County concerning work claimed not to be within the scope of the Project, if the Project Officer determines that the work is within the scope of the Contract, then the Contractor will be ordered to perform such work and shall continue the Work.

The Contractor shall provide all technical expertise, qualified personnel, Equipment, tools, and material to safely and competently accomplish the Work.

4. ADDITIONAL GOODS OR SERVICES
The Contractor shall not be compensated for any goods or services provided except those included in Exhibits B and C and paid for by the Contract Amount, unless such goods or services are covered by a written amendment to this Agreement signed by the County and the Contractor, and a County Purchase Order is issued concerning the cost of such goods or services.

5. CONTRACT TERM
Work under this Agreement shall commence upon issuance of the Notice to Proceed by the County. The Contractor shall complete the Work no later than twelve (12) months after the Effective Date, as defined hereafter, ("Initial Contract Term" or "Initial Term"), subject to any modifications, revisions, or amendments as provided for in the Contract Documents. Upon satisfactory performance by the Contractor, and with the concurrence of the Contractor, the County may, through issuance of a Notice of Award authorize continued performance by the Contractor for not more than five (5) additional twelve (12) month periods. (Each twelve (12) month period is referred to hereinafter individually as "Contract Year" or "Subsequent Contract Term", as the case may be. The Initial Contract Term and all Subsequent Contract Terms are hereinafter sometimes collectively referred to as "Terms".) Notwithstanding anything herein to the contrary, the Contract Amount for each Subsequent Contract Term shall be in an amount determined and authorized by the County, consistent with the terms of the Price Adjustment section of this Agreement, but in any event not to exceed the funds appropriated for the Contract by the County Board of Arlington County, Virginia for the Subsequent Contract Term.

The Contract shall remain in full force and effect until the County determines that: all requirements, conditions of, and Work under the Contract have been satisfactorily completed; the County has accepted the Work; and the Terms, including warranty and guarantee periods, have ended; unless the Contract otherwise is sooner terminated.
6. **CONTRACT AMOUNT**
The County will pay the Contractor in accordance with the terms of the Payment section 8 below and Exhibits B and C for the Contractor’s completion of the Work described and required in the Contract Documents, subject to the terms and conditions of such documents.

7. **REQUIREMENTS CONTRACT**
During all Terms, the Contractor shall furnish all of the goods and services described in the Contract Documents, as required by the County. The Contractor understands and agrees that this is a requirements contract insofar as the quantities of Equipment and Service (as such terms are hereinafter defined) as specified in the Contract Documents. The County’s needs may change during any Term. The Contractor agrees to increase or decrease the level of goods and services at the County’s request. Presently, all quantities which are included in the Contract Documents are estimated expectations of the County for the Initial Contract Term. The Contractor further understands that, after the Initial Contract Term, the County may require additional goods and services and that such additional goods and services shall be authorized by an amendment to this Agreement, a Notice to Proceed, and a Purchase Order, none of which shall give rise to any claim by the Contractor for compensation other than at the unit prices or rates as provided in such documents.

8. **PAYMENT**
The Contractor shall be paid monthly by the County. Within ten (10) days after the last day of each month, the Contractor shall submit to the County, for approval by the Project Officer, an invoice describing the total Work successfully performed, segregated by Capital Equipment and Operating Costs as listed in Exhibit B, during the immediately preceding month. The Project Officer will either approve the invoice, require additional written justification, and/or require corrections thereto. The County will pay the Contractor within thirty (30) days after the date of receipt of a fully justified, correct (as determined by the Project Officer) invoice approved by the Project Officer. The amount paid shall be based on a lump sum for Capital Equipment Costs, and a “not to exceed” amount for Operating Costs, during the immediately preceding month, subject to the Project Officer’s acceptance of the Work. The total amount paid for each Operating Cost shall not exceed the line items stated for such Work in Exhibit B, regardless of the number of hours spent by the Contractor or the amount of expenses incurred by the Contractor in the performance of the Work. The number of the Purchase Order by which authority shipments have been made or services performed shall appear on all invoices.

The Contractor shall not invoice the County for the cost of replacement Equipment for damaged, lost, stolen, vandalized, or otherwise failed Equipment for the cost of which has been recovered through or from any insurance carrier, manufacturer’s warranty claim, or other person or entity.

9. **COUNTY PURCHASE ORDER REQUIREMENT**
County purchases, including, all Contract amendments, are authorized only if a County Purchase Order is issued in advance of the transaction (but after each Contract amendment), indicating that the ordering agency has sufficient funds available to pay for the purchase or the goods and services authorized by the amendment. Such a Purchase Order is to be provided to the Contractor by the Project Officer. The County shall not be liable for payment for any purchases made by its employees without

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**Agreement No. 56-09**
appropriate purchase authorization issued by the County Purchasing Agent. Contractors providing goods or services without a signed County Purchase Order do so at their own risk. Please direct questions regarding this requirement to the Office of the Purchasing Agent at 703-228-3410.

10. PRICE ADJUSTMENTS

A. The Contract unit prices for capital equipment, including Stations, Bicycles, and additional Equipment, specifically designated in Exhibits B and C, shall remain firm for the first twelve (12) months of the Initial Contract Term. The Contract unit price(s) for each Subsequent Contract Term shall be determined by the County as of the date which is sixty (60) days before the end of the then-current Term. The percentage increase or decrease in the prices for any year after the Initial Contract Term shall be the lesser of: i) the percentage increase or decrease of change in the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, Urban Areas (CPI-U) for the twelve (12) month period ending in November of each Contract Year; or, ii) five percent (5%).

If the exchange rate changes more than or equal to five percent (5%) from $1 USD = $1.02 CAD (according to the United States Federal Reserve System Board of Governors H.10 release) between the commencement of the then-current Contract Term and the date sixty (60) days prior to the conclusion of that Term, then prices for Equipment sourced in Canada shall increase or decrease in the next Subsequent Contract Term by the same percentage as the change in the exchange rate. The pricing change described in this paragraph shall be in addition to the pricing change described in the immediately previous paragraph.

B. The Contract unit prices for operating costs, specifically designated on Exhibits B and C, shall remain firm for the first twelve (12) months of the Initial Contract Term. The unit prices of labor cost for each Subsequent Contract Term shall be determined by the County as hereinafter described in this paragraph. Any percentage of increase or decrease in negotiated prices for Subsequent Contract Terms shall not exceed: i) the percentage increase or decrease of the U.S. Department of Labor, Employment Compensation (Not Seasonally Adjusted): Employment Cost Index, for Total Compensation for all workers (Table 4) the twelve (12) month period ending in December of each Contract Year; or ii) five percent (5%); whichever percentage is lower.

If the exchange rate changes more than or equal to five percent (5%) from $1 USD = $1.02 CAD (according to the United States Federal Reserve System Board of Governors H.10 release) between the commencement of the then-current Contract Term and the date sixty (60) days prior to the conclusion of that Term, then the price of operating costs sourced in Canada (i.e. call center and software support) shall increase or decrease in the next Subsequent Contract Term by the same percentage as the change in the exchange rate. The pricing change described in this paragraph shall be in addition to the pricing change described in the immediately previous paragraph.

C. If by the thirtieth (30th) day prior to the end of any Term, the Contractor and the County do not agree on a price using the procedure set forth in subsection B. above, then the County may, in
its sole discretion, terminate the Contract whether or not the County previously elected to extend the Term. Notwithstanding any provision in this Agreement to the contrary, such termination shall be without further liability, obligation, cost, or expense whatsoever to the County.

If the County chooses not to terminate the Contract, then the Contractor shall continue to perform the Work under the then existing prices until, the first to occur of, either: the County and the Contractor mutually agree upon a price; or, the County enters a contract with another person or entity to perform the same or similar Work, which is the subject of this Agreement. The Contract unit prices changed as a result of this procedure shall become effective on the anniversary date of the Contract and shall be binding on the Contractor.

11. PAYMENT OF SUBCONTRACTORS
The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by any subcontractor under this Contract:

a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or

b. Notify the County and the subcontractor, in writing, of the Contractor’s intention to withhold all or a part of the subcontractor’s payment with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in b., above. Unless otherwise provided under the terms of this Contract, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor’s obligation to pay an interest charge to a subcontractor pursuant to the above provisions may not be construed to be an obligation of the County. A Contract amendment or modification shall not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim shall not include any amount for reimbursement for such interest charge.

12. COMPETITIVE PROCUREMENT
After the effective date of this Contract, the Contractor shall utilize competitive procurement methods when purchasing goods and services pursuant to this Contract, unless the County Project Officer, in consultation with the County Purchasing Agent, concludes that competitive purchasing methods are impractical for a particular purchase.
13. AUDITS, INSPECTION AND RETENTION OF RECORDS, INSPECTION OF PREMISES AND EQUIPMENT

A. The County has the right, at all times, to perform monetary, records, and operation audits of the Contractor's financial (and other) books, Records, and physical operations, wherever located or performed, related to or concerning this Contract and the Work. These audits may be performed without prior notice and as deemed appropriate by the County. The Contractor shall make all Records available to the County within twenty-four (24) hours following the receipt by the Contractor of a notice from the Project Officer.

B. The Contractor agrees that the County has the right, at all times, without prior notice, to inspect all Equipment used in performing the Work, and to inspect the Contractor's premises (or any other place where the Contractor is performing Work). The Contractor further agrees that the County has the right, upon prior verbal notice from the Project Officer, to inspect all documents, books, Records, tax returns, and other materials, of the Contractor, including Records, as the Project Officer deems appropriate. One purpose is to monitor the Contractor's compliance with the terms of this Agreement, the performance of the Work, including without limitation such documents, books, Records, other materials, and information, either required to be prepared or retained by the Contractor pursuant to this Agreement. Access to such Records and information shall not be denied to the Project Officer and any such denial shall be grounds for termination of this Agreement under section 39 C. hereof.

C. Therefore the Contractor agrees to retain all books, records, and other documents which include, without limitation, all writings and recordings that consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostatting, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording, or other form of data compilation, however stored, and regardless of physical form or characteristics prepared or owned by, or in the possession of its officers, employees, agents, or subcontractors (collectively "Records") related to this Contract during the Terms, and for not less than five (5) years after expiration or termination of this Contract (collectively "Retention Period"). The Contractor shall provide to the County, its employees, authorized agents, and contractors full access to, and the right to examine and copy any of, the Records during the Retention Period. If the Contractor proposes to destroy or dispose of Records (including confidential records to which the County does not have ready access) during the Retention Period, then the Contractor shall notify the County in writing at least thirty (30) days prior to such proposed destruction or disposal, describing the Records and the necessity for the proposed destruction or disposal. If during such thirty (30) day period, the County objects, by written notice to the Contractor, then the Contractor shall not dispose of the Records.

14. PROJECT OFFICER

The Project Officer shall be appointed by the Director of the Arlington County Department of Environmental Services or designee ("Project Officer"). The performance by the Contractor of the Work is subject at all times to inspection and review by the Project Officer. Where
specifically stated in this Agreement, the Contractor shall obtain from the Project Officer prior approval of specified Work. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its Work under this Contract.

15. NOTICE TO PROCEED, TERMINATION OR CANCELLATION OF CITY CONTRACT
Notwithstanding any provision in the Contract Documents to the contrary, the County shall not be required to issue to the Contractor a Notice to Proceed until the County has determined, in its sole discretion, that the City of Washington, D.C. ("City") has entered into a legally binding contract with the Contractor substantially the same as this Agreement, and the City has issued a Notice to Proceed pursuant to such contract for the Contractor to provide to (and for) the City substantially the same goods and services as described in this Agreement. Such goods and services are to be provided to the City pursuant to a cooperative procurement agreement authorized by this Contract and applicable law, consistent, without limitation, with Exhibit D.

In the event that:
A. the City or the City's contractor, at any time, either terminate or cancel the Contract between such entities for bike-sharing services; or
B. the County determines that such services are not continually being provided to the City, after the issuance by the City of a Notice to Proceed; or
C. the work by the Contractor pursuant to its contract with the City is not progressing to the County's satisfaction; then the County may terminate this Agreement upon thirty (30) days prior written notice to the Contractor. In such event, the termination of this Agreement by the County shall be considered as a Termination for Convenience.

If by one hundred eighty (180) days after the Effective Date, the County has not issued to the Contractor a Notice to Proceed, then, notwithstanding any provision of this Agreement to the contrary, either Party may terminate this Agreement by written notice to the other Party. In such event, after the effective date of such termination, such notice shall be given not later than thirty (30) days after the end of such one hundred eighty (180)-day period. The effective date of such termination shall be as provided in the notice. After such effective date, neither Party shall have any further obligation, liability, or responsibility whatsoever to each other.

16. TITLE TO PERSONAL PROPERTY
The Contractor shall be the owner of, and hold title to, all personal property purchased by the Contractor to satisfy its obligations and requirement of the Work. The cost of handling, transportation, and related charges concerning all personal property shall be borne by the Contractor.

At the expiration or termination of this Contract, the Contractor shall convey to the County, for the sum of One Dollar ($1.00) all Equipment and Supplies (as hereinafter defined in Exhibit A, Section 1) free and clear of all liens, encumbrances, financing statements, and rights of third persons or entities. The Contractor shall immediately, upon request of the County, execute a Bill of Sale in the form attached hereto designated as Exhibit F conveying to the County title to the Equipment.

At the expiration or termination of this Contract, the Contractor shall
prepare and submit to the Project Officer an inventory list of all Equipment and Supplies purchased to perform the Work. The County shall have the right to perform a physical inventory of such Equipment and Supplies at all times.

17. SUPERVISION BY CONTRACTOR
The Contractor shall at all times require strict discipline and good order among the Contractor's employees and all subcontractors performing any portion of the Work. The Contractor shall not permit, and shall require all subcontractors not to permit, any employee or other person to perform any such Work, unless the employee or other person has demonstrated proficiency in the type of work which such employee or other person is assigned to perform.

18. RIGHTS, AUTHORIZATIONS, LICENSES, PERMITS, AND OTHER PERMISSIONS
The Contractor shall, at its sole cost and expense, obtain all rights, authorizations, licenses, permits, and other permissions, from all Federal, State, and local governments, and other entities or persons, necessary for the Contractor to perform and complete the Work in accordance with this Agreement. The County's execution of this Agreement shall neither constitute nor be deemed to be governmental approval of, or consent to, any rights, authorizations, licenses, permits, and permissions required or needed to be obtained by the Contractor.

19. ACCESSIBILITY OF WEBSITE
If any Work performed pursuant to this Contract results in design, development, maintenance, or responsibility for content and/or format of any County websites, or County's presence on websites of others, the Contractor shall perform such work in compliance with the requirements set forth in the U.S. Department of Justice document entitled "Accessibility of State and Local Government Websites to People with Disabilities." The document is located at: http://www.ada.gov/websites2.htm/.

20. REPORT STANDARDS
Reports and written material prepared by the Contractor in response to the requirements of this Contract shall, unless otherwise provided in this Contract, meet standards of professional writing established by the County for the type of report or written material. Such written material shall be thoroughly researched for accuracy of content, shall be grammatically correct and not contain spelling errors, and shall be submitted in a format approved in advance, in writing by the Project Officer. In addition, the Contractor shall submit to the Project Officer drafts of all reports and written materials, for review, comment, and written authorization to prepare in final form. The cost of correcting grammatical errors, correcting report data, or other revisions required to bring the report or written material into compliance with the Contract requirements shall be borne by the Contractor.

When submitting documents in hard copy to the County, the Contractor shall comply with the following requirements and other such additional requirements as determined by the Project Officer:

- All submittals and copies shall be printed on at least 30% recycled-content and/or tree-free paper;
- All copies shall be double-sided;
- Report covers or binders shall be recyclable, made from recycled materials, and/or easily removable to allow for recycling of report pages (reports with glued bindings that meet all other requirements...
are acceptable);

• The use of plastic covers or dividers should be avoided; and
• Unnecessary attachments or documents not specifically asked for
should not be submitted, and superfluous use of paper (e.g. separate
title sheets or chapter dividers) should be avoided.

21. SAFETY
The Contractor shall strictly comply with, and ensure that the
Contractor’s employees and all persons and entities performing Work under
this Contract or any subcontract, strictly comply with, all applicable
Federal, State, and local laws, ordinances, policies, regulations and
standards relating to safety and health, including, by way of illustration
and not limitation, the standards of the Virginia Occupational Safety and
Health program of the Department of Labor and Industry for General
Industry and for the Construction Industry, the Federal Environmental
Protection Agency Standards, and the applicable standards of the Virginia
Department of Environmental Quality.

A. Safe Work and Workplace Safety Officer
The Contractor shall, at all times, have on duty and available a
safety officer (“Workplace Safety Officer”) who shall be a
competent, qualified individual, authorized and capable of
identifying existing and predictable hazards in the buildings,
sites, surroundings, places where work is performed, or working
conditions which are unsanitary, hazardous, or dangerous to
employees. The Workplace Safety Officer shall be capable of
ensuring that applicable safety regulations are complied with, and
shall have the authority and responsibility, on behalf of the
Contractor, to take prompt corrective measures, which may include
removal of the Contractor’s personnel from the work site.

Within sixty (60) days after the issuance of a Notice to Proceed,
the Contractor shall identify to the Project Officer, in writing,
the name, title, work address, email address, telephone numbers
(work, land line, and cell phone) at least one person who shall be
the Workplace Safety Officer and is the Contractor’s competent,
qualified, and authorized person, who is fully knowledgeable about
the requirements of this Contract, proficient in workplace safety
and safety (including the Federal, Commonwealth of Virginia, and
Arlington County, laws, ordinances, policies, regulations, standards
and safety), and who is, by the training and experience, fully
knowledgeable with such matters applicable to the Work.

B. Bicycle Safety Officer
The Contractor shall, at all times, have on duty and available a
safety officer (“Bicycle Safety Officer”) who shall be a competent,
qualified individual, authorized and capable of identifying existing
and predictable hazards. The Bicycle Safety Officer shall be
capable of ensuring that applicable safety regulations are complied
with, and shall have the authority and responsibility, on behalf of
the Contractor, to take prompt corrective measures to ensure that
the Work is performed in strict conformance with this Contract and
all applicable laws.

Within sixty (60) days after the issuance of a Notice to Proceed,
the Contractor shall identify to the Project Officer, in writing,
the name, title, work address, email address, telephone numbers
(work, land line, and cell phone) at least one person who shall be
the Bicycle Safety Officer and who is the Contractor’s competent, qualified, and authorized person, who is fully knowledgeable about the requirements of this Contract, proficient in Bicycle operation and safety (including the Federal, Commonwealth of Virginia, and Arlington County, laws, ordinances, policies, regulations and standards concerning Bicycle operation and safety), and who is, by the training and experience, fully knowledgeable with such matters applicable to the Work.

C. Contractor’s Safety Policies and Procedures
Sixty (60) days after the issuance of the Notice to Proceed, the Contractor shall deliver to the County, copies of all the Contractor’s written safety policies and safety procedures applicable to the Work; each of the locations where the Contractor proposes to perform the Work; and the provision of Bicycles to the public at large. Such policies and procedures shall also address, at a minimum, an analysis of all likely risks, as well as operational risk mitigation strategies, concerning the System and the Service. The Contractor shall deliver, promptly to the Project Officer, copies of all future updated or revised safety policies and procedures as they are issued or promulgated by the Contractor within a week. At a minimum, the Contractor shall update such policies and procedures within a week of the commencement of each Subsequent Contract Term.

It shall not be the responsibility of the County to review and/or approve such policies and procedures for content or form.

22. COUNTY EMPLOYEES
No employee of Arlington County, Virginia shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom which is not available to the general public.

23. RELATION TO COUNTY AND REPRESENTATIONS TO THIRD PARTIES
The Contractor is an independent Contractor and neither the Contractor nor its employees shall, under any circumstances, be considered employees, servants, or agents of the County.

At no time during the performance of the Work or otherwise, shall the Contractor, its employees, or agents, represent to any person or entity that such Contractor and its employees are acting on behalf of, or as an agent of, the County or any of its employees.

The County shall not be legally responsible or liable for any negligence, intentional act, or other wrongdoing by or of the Contractor, its employees, servants, agents, subcontractors, suppliers, or manufacturers of goods or services provided by the Contractor pursuant to the Contract Documents. The County will not withhold payments to the Contractor for any Federal or State unemployment taxes, Federal or State income taxes, Social Security tax, or any other amounts for benefits to the Contractor. The County will not provide to the Contractor any insurance coverage or other benefits, including Workers’ Compensation, normally provided by the County for its employees.

24. SUBCONTRACTORS AND PROJECT STAFF LIST
The Contractor shall only enter into subcontracts with subcontractors which have clearly demonstrated proficiency in the tasks which are the subject of such subcontracts. Within thirty (30) days after the Effective
Date, and before the Project Officer issues a Notice to Proceed to the Contractor, the Contractor shall deliver to the Project Officer a list identifying all initial subcontractors who will provide goods, perform services, and do Work related to the Project for the Contractor. Such list shall also identify, for each subcontractor, the goods, services, and portion of the Work, to be provided or performed as well as all other information, concerning the subcontractor, deemed necessary by the Project Officer. Promptly prior to changing any subcontractor(s), the Contractor shall deliver to the Project Officer the above described information concerning such new or replacement subcontractor(s). The County shall have the right of reasonable rejection, by written notice from the County to the Contractor, of any subcontractor at any time during the Initial and Subsequent Contract Terms, without any obligation or liability to the County.

The County shall, throughout the Initial Contract Term and any Subsequent Contract Term, also have the right of reasonable rejection, by written notice from the County to the Contractor, of staff assigned to the Project by the Contractor.

If the County reasonably rejects staff or subcontractors, then the Contractor shall promptly provide replacement staff or subcontractors satisfactory to the County in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor's staff, and employees of any of its subcontractors, shall be solely the responsibility of the Contractor.

25. CONFIDENTIALITY AND RETURN OF RECORDS
The Contractor agrees that all Records generated by, or in possession of, the Contractor or its subcontractors as a result of the County's request for, or the Contractor's providing, of goods and services under this Contract, are confidential, and neither the Records nor their contents shall be released to others by the Contractor, its subcontractors, or other third parties; nor shall their contents be disclosed to any person other than the Project Officer or designee. The Contractor agrees that all oral or written inquiries from any person or entity regarding the status of any Record generated as a result of the existence of this Contract shall be referred to the Project Officer or designee for response. At the County's written request, the Contractor shall deliver all Records to the Project Officer, including "hard copies" of computer records and, at the County's written request, shall destroy all computer records created as a result of the County's request for goods or services under this Contract.

The Contractor agrees to include the provisions of this section as part of all contracts and agreements the Contractor enters into with subcontractors or other third parties for work related to Work pursuant to this Agreement.

No expiration or termination of this Agreement shall have the effect of rescinding, terminating, or otherwise invalidating this section.

26. USE OF COUNTY SEAL, LOGO, SERVICEMARKS, TRADEMARKS, AND COPYRIGHTED MATERIAL
The Contractor shall not use, display, or reproduce the County seal, the County logo, any County servicemarks and trademarks, and any County copyrighted material without the prior express written authorization,
permission, and consent from the County.

27. COPYRIGHT
The Contractor hereby irrevocably transfers, assigns, sets over, and conveys to the County all right, title, and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Agreement. The Contractor further agrees to execute such documents as the County may request to effect such transfer assignment, or conveyance.

The Contractor agrees that the rights granted to the County by this section are irrevocable. Notwithstanding anything else in this Agreement, the Contractor's remedy in the event of termination of or dispute over the terms of this Agreement shall not include any right to rescind, terminate, or otherwise revoke or invalidate in any way the rights conferred pursuant to the provisions of this section. Similarly, no termination of this Agreement shall have the effect of rescinding, terminating, or otherwise invalidating the rights acquired pursuant to the provisions of this section.

The use of subcontractors or third parties in developing or creating input into any copyrightable materials produced as a part of this Agreement is prohibited unless the County approves the use of such subcontractors or third parties in advance and such subcontractors or third parties agree to include the provisions of this section as part of any contract entered into with the Contractor for work related to Work under this Contract.

28. PATENTS AND ROYALTIES
The Contractor covenants to save, defend, hold harmless, and indemnify the County, and all of its officers, officials, departments, agencies, agents, and employees (collectively the "County") from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney's fees), charges, liability, or exposure, however caused, for or on account of any trademark, copyright, patented or unpatented invention, process, or article manufactured, supplied, or used in the performance of this Contract, including its use by the County. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood, without exception, that the Contract price includes all royalties or costs arising from the use of such design, device, or materials in any way involved with the Work.

29. ANTITRUST
By entering into this Contract, the Contractor conveys, sells, assigns, and transfers to the County all rights, title, and interest in and to all causes of action the Contractor may now have or hereafter acquire under the antitrust laws of the United States or the Commonwealth of Virginia, relating to the goods or services purchased or acquired by the County under this Contract.

30. INSURANCE REQUIREMENTS
Prior to the Effective Date, the Contractor shall deliver to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force the insurance coverages described below. The Contractor agrees to maintain such insurance coverages until the completion of all of the Contractor's obligations pursuant to this Contract, including without limitation, all warranty periods. As such, all liability insurance coverages shall be written on an occurrence basis. All required insurance
coverages shall be acquired from insurers authorized to do business in the Commonwealth of Virginia and acceptable to the County. The minimum insurance coverages shall be:

A. Workers Compensation - Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers liability with limits of $100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.

B. Commercial General Liability - $2,000,000 combined single limit coverage with $5,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit shall apply to this Contract. Such commercial general liability coverage shall be written on an occurrence basis. Evidence of Contractual Liability coverage shall be typed on the certificate.

C. Employee Dishonesty Policy - $100,000 per occurrence.

D. Additional Insureds - The County, and all of its elected and appointed officials, officers, employees, agents, departments, agencies, boards, and commissions shall be named as an additional insureds in the Contractor's Commercial General Liability policy; evidence of the Additional Insured endorsement shall be typed on the certificate.

E. Cancellation - All insurance policies required hereunder shall be endorsed to include the following provision: "It is agreed that this policy is not subject to cancellation, non-renewal, material change, or reduction in coverage until thirty (30) days prior written notice has been given to the County Purchasing Agent and to the Project Officer, of Arlington County, Virginia."

F. Contract Identification - The insurance certificate shall state this Contract's number and title.

G. Business Automobile Liability - $1,000,000 Combined Single Limit (Owned, non-owned and hired).

The Contractor assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the Work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted Work.

No acceptance or approval of any insurance by the County shall be construed as relieving or excusing the Contractor from any liability or obligation imposed upon the Contractor by the provisions of the Contract Documents.

The Contractor shall be responsible for the Work performed under the Contract Documents and every part thereof, and for all materials, tools,
equipment, appliances, and property of any description used in connection with the Work.

The Contractor shall be as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by the subcontractors as the Contractor is for acts and omissions of persons directly employed by the Contractor.

31. INDEMNIFICATION
The Contractor covenants to save, defend, hold harmless, and indemnify the County, and all of its elected and appointed officials, officers, employees, agents, departments, agencies, boards, and commissions from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorney’s fees), charges, liability, or exposure, however caused, resulting from, arising out of, or in any way connected with the Contractor’s intentional, negligent, or grossly negligent acts or omissions in performance or nonperformance of the Work called for by the Contract Documents. This indemnification shall survive the termination or expiration of this Contract.

32. AUTHORITY TO TRANSACT BUSINESS
The Contractor shall at all times during the Terms of this Contract be authorized to transact business in the Commonwealth of Virginia.

33. ARLINGTON COUNTY BUSINESS LICENSES
The Contractor shall comply with the provisions of Chapter 11 (Licenses) of the Arlington County Code.

34. NON-DISCRIMINATION NOTICE
Arlington County does not discriminate against faith-based organizations.

35. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED
During the performance of this Contract, the Contractor agrees as follows:

A. The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law related to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an Equal Opportunity Employer.

C. Notices, advertisements, and solicitations placed in accordance with Federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.
E. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or Purchase Order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

F. As required by 49 U.S.C. §332, the Contractor shall not discriminate against any customer, prospective customer, employee or prospective employee because of race, color, sex, age, religion, or country of origin.

36. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR
During the performance of this Contract, the Contractor agrees to i) provide a drug-free workplace for the Contractor's employees; ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and iv) include the provisions of the foregoing clauses in every subcontract or Purchase Order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor in accordance with the Arlington County Resolution, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of the contract.

The Contractor shall comply with Federal Transit Administration required drug and alcohol testing programs as described in 49 CFR parts 40, 653, and 654.

37. ETHICS IN PUBLIC CONTRACTING
This Contract incorporates by reference Article 9 of the Arlington County, Virginia, Purchasing Resolution, as well as any State or Federal law related to ethics, conflicts of interest, or bribery, including by way of illustration and not limitation, the Virginia State and Local Government Conflict of Interests Act, the Virginia Governmental Frauds Act, and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Virginia Code, as amended. The Contractor certifies that its offer is made without collusion or fraud and that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer, or subcontractor and that it has not conferred on any public employee having official responsibility for this purchase any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised unless consideration of substantially equal or greater value was exchanged.

38. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED
In accordance with §2.2-4311.1 of the Virginia Code, the Contractor acknowledges that it does not, and shall not during the performance of the Contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
39. **TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE; ACCOUNTING**

A. **Right of the County to Terminate**
   The County shall have the right to terminate this Contract if the Contractor fails to perform satisfactorily the Work, breaches or defaults, as determined by the County.

B. **Failure to Perform Satisfactorily**
   If the County decides to terminate this Contract for failure of the Contractor to perform satisfactorily, then the County will give the Contractor at least fifteen (15) days prior written notice of such failure and an opportunity to cure such failure by a date specified in the notice. If the Contractor fails to cure by the specified date, then the County shall give the Contractor a written notice of termination, including the date when the termination shall be effective. The Contractor will be entitled to receive compensation for all Work: demonstrated by the Contractor to have been satisfactorily performed; allocable to the Contract; and accepted by the County prior to the effective date of the termination, unless the work or compensation is not specifically authorized by the Contract (collectively "Termination Costs").

C. **Violation of Contract Terms or Conditions**
   If the County terminates the Contract for default or breach (which terms for the purposes of this Contract are interchangeable) of any Contract term or condition, then the termination shall be immediate after written notice from the County to the Contractor of the termination and effective date thereof, unless the County in its discretion provides for an opportunity to cure, in which event the County shall follow the notice process in subsection B of this section. In all instances of termination pursuant to this subsection, whether or not the Contractor is given the opportunity to cure, the Contractor shall not be entitled to Termination Costs.

D. **Upon any termination pursuant to this section, the Contractor shall be liable to the County for all costs incurred by the County after the effective date of the termination to complete the Work, including costs of delay in completing the Work or the Project. Such costs shall be either subtracted from any amount due by the County to the Contractor, or promptly paid by the Contractor to the County upon receipt by the Contractor of an invoice therefrom. The Contractor agrees to promptly pay, upon receipt of an invoice, all amounts charged to the Contractor as described above.**

E. **Unless otherwise directed in writing by the County, the Contractor shall: stop Work on the date of receipt of notice of any termination or other date specified in the notice; place no further orders or subcontracts for materials, services, or facilities except as are necessary for the completion of such portion of the work not terminated; and, terminate all vendors and subcontractors and settle all outstanding liabilities and claims.**

F. **In the event that any termination, whether for cause, default or breach, is finally determined to be invalid, improper, or ineffective by any court of competent jurisdiction, then such termination shall be deemed to have been a termination for convenience.**
G. Immediately upon the expiration or termination of this Contract, the Contractor shall deliver to the Project Officer a final accounting of all assets, liabilities, revenues, and expenses. The Contractor shall prepare and submit a final invoice (all mutually agreed upon unpaid amounts due to the Contractor at the time of expiration or termination of the Contract) to the Project Officer for review and acceptance.

40. TERMINATION FOR THE CONVENIENCE OF THE COUNTY
The performance of Work pursuant to this Contract may be terminated by the Purchasing Agent in whole or in part whenever the Purchasing Agent determines that such termination is in the County's best interest. Any such termination shall be effected by the delivery to the Contractor of a written notice of termination at least fifteen (15) days before the date of termination, specifying the extent to which performance of the Work under this Contract is terminated and the date upon which such termination becomes effective. The Contractor will be entitled to receive compensation for all Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the County prior to such termination and any other termination costs as negotiated by the Parties, but no amount shall be allowed for anticipatory profits. Solely as to office and vehicle lease expenses, the Contractor shall be entitled to reimbursement only for future lease payments attributable to the remainder of each lease's term (but in no event for more than twelve (12) months) and only for that percentage of the Contractor's office and vehicle lease expenses attributable to operations in Arlington County (i.e. ten percent (10%) of those expenses if ten percent (10%) of the total number of vehicles in service system-wide are in Arlington County).

After receipt of a notice of termination and except as otherwise directed, the Contractor shall stop all Work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated; immediately transfer all documentation and paperwork for terminated Work to the County; and terminate all vendors and subcontracts and settle all outstanding liabilities and claims.

41. FINAL PAYMENT
After the Contractor has completed all Work and corrections to the satisfaction of the Project Officer or designee and delivered all required documentation (e.g. inventory lists for Equipment and Supplies, Equipment maintenance records, and any other items requested by the Project Officer), the Contractor may submit to the Project Officer an invoice for final payment. The final invoice shall be accompanied by all documents required in the Contract and shall reflect the actual amount due to the Contractor.

By submitting the final invoice the Contractor shall certify that all of the debts for labor, materials, and Equipment incurred in connection with this Contract have been fully paid.

By submitting the final invoice, the Contractor agrees its acceptance of final payment releases and forever discharges the County and its officers, employees, servants, and agents from any and all actions, claims, demands, and liability of whatever nature now existing or which may hereafter arise as a result of or in connection with this Contract.
42. NOTICES
All notices and other communications required or permitted to be given pursuant to this Agreement shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an over night or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

TO CONTRACTOR:
Charles Denney
Alta Bicycle Share, Inc.
5008 15th Street North
Arlington, Virginia 22205

TO COUNTY:
Richard D. Warren, Jr., Purchasing Agent
Arlington County
Department of Management and Finance
Suite 500, 2100 Clarendon Boulevard
Arlington, Virginia 22201

and

Paul J. DeMaio, Project Officer
Arlington County
Department of Environmental Services
Suite 900, 2100 Clarendon Boulevard
Arlington, Virginia 22201

43. ARLINGTON COUNTY PURCHASING RESOLUTION
The Contract is governed by the applicable provisions of the Arlington County Purchasing Resolution. The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Purchasing Resolution, is fifteen (15) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Purchasing Resolution, incorporated herein by reference, and available upon request from the Office of the Purchasing Agent.

44. FORCE MAJEURE
The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to strikes, fires, riots, rebellions, or force majeure, beyond the control of the Contractor, that make performance impossible or illegal, unless otherwise specified in the Contract, provided however that the Contractor (in order to not be held responsible for failure to perform) shall have first given the Project Officer written notification of such failure, event, or occurrence beyond the control of the Contractor not later than forty-eight (48) hours after the beginning of such failure, event, or occurrence.

The County shall not be held responsible for failure to perform the duties and responsibilities imposed by the Contract if such failure is due to strikes, fires, riots, rebellions, or force majeure, beyond the control of the County, that make performance impossible or illegal, unless otherwise specified in the Contract.
45. NONAPPROPRIATION
All funds for payments by the County under this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County. In the event of nonappropriation of funds by the County Board of Arlington County for the Work provided under this Contract, then the County will terminate the Contract, without termination charge or other liability to the County, on: the last day of the then current fiscal year; or when the funds appropriated made for the then current year for the Work under this Contract are expended; whichever event occurs first. If funds are not appropriated at any time for the continuation of Work under this Contract, then termination shall be effective on a date specified in a written notice from the County to the Contractor, but failure to give such notice shall be of no effect and the County shall not be obligated under this Contract after such termination date.

46. ASSIGNMENT
The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of any award, or any or all of its rights, obligations, or interests under this Contract, without the prior written consent of the County.

47. ARBITRATION
It is expressly agreed that nothing under the Contract shall be subject to arbitration. All references to arbitration are expressly deleted from the Contract.

48. AMENDMENTS
This Contract shall not be amended except by written amendment executed by persons duly authorized to bind the Contractor and the County.

49. NONEXCLUSIVITY OF REMEDIES
All remedies available to the County under this Contract are cumulative and no such remedy shall be exclusive of any other remedy available to the County at law or in equity.

50. APPLICABLE LAW; COMPLIANCE THEREWITH
This Contract, and the Work performed hereunder, shall be governed in all respects by the laws of the Commonwealth of Virginia and all litigation with respect thereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court whatsoever. In performing the Work under this Contract, the Contractor shall comply with applicable Federal, State, and local laws, ordinances, and regulations.

51. SEVERABILITY
The sections, paragraphs, sentences, clauses, and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph, or section of this Contract shall be declared invalid by the valid judgment or decree of a court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Contract.

52. INCORPORATION
The Exhibits are hereby incorporated in this Contract by reference.

53. EFFECTIVE DATE
This Contract shall be effective upon the date when this Contract is last signed by a Party ("Effective Date").
WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

AUTHORIZED SIGNATURE: [Signature]
NAME AND TITLE: W. RICHARD WARREN, JR.
TITLE: PURCHASING AGENT
DATE: 4/8/2010

ALTA BICYCLE SHARE, INC.

AUTHORIZED SIGNATURE: [Signature]
NAME AND TITLE: MIA BIRK, VP; CORP SEC
DATE: 3/31/10

TAXPAYER ID NUMBER, SSN/EIN 27-1439188
SCOPE OF WORK

The Contractor shall operate a safe, efficient, and dependable customer-service oriented bike-sharing Service with well-trained, supervised, managed, and motivated professional operations and maintenance staff. The Work shall result in a public transportation system which maximizes safe use of Bicycles as an efficient, reliable, and widely accepted mode of transportation, increases revenues, and maximizes customer satisfaction. The bike-sharing Service is intended to enhance the public use, the public enjoyment, the public safety, and public convenience of the customers using the Service and the public at large within the areas where the Service is provided.

1. DEFINITIONS

The following words and phrases, when used in this Agreement, shall have the meanings described below, except where the context clearly indicates a different meaning:

Backend Software and Computer Hardware - an electronic interface enabling, among other things, Stations, Bicycles, subscriber customer service, cellular service, Customer Keys, Contractor's website, and call center to function.

Bicycle - a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, as further described in the Scope of Work, Section 5 A, and as such device is required by the Contractor to perform the Work. For purposes of Regulation of Traffic (Virginia Code Section 46.2-800 et seq.), a Bicycle shall be a vehicle while operated on the highway.

Crash - every incident or event involving a subscriber, Bicycle user, and/or Bicycle, resulting in personal injury to the subscriber or others, or property damage to the Bicycle or to the property of others;

Customer Key - a fare card for rental of Bicycles;

Dock - a locking mechanism contained on a Station designed to receive a Bicycle for locked storage;

Equipment - all physical components provided by, or used by, the Contractor to provide bike-sharing Service and to perform the Work. Equipment includes, without limitation, a Station, Bicycle, Dock, Technical Platform, Map Frame, Terminal, cable, Station battery, maintenance trailer, truck, electric bicycle, Customer Key, trailer, and Bicycle and Station spare parts;

Equipment Maintenance Record - detailed records of all maintenance performed on all Equipment;

Fleet - one hundred percent (100%) of the number of Bicycles purchased through this Contract minus the number of stolen and unrepairable Bicycles, discovered within the County, that have not been replaced;
Fully Operational - one hundred percent (100%) of the Stations functional and available for use for bike-sharing Service as determined by the Project Officer;

Fully Operational Date - the date, within two hundred ten (210) days after issuance of the Notice to Proceed, when the Contractor shall ensure that one hundred percent (100%) of the Stations, for which all required permits have been issued, are installed and operational;

Informational Panel - the printed material displayed inside of the Map Frame;

Inventory List - detailed identification by serial number and type of all Equipment and Supplies at hand;

Map Frame - a two-sided metal informational display unit, including translucent covering and lock;

Operational Date - the date, within one hundred eighty (180) days after issuance of the Notice to Proceed, when the Contractor shall ensure that seventy percent (70%) of the Stations, for which all required permits have been issued, are installed and operational;

Service - the use of the Equipment by the public at large after the Operational Date;

Site Plan - an illustration which shows the proposed location of a bike-sharing Station, with distances and dimensions from the nearest property line, all relevant public or private easements, and at least two fixed objects. The Site Plan shall depict the locations of all above and below ground structures, utilities, infrastructure, and appurtenances in the immediate vicinity;

Start-Up Period - the time period between the issuance of the Notice to Proceed and the Operational Date;

Station - a designated area on publicly or privately owned real property, which area contains one or more of the following items made available by the Contractor to perform the Work: Bicycles, Docks, Terminal, Technical Platforms, and Map Frame;

Station Protective Devices - all pavement markings/paint, islands, and/or protective bollards, at or adjacent to Station locations;

Supplies - computers, software, Terminal paper, office furniture, and office supplies;

System - the Equipment, Contractor’s website, and Backend Software and Computer Hardware;

Technical Platform - a base component which rests on the ground and supports the Docks, Terminal, and Map Frame;

Terminal - a kiosk which provides Bicycle rental instructions, contains payment equipment (i.e. credit card device), and includes all other means necessary for the rental Bicycles.
2. IMPLEMENTATION

A. Purchase and Inspection of Equipment
The Contractor shall purchase the quantities of Equipment in compliance with Exhibit C. Upon receipt, the Contractor shall perform detailed inspections of all the Equipment to ensure that the Equipment purchased are free of any defects. The Contractor shall initially prepare and at all times maintain a detailed inspection report for all Equipment. A copy of the initial inspection report shall accompany the Contractor’s invoice to the County.

B. Receiving and Assembly of Equipment
The Contractor shall be responsible for receiving all of the Equipment and assembling the Bicycles, in Arlington, Virginia or in Washington, D.C., by the same staff or subcontractor who will maintain the Bicycles.

C. Station Location Siting, Permitting, and Installation

1. Station Location Siting
The County shall determine the location for each Station. Prior to such determination, the County will provide to the Contractor an opportunity to review and comment upon each proposed location within the Draft List of Desired Station Locations (“Draft List of Desired Station Locations”) within thirty (30) days after issuance of the Notice to Proceed for the initial purchase of Equipment and within sixty (60) days after the issuance of all County Purchase Orders for expansion of additional Stations. It shall be the responsibility of the Contractor, and not the County, to: (a) determine the ownership of or title to the underlying real estate; (b) verify whether the placement of a Station, and the providing of Service, are permissible under zoning and other applicable ordinances and regulations; and (c) obtain all permits and permissions necessary to place a Station at such location and provide Service therefrom.

The Contractor may provide to the County written suggestions of an alternative or more desirable location(s) within fifteen (15) days after the Contractor’s receipt of the Draft List of Desired Station Locations. The County will either approve or disapprove of the Contractor’s suggestions and provide the Contractor with the Final List of Desired Station Locations (“Final List of Desired Station Locations”) within fifteen (15) days after the County’s receipt of the Contractor’s suggestions. All future Station location siting will follow this process with the County providing the Contractor with a List of Desired Station Locations.

2. Contractor’s Obligation to Obtain Station Sites; Permitting
Prior to performing Work on any site of any proposed Station, the Contractor, at its sole cost and expense, shall obtain from the property owner(s) of public and private property, and from all applicable government entities, all rights and permissions to install, maintain, repair, replace, remove, and use all Stations and Equipment, and provide Service. Such rights and permissions further shall provide access by the public at large to the Station(s) and Equipment.
The Project Officer will determine whether the proposed Station location(s) will be on public or private property. For each desired Station location, the Project Officer will provide to the Contractor a Site Plan without the Station footprint (if otherwise previously provided by the County to the Contractor) within thirty (30) days after the County provides the Contractor with the Final List of Desired Station Locations. If the Site Plan without the Station footprint is not available for any particular proposed Station location, then the County will notify the Contractor of this fact, and the Contractor shall create a Site Plan of the desired Station location in question.

Upon written notice from the Project Officer, the Contractor shall perform the following:

(a) For each final Station location on public property, or on private property pursuant to an easement (which permissible uses include that of a Station), the Contractor shall apply for and obtain the necessary permit(s), permissions and authorizations, for each such Station location within sixty (60) days after the Contractor’s receipt of a Site Plan for the respective Station location. The Contractor shall deliver to the Project Officer a copy of all Public Right-of-Way and Transportation Right-of-Way permits, permissions, and authorizations of any nature immediately upon receiving the same.

(b) For each final Station location proposed to be placed on private property, for which no easement authorizing the use of the property for a Station exists, the Contractor shall obtain, in the Contractor’s name, from the private property owner(s), in writing and in recordable form, all necessary documents granting all rights to install, maintain, repair, replace, remove, and use all Stations and Equipment on such private property and to provide Service thereon. Such rights further shall provide access by the public at large to the Station and Equipment. Such documents and underlying rights shall be assignable by the Contractor to the County or its designee at no cost. Before executing each document granting such rights, the Contractor shall deliver to the Project Manager a copy of the proposed document for approval by the appropriate County staff. Such document shall not contain any provisions which, if applicable to the County or its designee as an assignee, are legally impermissible or unacceptable to the County or its designee.

Thereafter, the Contractor shall deliver to the Project Officer a Site Plan within thirty (30) days after the Contractor’s receipt of a Site Plan without the Station footprint, from the County, for the respective Station location. If the private
property owner refuses to give permission for the desired Station location on their property, which grants the public at large access of the Station location, then the Project Officer will select a different desired Station location, acceptable to the County.

The County and the Contractor understand that County Board approval will be necessary for all deeds, easements, licenses, and other agreements, if any, between the County Board and others for ownership or use of private property (including any assignment of such) for Stations.

At the expiration or earlier termination of this Agreement, the Contractor immediately shall execute all documents, acceptable to the County, necessary to assign to the County or its designee all right, title, interest, and permissions obtained by the Contractor to place Stations on private property.

The Contractor’s costs for Site Plan design and all permit acquisitions are included in Exhibit B, designated as “Station Installation (Labor) Costs”. The Contractor shall charge the County on a time and materials basis for effort requiring more than the total allocation for this task. The Contractor shall notify the Project Officer, in writing, immediately upon reaching 90% of its Station design and permitting budget if the Contractor believes that additional funding may be needed to complete this task.

3. Installation
The Contractor shall, pursuant to the payment terms of this Agreement, design, construct, and install all Station components, except for the Station Protective Devices, which will be designed and installed by the County at its expense. The Contractor, at its sole cost and expense, shall acquire all necessary permits to perform the Work including, without limitation, the construction and installation of all Station components.

(a) After the right or permission to use public or private property for installation of a Station(s) has been obtained by the Contractor from the private property owner, after receipt from the County of approval for the installation of a Station, and after issuance by the County of a Notice to Proceed for such installation, the Contractor shall install the Station components, required by the County, on a time and materials basis. The County may require the Contractor to remove or relocate a Station in accordance with Exhibit B. The County will be responsible for removing or relocating Station Protection Devices.

(b) At each Station, the Contractor shall develop, at its sole cost and expense, the text for the Information Panel with instructions for customer use, including: using the bike-sharing Service,
payment information, reporting a complaint, and an
accurate, up to date, summary of the rules on the
road for cyclists. Within sixty (60) days after the
issuance of the Notice to Proceed, the Contractor
shall deliver to the Project Officer, for approval,
a draft specimen copy of the Informational Panel
text. Within thirty (30) days after receipt of the
draft, the Project Officer will either approve in
writing or not approve (and provide written comments
thereto) the draft and notify the Contractor. The
County will be responsible for designing and
printing the Informational Panel at its expense.

The County shall provide to the Contractor printed
copies of the Informational Panel within one hundred
twenty (120) days after the issuance of the Notice
to Proceed for the Contractor to install in the Map
Frame before the Operational Date.

(c) At each Station, the Contractor periodically (and in
any event when so instructed by the Project Officer)
shall install, maintain in readable form and in good
condition, remove, and replace information and
materials described in subsection 2 C 3 (b), and any
other materials required by the Project Officer.

(d) Each Station shall be solar-powered and shall
provide, at all times, continuous and sufficient
electricity to operate the Station without
interruption, failure, or delay. The Contractor
shall ensure that, at all times, all Station
components, are in good, safe, properly maintained,
operating condition so that bike-sharing Service is
available to the subscribers without failure,
interruption, or delay.

D. Subscriber and Usage Fees
The Contractor shall set subscriber and usage fees in order to
maximize the number of subscribers, trips, and revenues.

E. Age Requirement for Program Subscribers
Subscriptions shall only be issued to individuals sixteen (16) years
of age and older. Parental approval, in writing or electronic
signature, of subscription for individuals sixteen (16) and seventeen
(17) years old shall be required.

F. Subscriber Privacy
The Contractor shall, at all times, protect the privacy rights of all
subscribers. The Contractor shall strictly comply with all applicable
Federal, State, and local laws; ordinances; and regulations concerning
the privacy of all subscriber information obtained by the Contractor
in the course of performing Work under this Agreement.

G. Subscriber Agreement
The Contractor shall create and provide the program’s Subscriber
Agreement to the Project Officer within ninety (90) days after
issuance of the Notice to Proceed. The County will not be responsible
for reviewing or approving the Subscriber Agreement. The Subscriber
Agreement shall address, at a minimum, the following:

1) The rates, fees, and deposits (if any).

2) Confidentiality of personal and financial data and information.

3) The Bicycle must be returned by the subscriber in the same condition as it was rented.

4) Insurance.

5) Notices to Police Department and call center of Crash, damage, loss, and/or personal injury, theft, and vandalism.

6) Subscriber agrees that he/she must immediately report to the call center and to the Police: a stolen or lost Bicycle and to the call center a lost or stolen Customer Key.

7) Subscribers responsibility and liability for any misuse, consequences, claims, demands, causes of action, losses, liabilities, damages, injuries, costs and expenses, penalties, attorneys fees, judgments, suits, or disbursements of any kind or nature whatsoever related to a stolen or lost Bicycle or Customer Key.

8) Prohibited uses including, without limitation, no more than one person on a Bicycle at one time.

9) Subscriber acknowledgement of and acceptance of responsibility and risk.

10) No person other than the subscriber shall operate any Bicycle rented from the Contractor. Customer Keys may not be transferred to anyone in any manner whatsoever.

11) A representation by each subscriber and other person who will operate the Bicycle that he/she is: physically able to ride a Bicycle without risk to one’s health; knowledgeable about the operation of a Bicycle, and is knowledgeable about the laws pertaining to Bicycles operated within the jurisdictions where the Bicycles are to be used.

12) Age limits.

13) Indemnification of the County, its elected and appointed officers, officials, and employees.

14) Helmet use by Bicycle riders as required by the laws of each jurisdiction within which the Bicycle is operated.

15) Prohibited use of Bicycle while under the influence of alcohol, drugs, any controlled substance, or any medication which would impair the Bicycle operator’s ability to safely operate the Bicycle.

16) Improper use of Bicycle basket as to type of contents, weight, or visual obstruction.

17) Bicycles shall not be used for any illegal purpose.

H. Program Name, Logo, and Marketing (Branding)
Not later than sixty (60) days before the issuance by the County to the Contractor of a Notice to Proceed, the Project Officer will advise the Contractor, in writing, of the service name, logo, color scheme, and any other branding information, all of which shall be created by, and be the property of, the County.

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The County, at its sole cost and expense, shall produce all marketing materials concerning the Project, as the County deems such materials appropriate and necessary in its sole discretion throughout the Term. The Contractor shall participate with the Project Officer in the creation of an annual marketing plan for the Project. The County expects that the plan will be implemented by the Arlington County Commuter Services ("ACCS") Marketing Manager through a third party advertising firm, chosen by the County, to coordinate all advertising and marketing for ACCS. The Contractor shall periodically inform and educate its employees and subcontractors about the marketing plan, including all revisions, updates, and promotions contained therein.

The Contractor shall not produce any marketing materials concerning the Project without the prior written approval of the Project Officer.

I. Helmets
The Contractor shall provide information on the Program website and in the subscription agreement about the importance of wearing helmets for safety reasons and the requirement that individuals under eighteen (18) years of age to wear a helmet.

The Project Officer will make best efforts to identify bike shops where subscribers may receive a discount on a helmet purchase. The Contractor, upon receiving such information from the Project Officer, shall display on the Program website where discounts are available and discount amounts.

3. OPERATIONS

A. Operational Date
Within one hundred eighty (180) days after issuance of the Notice to Proceed, the Contractor shall ensure that seventy percent (70%) of the Stations, for which all required permits have been issued, are installed and operational.

B. Fully Operational Date
Within two hundred ten (210) days after issuance of the Notice to Proceed, the Contractor shall ensure that one hundred percent (100%) of the Stations, for which all required permits have been issued, are installed and operational. The Service shall be Fully Operational on this date.

C. Continuous Operation and Management
The Contractor shall operate and manage the bike-sharing Service twenty-four (24) hours per day, three hundred sixty-five (365) days per year.

D. Inspection and Maintenance

1) The Contractor shall, at all times, follow and strictly comply with the manufacturer’s requirements, warranties, and recommendations for assembly, maintenance, storage, repair, and replacement of all Equipment.

2) The Contractor shall install and maintain the Bicycles and Stations. The Contractor shall perform, for every Bicycle placed in service in Arlington County, Virginia, the following tasks at
least (i.e. at a minimum) every two weeks, unless the manufacturer's requirements, warranties, and recommendations for assembly, maintenance, storage, repair, and replacement of all Equipment require, recommend, or call for, a greater frequency, in which case the Contractor shall comply with such requirement or recommendation:

(a) inspect drive chain for proper functioning and lubrication;
(b) inspect handlebar for proper centering and tightness;
(c) inspect tires for proper inflation, defects, and wear;
(d) inspect brakes for excessive wear and ensure proper working order;
(e) inspect saddle for proper tightness, excessive wear, and deterioration;
(f) inspect shifters for proper functioning;
(g) inspect lights for proper functioning;
(h) inspect fenders and chainguard for proper functioning, defects, and wear;
(i) ensure that all other Bicycle components including, without limitation, the basket, bell, and advertisement are properly attached and functioning; and
(j) clean Bicycle.

3) The Contractor shall perform, for every Bicycle at any time placed in service in Arlington County, Virginia, the following tasks at least (i.e. at a minimum) annually and on an as-needed basis, unless the manufacturer's requirements, warranties, and recommendations for assembly, maintenance, storage, repair, and replacement of all Equipment require a greater frequency, in which case the Contractor shall comply with such requirement or recommendation:

(a) remove and clean entire drive train;
(b) inspect and adjust tension, and true wheels;
(c) inspect tires for excessive wear, defects, and replace inner tubes; and
(d) inspect hubs for proper functioning.

4) The Contractor shall, immediately upon discovery of a damaged and/or malfunctioning Bicycle proposed to be placed, or placed, in service in Arlington County, Virginia; placed in a Dock by a subscriber or user outside of Arlington County, Virginia; remove the Bicycle from service; not place or replace the Bicycle in a Dock or, prevent a Dock from releasing the Bicycle for use. In addition, the Project Officer may require the Contractor to remove a Bicycle from service for any reason.

5) The Contractor shall remove all graffiti from all Equipment, located in Arlington County, Virginia, no later than twenty-four
(24) hours after discovery thereof, or receipt by the Contractor of a report of graffiti.

E. Distribution of Bicycles
The Contractor shall distribute Bicycles among Stations and place the Bicycles in operable Docks throughout the day, three hundred sixty-five (365) days per year. Such distribution shall be critically timed to increase the probability that each Station, at all times, contains a sufficient number of empty Docks for Bicycles to be returned and occupied Docks containing Bicycles available for users. All Bicycles placed in operational Docks shall be in safe operating condition. The Contractor shall ensure that, during any day, no Station has all empty Docks or all full Docks for more than three (3) hours between the hours of 6 am and 12 am (midnight); and for more than six (6) hours between the hours of 12 am (midnight) and 6 am.

F. Fleet and Required Level of Operational Bicycles
The Contractor shall ensure that, at all times, on the average (by day) during the months of April through October, ninety percent (90%) of the Fleet shall be in safe operating condition and placed in service in Arlington County. During the months of November through March, such percentage shall be seventy percent (70%) in service in Arlington County. If, at any time, the Contractor knows or expects that, for any month, the required percentages will not be met, then the Contractor shall immediately deliver to the Project Officer the Contractor’s plans to meet the required percentages of Bicycles in service.

The percentage of the Fleet in safe, operating condition, and available for service shall be calculated as follows: the Fleet minus Bicycles out of service, either in the shop or reported damaged and on a repair truck, minus Bicycles stolen, at the same time each and every day. This number shall be averaged over each calendar month to calculate the monthly percentage in service.

G. Contractor’s Call Center
The Contractor shall provide to the County, all subscribers, and the public at large, a toll-free telephone number for the Contractor’s call center. The call center shall be in continuous operation twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year. Telephone answering time shall not exceed thirty-five (35) seconds. The time to transfer the call to a knowledgeable customer service representative (including hold time) shall not exceed an additional thirty (30) seconds. This standard shall be met by the Contractor eighty percent (80%) of the time during each calendar month. The Contractor shall ensure that call center operators are fluent in English and Spanish for all persons who contact the call center. The operators at the call center shall be fully competent and knowledgeable to answer questions and provide information concerning, among other things, subscription process, subscription prices, billing, Crashes, comments, complaints, malfunction problems, and location of Stations. The call center manager shall be knowledgeable about the Arlington County and Washington, D.C. region. The call center operators shall keep accurate and complete written records of each such call as hereinafter required, including the primary reason for each call.

H. Comments and Complaints
The call center shall keep record of the primary reason for each call. The Contractor shall deliver a monthly report, by the 15th day of each month, to the Project Officer which documents the most serious complaints and the Contractor’s responses to each. The County will establish a draft of criteria and procedures for the Contractor involving investigating, resolving, and responding to public comments and complaints. The Project Officer will provide to the Contractor such draft criteria and procedures, in writing, within one hundred twenty (120) days after issuance of the Notice to Proceed. The Contractor may suggest revisions to the draft which revisions shall be provided to the Project Officer within thirty (30) days after receipt by the Contractor of the draft. Thereafter, the Project Officer shall create, and provide to the Contractor, the final criteria and procedures, which thereafter shall be followed by the Contractor.

I. Regional Project Website
The Contractor shall create and maintain a regional Project website, subject to prior written approval by the Project Officer. The Contractor shall provide a proposed Website for approval by the Project Officer within one hundred twenty (120) days after issuance of the Notice to Proceed. The website shall address, at a minimum:

1) Eligibility requirements;
2) Subscription information and rate, schedules;
3) Payment information and subscription processing;
4) Method for subscribers to update required information;
5) Subscriber Agreement and acceptance of terms;
6) A map with the entire regional network of Stations and real-time availability of Bicycles at each Station, both for a standard computer screen and mobile phone;
7) Frequently Asked Questions;
8) Safety requirements and information (including notification in the event of malfunction or Crash);
9) Encouragement of helmet use and a helmet purchase coupon for subscribers;
10) Special events calendar;
11) Merchandise page; and

The Contractor, at all times, shall keep the website information updated, current, and accurate.

J. Contractor Staffing Levels
The Contractor, at all times, shall provide sufficient staff to efficiently and promptly perform the Work.

K. Contractor’s Operations Manager
Not later than thirty (30) days after the issuance of the Notice to Proceed, the Contractor shall designate, in writing to the Project Officer, an Operations Manager. Such Manager shall be fully knowledgeable of the contents of this Agreement, the Project, and the Work. The Manager shall be the primary point-of-contact between the
Project Officer and the Contractor. The Manager shall be available to the Contractor’s employees, staff, and subcontractor and to the Project Officer at all times, twenty-four (24) hours a day, seven (7) days a week, and three hundred sixty-five (365) days per year by telephone and by email. The Manager shall have the authority of the Contractor to make prompt operational decisions concerning the Project and the Work. The Contractor, at its option, may designate by written notice to the Project Officer an additional person(s) who may be contacted by the County concerning the Work, provided however that: i) the notice shall clearly specify the matters about which such additional person(s) is authorized to make operational decisions on behalf of the Contractor; and, ii) the designation of such additional person(s) shall neither replace, supplant, or relieve the Operations Manager as the primary point of contact between the Project Officer and the Contractor.

L. Personnel and Staffing Requirements
Not later than sixty (60) days after the issuance of the Notice to Proceed, the Contractor shall deliver to the Project Officer copies of all written personnel policies that, at a minimum, address employee conduct and qualifications. At the same time, the Contractor shall deliver to the Project Officer the Contractor’s staffing plan. Such plan shall specify, by task or assignment, the number of employees who shall perform such tasks or assignment, and the corresponding days and hours of such performance so as to fully and continuously perform the Work in strict accordance with this Agreement. Such plan also shall address any other staffing matters required by the Project Officer.

4. EQUIPMENT

A. Bicycle Description and Equipment
At a minimum, each Bicycle shall be equipped, at all times, with the following items in good, safe operating condition:
1) 3-speed internal hub,
2) step-thru design,
3) reflective sidewall tires,
4) front and rear lights which automatically illuminate upon Bicycle use,
5) chain guard and fenders,
6) basket and strap,
7) adjustable seat height with built-in theft deterrence measure in seat post,
8) bell,
9) front and rear handlebar brakes,
10) kickstand,
11) space for advertising on the back wheel, and
12) capability of fitting into, and attaching to, the standard ART (Arlington Transit) and Metrobus bike-on-bus racks.

Before the Contractor places a Bicycle in service, the Contractor shall affix to such Bicycle, at the Contractor’s expense, materials which include the Program logo and call center phone number, as such
information is previously approved in writing by the Project Officer.

B. Leased, Used, or Refurbished Equipment
The Contractor may be permitted to use leased, used, or refurbished Equipment in performing the Work provided, however, that the Contractor shall not use such Equipment without the prior express written consent of the Project Officer.

C. Spare Parts for Stations, Docks, and Bicycles
The Contractor shall maintain and have available, at all times, a sufficient number of spare parts for the Stations, Docks, and Bicycles to promptly perform all necessary repair, maintenance, and replacement work on such Equipment to meet the requirements of this Agreement.

D. Equipment Warranty
For all Equipment purchased, or otherwise acquired, by the Contractor to perform the Work, the Contractor shall complete, submit to the seller and/or manufacturer, and retain copies of all documents required to maintain all sellers and manufacturer’s warranties. Promptly upon the discovery by the Contractor of any seller’s or manufacturer’s defect in the Equipment, the Contractor shall submit to the appropriate persons or entities a claim therefore. The Contractor shall retain copies of such claims and all documents related thereto.

All Equipment shall be warranted by the manufacturer for a minimum of five (5) years from the date of purchase. The Contractor shall promptly comply with all recalls of Equipment, whether issued by a manufacturer, government agency, or other entity.

5. REPORTING

A. Contractor’s Monthly Reporting Requirements to County
The Contractor shall deliver a monthly report, by the 15th day of each month, to the Project Officer with the following data in a form acceptable to, and approved by, the Project Officer. The data shall reflect the Contractor’s applicable Work during the immediately preceding calendar month and, year to date, for all months since the previous July 1. The reports shall be as described below.

Reports for all Bicycles in the Fleet:

1) Usage Statistics:

(a) Miles traveled (direct line from Station to Station) during the month and fiscal year-to-date;

(b) Total number of trips (a "trip" is the use of a Bicycle from one Dock to another Dock or back to the initial Dock) during the month and fiscal year-to-date;

(c) Average time duration per trip;

(d) Number of existing and number of new subscriptions, by subscription type as mutually acceptable to the Contractor and Project Officer;

(e) Number of trips originating from and arriving to each
Station;

(f) Number of trips per hour of the day, and day of the week, by Station;

(g) Analysis of ridership trends, operational problems; and recommendations for Service improvements, as criteria therefor is mutually agreed to by the Contractor and the Project Officer.

2) Crash Summary:

(a) Number of Crash Reports, as hereinafter described in Section 5 B below; and

(b) Number of each type of Crash outcome (traffic violation, property damage, personal injury, hospital visit).

3) Financial Summary:

(a) Revenue generated from subscriptions, by subscription type;

(b) Revenue generated from user fees; and

(c) Revenue generated from other sources, including, without limitation, advertising and sponsorships.

4) Comments and Complaints Summary:

(a) Total number of calls received by the Contractor from subscribers, the County, or the public at large;

(b) Statistics regarding responsiveness to calls (including time of call, time to answer, and duration of call.

5) Station and Fleet Summary:

(a) Number of Bicycles in service each day;

(b) Number of Bicycles inspected, by Contractor, in accordance with Section 3 C above;

(c) Number of Bicycles repaired and average time of repair;

(d) Percent of time when all of the Stations in the System are concurrently Fully Operational;

(e) Total additional time granted when all Docks at a Station are full, by Station;

(f) Average length of time for a technician to service a call;

(g) Number of Bicycles in the categories of: stolen, lost, damaged, and vandalized during the month and fiscal year-to-date;

(h) Repair status of and type of work performed on (other than periodic maintenance) each damaged and vandalized Bicycle and Station during the month and fiscal year-to-date;

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(i) Number of times Stations were full or empty; and
(j) Backend server down.

6) Periodically the Project Officer may require the Contractor to provide to the County written reports (in addition to those described in subsections 1) - 5) above), and may revise the categories of data to be provided in each report described above.

B. Crashes
The Contractor shall immediately in writing report each Crash to the Project Officer.

Immediately upon notice of a Crash, the Contractor shall: report such Crash to the Police Department in the jurisdiction in which the Crash occurs; investigate the Crash; and accurately determine and record the information described in subparagraphs one (1) through four (4) below.

The Contractor shall provide the Project Officer with a Crash Report (including a Police Accident Report, immediately upon its availability), and all reports necessary to accurately document and preserve an accurate record of each Crash within forty-eight (48) hours after the Crash.

The Contractor shall also require all subscribers to file immediately a Police Report with the Police Department in the jurisdiction in which the Crash occurs.

The Contractor shall require subscribers to file immediately a Crash Report to the Contractor after the Crash. The Crash Report shall include at a minimum, the following information:

1) the subscriber’s name; subscriber’s injuries; sex; phone; date of birth; address; damage to Bicycle; was the Bicycle returned to a Station or the Contractor; important details of the Crash in addition to those required in 2) below;

2) the Crash details: including date; time; city; state; address/location of Crash; description of Crash; outcome of Crash (injury, severity of injury, traffic violation of the subscriber and other party(ies), fine, hospital visit); property damage [yes/no]; police involvement [yes/no]; police report #: officer name and badge #: police precinct / department;

3) details of all personal injury to other persons, or property damage, including, without limitation: hit and run [yes/no]; name; phone; injuries [yes/no]; driver’s license #: license state; sex; date of birth; phone; cell; address; # of vehicle occupants; insurance carrier; insurance phone; policy number; vehicle type [passenger/commercial/other]; year; make; model; license plate # and state; vehicle damage; vehicle towing; vehicle operable; and for each passenger: name; age; address; phone; injuries [yes/no]; additional information;

4) names, addresses, and telephone numbers of all witnesses and other persons with knowledge of the Crash, personal injury, or
property damage.

It shall be the obligation of the Contractor to notify its insurance carrier(s) of all Crashes.

C. Theft and Vandalism

The Contractor shall immediately in writing report each incident of theft or vandalism of every Bicycle and Station to the Project Officer.

Immediately upon notice of each incident of theft or vandalism, the Contractor also shall: report such incident to the Police Department; investigate the incident; and accurately determine and record the information described in subparagraphs one (1) through three (3) below. The Contractor shall provide the Project Officer with a Theft or Vandalism Report, including a Police Report, immediately upon its availability, within forty-eight (48) hours after notice of each incident of theft or vandalism.

The Contractor shall also require all subscribers to file immediately a Police Report with the Police Department for incidents of theft and vandalism.

The Contractor shall require subscribers to file immediately a Theft and Vandalism Report to the Contractor after notice of a theft or vandalism. The report shall include at a minimum, the following information:

1) the subscriber’s name; subscriber #; sex; phone; date of birth; address;

2) the theft/vandalism details: including date; time; city; state; address/location of theft; description of theft/vandalism; police report #; officer name and badge #; police precinct/department;

3) names, addresses, and telephone numbers of all witnesses and other persons with knowledge of the theft/vandalism.

It shall be the obligation of the Contractor to notify its insurance carrier(s) of all such incidents of theft or vandalism.

D. Quarterly Analyses and Reports of Equipment Loss, Damage, Theft, and Vandalism

The Contractor shall perform a quarterly quantitative and investigative analysis of loss, damage, theft, and vandalism to the Bicycles and Stations so as to determine the sources and causes thereof. The analysis and results thereof shall be reduced to writing. The first of such quarterly reports shall be submitted by the Contractor to the Project Officer on the first week of the fourth calendar month after the Operational Date. Each subsequent report shall be submitted during the first week of the seventh, tenth, and first calendar month thereafter. Based upon the analysis, the Contractor shall in the quarterly report recommend to the Project Officer remedies and solutions to minimize future loss, damage, theft, and vandalism to the Bicycles and Stations. After written notification from the Project Officer, the Contractor’s failure to take appropriate preventative measures to minimize loss, damage,
theft, and vandalism may be cause for termination of this Agreement.

E. Written Requests
Promptly upon receipt of a written request from the County, the Contractor shall provide to the Project Officer requested information and documents to assist the County in meeting any existing and future reporting requirements for, or related to, the application for, or continuation of, Project funding from local, regional, Commonwealth, or Federal sources.

F. Standard Operating Plan
The Contractor shall submit a draft Standard Operating Plan ("SOP") to the Project Officer for review and comment ninety (90) days after the issuance of the Notice to Proceed. The SOP shall include detailed operating policies and procedures, inventory control, reconciliation procedures, a capital improvement program for Stations and Bicycles based on their warranty, and shall outline all of the activities necessary for the start-up of the operation, including the filing of work force requirements and all other required activities. The SOP shall be updated annually and delivered to the Project Officer within ninety (90) days after the beginning of each Subsequent Contract Term. The Contractor shall include the terms of the Equipment warranties in the SOP.

G. Periodic County Transportation Surveys
Upon request from the Project Officer, the Contractor shall participate, at the County’s expense (previously authorized in writing), in the County’s periodic programs of research and evaluation to determine transportation and air quality impacts and to better understand Contractor’s customers and how the Bicycle transportation needs of the citizens of Arlington County are being met. The research shall also determine customer satisfaction with the services provided by the Contractor.

6. FINANCIAL

A. Revenues
The Contractor agrees that all revenues such as, but not limited to, subscription and usage fees, and advertising and sponsorship proceeds, generated within, or arising out of subscriptions initiated in Arlington County, Virginia shall belong to the County, subject to other offset provisions of this Agreement. Subscription fees shall be such fees paid to the Contractor by subscribers with addresses in Arlington County. Usage fees shall be such fees attributable to Bicycles rented in (i.e. trips initiated from Stations in) Arlington County.

All advertising and sponsorship proceeds collected by or payable to the Contractor from others shall be accurately reported to the County as revenues of the Contractor.

The Contractor shall collect all Service revenues and prepare monthly income statements. A copy of this income statement shall be sent by the Contractor to the Project Officer for review and acceptance.

From each monthly invoice submitted to the County, the Contractor shall deduct existing revenues earned by the Contractor from operating the Service in Arlington County, Virginia.
B. Revenue Account
The Contractor shall set up a Revenue Account to account for all revenues received from the Project. Revenue is defined as all funds and proceeds derived from the operation of the Project which are collected by the Contractor, including sales of subscriptions and fees. All revenue shall be deposited by the Contractor daily in a Depository Account in the name of the County in a bank selected by or approved by the Project Officer. The Contractor shall list the County as a signatory on the Revenue Account. Irrespective of the existence of any applicable employee dishonesty policy, the Contractor, in any event, is responsible to the County for any loss of funds and proceeds (derived from the operation of the Project) due to dishonesty, theft, or any act or omission of the Contractor.

C. Budget
Ninety (90) days before the end of each Contract Term, the Contractor shall prepare and submit to the County a Budget of estimated Revenue and estimated Expenses of Operation for the Subsequent Contract Term. The Budget shall be prepared in a form agreed to in advance by the County and the Contractor. The Budget, upon written approval by the County ("Approved Budget") shall be used as a guide (and not a legal obligation) for the Project payments to be made by the County to the Contractor for the Work during the time period(s) referenced in the Approved Budget, provided, however, that the total amount of the Approved Budget, after the execution of a Contract amendment and Purchase Order, shall be the "Not to Exceed" amount which will be the maximum obligation of the County to pay to the Contractor pursuant to such Contract amendment and Purchase Order.

D. Taxes, Dues, and Fees
The Contractor shall pay all applicable Federal, State, and local taxes assessed against, arising out of, and collected from the Service operation, including sales, use, license, and/or privilege taxes. The Contractor shall at all times maintain records evidencing Revenue and the taxes collected as are required to substantiate the correctness of the tax returns filed.

E. No Tax Exemption
No provision of this Agreement shall be construed to provide the Contractor or any of its subcontractors with an exemption, exclusion, deferral, offset or other relief from any assessment, tax, levy, or penalty which is now or which may be hereafter authorized by law.

7. INTERRUPTION OF SERVICE

A. Intentional Interruption of Service
If, at any time, the Contractor intends, or is required, to temporarily interrupt all or a portion of the Service, for any reason including, without limitation, weather, safety, or other event or circumstance where continued service would be unsafe, unavailable, impractical, or impossible, then the Contractor shall contact the Project Officer by telephone and by email at least twenty-four (24) hours before the interruption of Service and specifically describe the reason, proposed duration, Contractor's proposed actions to correct the cause of the interruption (if possible), minimize the interruption, and the Contractor's plans to resume Service. The Contractor shall not interrupt all or any portion of the Service
without prior written authorization from the Project Officer.

The Contractor promptly shall notify the customers of the cause and expected duration of the proposed interruption of service by posting notice on the website and at the affected Station(s).

B. Unintentional Interruption of Service

If, at any time, a System malfunction or an event or circumstance occurs where continuous service would be unsafe or unavailable, and this causes or will cause a temporary interruption of Service, then the Contractor shall immediately contact the Project Officer by telephone and by email and specifically describe the reason, estimated duration, Contractor’s proposed actions to correct the cause of the interruption (if possible), minimize the interruption, and the Contractor’s plans to resume Service.

In the case of both Intentional and Unintentional Interruptions of Service, the Contractor shall be obligated to perform all necessary and appropriate acts to restart the Service as soon as possible.

8. LIQUIDATED DAMAGES

The Contractor agrees to the following schedule of liquidated damages for the Contractor’s non-performance of the Work or failure to comply with the specified requirements of this Agreement. The amounts are established, and agreed by the Parties, as liquidated damages and not as forfeitures or penalties for the Contractor’s non-performance of non-compliance with the Contract requirements. Prior to accessing liquidated damages against the Contractor, the Project Officer shall send to the Contractor a notice that liquidated damages, in a specified amount(s), are being assessed against the Contractor for specified non-performance or non-compliance. The total amount of all liquidated damages assessed against the Contractor during a calendar month shall be deducted from the invoice received by the County from the Contractor for Work performed within such month.

Liquidated damages may be assessed by the Project Officer beginning one hundred eighty (180) days after the Operational Date. The following liquidated damages are agreed by the Parties and are not subject to proration:

A. Service Delivery

Operational Date: Six hundred dollars ($600) per day after the Operational Date that the Service is not operational.

Fully Operational Date: Eight hundred fifty dollars ($850) per day after the Fully Operational Date that the Service is not Fully Operational.

Level of Operational Bicycles: Five hundred dollars ($500) per month where the level of operational Bicycles is not met, as described in Exhibit A Section 3F.

Damaged Bicycles Removed from Service: One hundred dollars ($100) per Bicycle, per day, after the initial twenty-four (24) -hour period after discovery by the Contractor that a Bicycle has been damaged, or notification to the Contractor by the Project Officer of the same, and the Bicycle is not taken out of Service.

Distribution of Bicycles by Contractor: One hundred dollars ($100)
per Station per day where the performance standards as described in Exhibit A Section 3 D are not, or have not been, met.

Station Availability: Two hundred fifty dollars ($250) per Station per day when a Station is unintentionally interrupted due to the fault of the Contractor or its subcontractors, as described in Exhibit A Section 7 B (Unintentional Interruption of Service), and not available for public use for greater than three (3) continuous hours during a twenty-four (24) hour period.

Call Center Availability: Five hundred dollars ($500) per day where the call center service is unavailable, without prior Contractor notice to the Project Officer, for greater than three (3) continuous hours during a twenty-four (24)-hour period.

Call Center Answer Time: Two hundred fifty dollars ($250) per month where the promptness standard is not met.

Website Availability: Five hundred dollars ($500) per day where the website is unavailable, without prior Contractor notice to the Project Officer, for greater than three (3) continuous hours during a twenty-four (24)-hour period.

Graffiti: One hundred dollars ($100) per day where the performance standard as described in Exhibit A Section 3 C 5 is not met.

B. Reporting

Contractor’s monthly report to the County: Fifty dollars ($50) for each day during which the Contractor fails to submit to the Project Officer the monthly report, required by Exhibit A Section 5 A, after the due date thereof.

Contractor’s Crash Report to the County: Two hundred dollars ($200) for each day during which the Contractor fails to submit to the Project Officer the Crash Report, required by Exhibit A Section 5 B, after the due date thereof. This provision is separately applicable to each individual Crash Report.

9. INCENTIVES, ADVERTISING, SPONSORSHIPS

A. Incentives for Performance

The County, through the Project Officer, may permit the Contractor to add to its monthly invoice certain additional amounts ("Incentives"), as described below, if the Project Officer concludes that the Contractor has met, and has fully justified, in writing, the following Incentive(s):

Operational Date: Three hundred dollars ($300) per day prior to the Operational Date that the Service, composed of at least ten (10) Stations, are fully and continuously operational before September 30, 2010.

System Availability: Five hundred dollars ($500) per month where all Stations, the call center, and the website are all available for each day of such month for public use, provided that neither any Station, nor the call center, nor the website, has been unavailable for more than three (3) continuous hours at any time during the month.
B. Advertising and Sponsorship on Bicycles and Stations

Advertising of others on the Bicycles occurs when a third party is permitted by the County to market such party’s goods or services, placing, or causing to be placed, paid advertisements on the Bicycles.

Sponsorship by others on Bicycles and Stations occurs when the County permits a third party to place, or caused to be placed, a logo of such third party on the Bicycles and/or Stations in exchange for a financial contribution, approved by the County, to the Contractor.

The Contractor shall notify the Project Officer of all potential advertisers and sponsors of which the Contractor becomes aware. In addition, all inquiries to advertise or sponsor by others received by the Contractor shall be forwarded to the Project Officer. The Contractor shall not be entitled to compensation from the County for such notifications and inquiries. The County will set rates of advertising and sponsorships. The Contractor shall collect all proceeds generated from advertising and sponsorship and deposit the proceeds in the revenue account.

At such times as determined by the Project Officer, the County will designate locations on the Bicycles and on the Stations where the Contractor shall affix advertisements and sponsorships. The Contractor shall affix advertising of others provided by the County to the Bicycles and the Informational Panel materials to the Map Frame, and shall not affix anything else thereto.
AGREEMENT NO. 56-09

APPENDIX A (TO SCOPE OF WORK)

IMPORTANT EVENTS AND TIME PERIODS

THIS APPENDIX A IS PROVIDED SOLELY FOR THE CONVENIENCE OF THE PARTIES AND IS NOT AN ENFORCEABLE PROVISION OF THIS CONTRACT. THIS APPENDIX A SHALL NEITHER AMEND, REPLACE, NOR ABROGATE, THE DELIVERABLES, TIME PERIODS, DUE DATES, AND THE PROVISIONS OF THE CONTRACT DOCUMENTS.

<table>
<thead>
<tr>
<th>Event</th>
<th>Time Period or Date</th>
<th>Contract Section</th>
<th>To Whom</th>
<th>Frequency</th>
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<tr>
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<td>Upon execution by both parties</td>
<td>Main Agreement, Section 53</td>
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<td>30 days after Effective Date</td>
<td>Main Agreement, Section 24</td>
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<tr>
<td>Draft List of Desired Station Locations</td>
<td>30 days after issuance of Notice to Proceed</td>
<td>Exhibit A, Section 2 C 1</td>
<td>Contractor</td>
<td>For each round of Stations</td>
</tr>
<tr>
<td>Designation of Operations Manager</td>
<td>30 days after issuance of Notice to Proceed</td>
<td>Exhibit A, Section 3 K</td>
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<td>Main Agreement, Section 21 A</td>
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<td>Identification of Bicycle Safety Officer</td>
<td>60 days after issuance of Notice to Proceed</td>
<td>Main Agreement, Section 21 B</td>
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<td>Safety Policies and Procedures</td>
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<td>Exhibit A, Section 5 F</td>
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120 days after issuance of Notice to Proceed
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120 days after issuance of Notice to Proceed
150 days after issuance of Notice to Proceed
180 days after issuance of Notice to Proceed
210 days after issuance of Notice to Proceed
90 days before Contract Term expiration
60 days before Contract Term expiration
365 days after issuance of Notice to Proceed
as needed
90 days after Subsequent Contract execution

10th of every month
15th of every month, after Operational Date
15th of every month, after Operational Date
48 hours after Crash
48 hours after theft or vandalism
First week after end of quarter
48 hours after beginning of event

Exhibit A, Section 2 C 2 b
Exhibit A, Section 2 C 2 a
Exhibit A, Section 2 C 3 b
Exhibit A, Section 3 H
Exhibit A, Section 3 I
Exhibit A, Section 2 1
Exhibit A, Section 3 A
Exhibit A, Section 3 B
Exhibit A, Section 6 C
Main Agreement, Section 11 A
Main Agreement, Section 5
Main Agreement, Section 5
Exhibit A, Section 5 F
Main Agreement, Section 9
Exhibit A, Section 3 H
Exhibit A, Section 5 A
Exhibit A, Section 5 B
Exhibit A, Section 5 C
Exhibit A, Section 5 C
Main Agreement, Section 44

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CAPITAL EQUIPMENT COSTS:

One-time fee payable only upon acquisition and verification by the Project Officer of the following:

Complete Station (includes 3-speed Bicycles, Terminal, Technical Platforms, Map Frame, Customer Keys, spare parts, Supplies, shipping):
- Extra Small Station - including four (4) Bicycles and seven (7) Docks: $26,064
- Small Station - including seven (7) Bicycles and eleven (11) Docks: $34,801
- Medium Station - including ten (10) Bicycles and fifteen (15) Docks: $43,539
- Large Station - including thirteen (13) Bicycles and nineteen (19) Docks: $52,276

STATION INSTALLATION (LABOR) COSTS:

Fee for a complete Station installation made operational before the Fully Operational Date (includes Site Plan design, permit/use acquisition, installation, and tax):
- Cost per complete Station installation: $5,551

Fee for a complete Station installation made operational after the Fully Operational Date (includes Site Plan design, permit/use acquisition, installation, and tax) (i.e. for expansion of the Service):
- Cost per complete Station installation: $4,500

OPERATING (LABOR) COSTS:

Monthly operating cost after Operational Date per operational Bicycle: $155

ONE-TIME PAYMENTS FOR ADDITIONAL EQUIPMENT:

- Bicycle (3-speed) (Each): $1,003
- Bicycle (7-speed) (Each): $1,058
- Second Original Paint Color (per Bicycle): $28
- Bicycle Fender (Each): $14
- Complete Terminal (Each): $10,258
- Complete Dock (Each): $791
- Station Component Cable: Blue (Each): $110
- Black (Each): $107
- Red (Each): $90
- Technical Platform (Each): $1,024
- Map Frame (Each): $1,402
- Station Battery (Each): $200
- Customer Key (Each): $2.50
- Bicycle Spare Parts (Per Bicycle, on as needed basis): $106
- Station Spare Parts (Per Station): $375
- Toolkit (Each): $1,104
- Station Paper (Each): $32
- Contractor Movement of a Station (includes removal and reinstallation): $2,000
**EXHIBIT C**

**ANNUAL BUDGET FOR INITIAL CONTRACT TERM**

<table>
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<tr>
<th>INITIAL CONTRACT TERM - NOT-TO-EXCEED AMOUNT</th>
<th>AMOUNT</th>
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<tbody>
<tr>
<td>Cost of Thirteen (13) Small Stations and Two (2) Large Stations: (Total of 15 Stations and 117 Bicycles)</td>
<td>$556,965</td>
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<tr>
<td>Estimated Station Installation (Labor) Cost:</td>
<td>$83,265</td>
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<tr>
<td>Estimated Annual Operating (Labor) Cost:</td>
<td>$217,620</td>
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<tr>
<td>TOTAL INITIAL CONTRACT TERM - NOT-TO-EXCEED AMOUNT:</td>
<td>$857,750</td>
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</table>
USE OF CONTRACT(S) BY MEMBERS COMPRISING THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS PURCHASING OFFICERS' COMMITTEE.

A. If authorized by the bidder(s), resultant contract(s) will be extended to any or all of the listed members as designated by the bidder to purchase at contract prices in accordance with contract terms.

B. Any member utilizing such contract(s) will place its own order(s) directly with the successful contractor. There shall be no obligation on the part of any participating member to utilize the contract(s).

C. A negative reply will not adversely affect consideration of your bid/proposal.

D. It is the awarded vendor's responsibility to notify the members shown below of the availability of the Contract(s).

E. Each participating jurisdiction has the option of executing a separate contract with the awardee. Contracts entered into with a participating jurisdiction may contain general terms and conditions unique to that jurisdiction including, by way of illustration and not limitation, clauses covering minority participation, non-discrimination, indemnification, naming the jurisdiction as an additional insured under any required Comprehensive General Liability policies, and venue. If, when preparing such a contract, the general terms and conditions of a jurisdiction are unacceptable to the awardee, the awardee may withdraw its extension of the award to that jurisdiction.

F. The issuing jurisdiction shall not be held liable for any costs or damages incurred by another jurisdiction as a result of any award extended to that jurisdiction by the awardee.

**BIDDER'S AUTHORIZATION TO EXTEND CONTRACT:**

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**VENDOR NAME:** Alta Bicycle Share, Inc.
AGREEMENT NO. 56-09
EXHIBIT E
CERTIFICATION REGARDING DEBARMENT

PRIMARY COVERED TRANSACTIONS (To be completed by a Prime Consultant)

PROJECT: AGREEMENT 56-09, ARLINGTON BICYCLE SHARE

1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
   a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
   b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
   c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1) b) of this certification; and
   d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

SIGNATURE DATE TITLE: [Signature] VP & COMP SEC

NAME OF FIRM: ACTA BICYCLE SHARE, INC.
CERTIFICATION REGARDING DEBARMENT

LOWER TIER COVERED TRANSACTIONS (To be completed by a Sub-consultant)

Project: __________________________________________

1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

Signature Date Title: __________________________________________

Name of Firm: __________________________________________
The Contractor is responsible for submitting the information requested below on all firms on the Project team, both prime and all subconsultants. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit all of the required data will result in the Expression of Interest not being considered.

<table>
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<tr>
<th>Firm's Name and Address</th>
<th>Firm's DBE/SWAM Status *</th>
<th>Firm's Age</th>
<th>Firm's Annual Gross Receipts</th>
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* YD = DBE Firm Certified by DMBE  N = DBE/SWAM Firm Not Certified by DMBE  NA = Firm Not Claiming DBE/SWAM Status  
YS = SWAM Firm Certified by DMBE. Indicate whether small, woman-owned, or small business. DMBE is the Virginia Department of Minority Business Enterprise
It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded consultant contracts. A list of Virginia Department of Minority Business Enterprise certified DBE firms is maintained on their web site (http://www.dmbe.state.va.us/) under the VDOT DBE Directory link. Consultants are encouraged to take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the Project, the consultant is encouraged to seek out and consider DBEs as potential subcontractors. The consultant is encouraged to contact DBEs to solicit their interest, capability and qualifications. Any agreement between a consultant and a DBE whereby the DBE promises not to provide services to other consultants is prohibited.

The DBE contract goal for this procurement is 0%; however, the Department feels that these services support 10% DBE participation.

49 CFR Part 26 requires VDOT to collect certain data about firms attempting to participate in VDOT contracts.

If a DBE is not certified, the DBE must become certified with the Virginia Department of Minority Business Enterprise prior to the consultant’s response being submitted. If a DBE is the prime consultant, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE subcontractors. DBE prime consultants are encouraged to make the same outreach efforts as other consultants. DBE credit will be awarded only for work actually being performed by themselves and their subcontractors only if the subcontractors are DBEs. A DBE must perform or exercise responsibility for at least 30% of the total cost of its contract with its own force.

DBE certification entitles consultants to participate in VDOT’s DBE program. However, this certification does not guarantee that the firm will obtain VDOT work nor does it attest to the firm’s abilities to perform any particular work.
REQUIRED CONTRACT PROVISIONS, FEDERAL-AID CONSTRUCTION CONTRACTS (FHWA 1273) shall apply to this contract as well as the following:

- **FHWA memorandum with the subject titled "THE DISCONTINUANCE OF THE FHWA-45, FHWA-47 & FHWA-810".** In accordance with this memorandum the Contractor shall be governed by the following:

  The submission of Form C-50 (FHWA 47) which is used to fulfill the reporting requirements of Section VI, Record of Materials, Supplies, and Labor of FHWA 1273—Required Contract Provisions Federal-Aid Construction Contracts is no longer required on Federal Aid Construction Contracts. Only that part of Section VI of FHWA 1273 is thus eliminated. All the other parts remain in effect.

- **CFR (Code of Federal Regulations) change regarding Employee Social Security Numbers and Addresses on Payrolls.** In accordance with the US Department of Labor regulations change in 29 CFR Parts 3 and 5 the Contractor shall be governed by the following:

  Section V, Paragraph 2b of FHWA 1273—Required Contract Provisions Federal-Aid Construction Contracts is replaced with the following:

  The payroll records shall contain the name, and the last four digits of the social security number of each such employee, his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof 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.
REQUIRED CONTRACT PROVISIONS
FEDERAL- AID CONSTRUCTION CONTRACTS

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ATTACHMENTS

A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the Contractor's own organization and with the assistance of workers under the Contractor's immediate superintendent and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the Contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier sub_contractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

   Section I, paragraph 2;
   Section IV, paragraphs 1, 2, 3, 4, and 7;
   Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 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 DOL, or the Contractor's employees or their representatives.
6. Selection of Labor: During the performance of this contract, the Contractor shall not:

   a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or

   b. employ convict labor for any purpose within the limits of the Project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of $10,000 or more.)

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the Contractor's Project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the Contractor agrees to comply with the following minimum specific requirement activities of EEO:

   a. The Contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

   b. The Contractor will accept as his operating policy the following statement:

   "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, preapprenticeship, and/or on-the-job training."

2. EEO Officer: The Contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active Contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the Contractor's staff who are to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Contractor's EEO policy and contractual will be taken as a minimum:

   a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the Contractor's EEO policy and its implementation
will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the Contractor's EEO obligations within thirty days following their reporting for duty with the Contractor.

c. All personnel who are engaged in direct recruitment for the Project will be instructed by the EEO Officer in the Contractor's procedures for locating and hiring minority group employees.

d. Notices and posters setting forth the Contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The Contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the Contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the Project work force would normally be derived.

a. The Contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the Contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the Contractor for employment consideration.

b. In the event the Contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the Contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the Contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The Contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The Contractor will conduct periodic inspections of Project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of Project site personnel.

b. The Contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
c. The Contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The Contractor will promptly investigate all complaints of alleged discrimination made to the Contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Contractor will inform every complainant of all of his avenues of appeal.

6. Training and Promotion:

a. The Contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the Contractor's work force requirements and as permissible under Federal and State regulations, the Contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

c. The Contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The Contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the Contractor relies in whole or in part upon unions as a source of employees, the Contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the Contractor either directly or through a Contractor's association acting as agent will include the procedures set forth below:

a. The Contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The Contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The Contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the Contractor, the Contractor shall
so certify to the SHA and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the Contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the Contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the Contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the Contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such Contractor shall immediately notify the SHA.

8. Selection of SubContractors, Procurement of Materials and Leasing of Equipment:
The Contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subContractors, including procurement of materials and leases of equipment.

a. The Contractor shall notify all potential subContractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the Contractor enters into pursuant to this contract. The Contractor will use his best efforts to solicit bids from and to utilize DBE subContractors or subContractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The Contractor will use his best efforts to ensure subContractor compliance with their EEO obligations.

9. Records and Reports: The Contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

a. The records kept by the Contractor shall document the following:

(1) The number of minority and non-minority group members and women employed in each work classification on the Project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

(4) The progress and efforts being made in securing the services of DBE subContractors or subContractors with meaningful minority and female representation among their employees.

b. The Contractors will submit an annual report to the SHA each July for the duration of the Project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form

AGREEMENT NO. 56-69
III. NONSEGREGATED FACILITIES
(Applicable to all Federal-aid construction contracts and to all related subcontracts of $10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction Contractor, subContractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The Contractor agrees that it has obtained or will obtain identical certification from proposed subContractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of $10,000 or more and that it will retain such certifications in its files.

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE
(Applicable to all Federal-aid construction contracts exceeding $2,000 and to all related subcontracts, except for Projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. General:
a. All mechanics and laborers employed or working upon the site of the work 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 (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)) the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor or its subContractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates) conforming under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495 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. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on
behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, 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 paragraphs 4 and 5 of this Section IV.

b. 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.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

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

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

(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, when such a classification prevails in the area in which the work is performed.

c. If the Contractor or subContractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification 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 DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour 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.

d. In the event the Contractor or subContractors, as appropriate, the laborers or mechanics to be employed in the additional 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 Wage and Hour Administrator for determination. Said 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.

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. Payment of Fringe Benefits:
   a. 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 or subContractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

b. If the Contractor or subContractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a 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.

4. Apprentices and Trainees (Programs of U.S. DOL) and Helpers:
   a. Apprentices:
      (1) 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 DOL, 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/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.

      (2) The allowable ratio of apprentices to journeyman-level employees 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 employee 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 listed in 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 or subContractor 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-level hourly rate) specified in the Contractor's or subContractor's registered program shall be observed.
(3) 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 journeyman-level 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 for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) 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 or subContractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

(1) 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 DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. 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.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level 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-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the Contractor or subContractor 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.

c. Helpers:
Helpers will be permitted to work on a Project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under a approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. Apprentices and Trainees (Programs of the U.S. DOT):
Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

6. Withholding:
The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the Contractor or subContractor 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, as 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, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the Contractor, 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.

7. Overtime Requirements:
No Contractor or subContractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.
8. Violation:
Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the Contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of $10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:
The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies 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 8 above.

V. STATEMENTS AND PAYROLLS
(Applicable to all Federal-aid construction contracts exceeding $2,000 and to all related subcontracts, except for Projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):
The Contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:
   a. Payrolls and basic records relating thereto shall be maintained by the Contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

   b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent 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. In addition, for Appalachian contracts, the payroll records shall contain notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found 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 and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual
cost incurred in providing benefits. Contractors or subContractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each Contractor and subContractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. 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 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime Contractor is responsible for the submission of copies of payrolls by all subContractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subContractor or his/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 paragraph 2b of this Section V and that such information is correct and complete;

2. that such 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 the Regulations, 29 CFR 3;

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

e. 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 2d of this Section V.

f. The falsification of any of the above certifications may subject the Contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The Contractor or subContractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, 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 SHA, the FHWA, the DOL, or all may, after written notice to the Contractor, sponsor, applicant, or owner, take such actions 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.
VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than $1,000,000 (23 CFR 635) the Contractor shall:

   a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

   b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

   c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime Contractor's option, either a single report covering all contract work or separate reports for the Contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The Contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the Contractor's own organization (23 CFR 635).

   a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime Contractor and equipment owned or rented by the prime Contractor, with or without operators. Such term does not include employees or equipment of a subContractor, assignee, or agent of the prime Contractor.

   b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the Contractor under the contract provisions.

3. The Contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as
the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION
1. In the performance of this contract the Contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The Contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the Contractor enters into pursuant to this contract, that the Contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS
In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, Contractors, suppliers, and workers on Federal-aid highway Projects, it is essential that all persons concerned with the Project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the Project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway Project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the Project: NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications,
contracts, or costs of construction on any highway or related Project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related Project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined not more that $10,000 or imprisoned not more than 5 years or both."

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT
(Applicable to all Federal-aid construction contracts and to all related subcontracts of $100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction Contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. Instructions for Certification - Primary Covered Transactions:
(Applicable to all Federal-aid contracts - 49 CFR 29)

a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction.
The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier
covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

   a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

   b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

   c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

   d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

   *** *** ***

2. Instructions for Certification - Lower Tier Covered Transactions:
(Applicable to all subcontracts, purchase orders and other lower tier transactions of $25,000 or more - 49 CFR 29)

   a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

   b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

   c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

   d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

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e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 - 49 CFR 20)

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

b. 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 Form to Report Lobbying," in accordance with its instructions.

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

3. 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 and that all such recipients shall certify and disclose accordingly.
MEMORANDUM

U.S. Department of Transportation
Federal Highway Administration

Subject: ACTION: The Discontinuance of the FHWA-45, FHWA-47 & FHWA-810

From: /s/ Original signed by
Dwight Horne,
Director Office of Program Administration

To: Directors of Field Services Division Administrators Federal Lands Administrator

Effective immediately, Divisions and/or our State Transportation Agency (STA) partners will no longer be required to submit data to HIPA-10 that is collected as it relates to:

The FHWA-45, Bid Price Data,

The FHWA-47, Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds, and

The FHWA-810, Bid Tabulation Data

For several years, STAs have commented that the reports generated from the data collection efforts were of little utility and that there were statistical limitations, statistical significance, and accuracy issues with the data which were felt could result in misleading information. There was also a noted reporting burden on States and Contractors. The suggestions have often been to eliminate the reporting requirements all together.

In 2003, the GAO conducted a review of the States' highway construction costs. As part of its review, the GAO reviewed FHWA's cost data collection requirements. In its discussions, the GAO also identified similar issues and concerns with the data series as discussed above. In a December 2003 report GAO made recommendations to FHWA to review the usefulness and accuracy and/or under reporting of the data collected.

As a result, FHWA has determined that it is appropriate to discontinue the reporting requirements for the FHWA 45, 47 and 810 as collection of this data for needed reports such as the "Highway Statistics" publication can be collected through other means. The main reasons for this decision are the strong disinterest in the data collection activities and comments provided to us by our STA partners suggesting that we are not collecting the data extensively enough to be of utility. We will also be going through an abridged regulatory update as appropriate to reflect this action. Please contact Bob Wright, at 202-366-4630, to answer any questions and/or for additional information on this matter.

The FHWA 45, Bid Price Data, was collected on NHS Projects over $500,000. The FHWA 45 served as a means to compute the highway construction bid price index, which is published in the document "Price Trends for Federal-aid Highway Construction. The data was used in our "Highway Statistics" publication and by other outside sources, including its use by congressional committees in their deliberations on pending new highway legislation.

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The FHWA 47, Statement of Materials and Labor Used by Contractors on Highway Construction Involving Federal Funds, was collected on all NHS Projects over $1,000,000. The FHWA 47 served as a means to collect data related to the quantities of materials, supplies and labor used for various types of highway construction. The data reported on this form was used primarily to compute usage factors for these various materials, supplies, and labor. These factors were used to determine the economic impacts of cuts or increases in the cost of Federal-aid highway construction.

FHWA 810, Bid Tabulation Data was collected on all NHS Projects. The needs for the FHWA 810 have been to compute national summaries on the largest contract awards and contract size statistics. The data was also used to produce state-by-state summaries on contracts awards, number of bids and average number of bids.
Appendix B

CIVIL RIGHTS DIVISION REQUIREMENTS FOR
LOCALLY ADMINISTERED PROJECTS
(FEDERALLY FUNDED)

The BIDDER, its agents, employees, assigns or successors, and any person, firm, or agency of whatever nature with whom it may contract or make an agreement, shall comply with the provisions of the Virginia Fair Employment Contracting Act, Sections 2.1-374 through 2.1-376.1 of the Code of Virginia, as amended. During the performance of this Agreement, the LOCALITY agrees as follows:

a. The BIDDER will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the BIDDER. The BIDDER agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, including the names of all contracting agencies with which the LOCALITY has agreements of over ten thousand dollars.

b. The BIDDER will, in all solicitations or advertisements for employees placed by or on behalf of the BIDDER, state that the BIDDER is an equal opportunity employer; provided, however, that notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The BIDDER will include the provisions of the foregoing paragraphs "a" and "b" in every subcontract or purchase order of over ten thousand dollars, so that such provisions will be binding upon each subcontractor or vendor. Nothing contained in this section shall be deemed to empower any agency to require any BIDDER to grant preferential treatment to, or discriminate against, any individual or any group because of race, color, religion, sex or national origin on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex or national origin employed by such BIDDER in comparison with the total number or percentage of persons of such race, color, religion, sex or national origin in any community or in the Commonwealth.

NON-DISCRIMINATION PROVISION: The BIDDER agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibits discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, sex or national origin; and further agrees to abide by Executive Order No. 11246 entitled "Equal Employment Opportunity," as amended by Executive Order No. 11375 and as supplemented in the Department of Labor Regulations (41 CFR Part 60), which prohibit discrimination on the basis of age. Sections 49 CFR 21 and 26 CFR 710.405(b) are incorporated by reference in all contracts and subcontracts funded in whole or in part with federal funds. The BIDDER shall comply with the Americans with Disabilities Act (ADA), and with the provisions of the Virginians with Disabilities Act, Sections 51.5-40 through 51.5-46 of the Code of Virginia, as amended, the terms of which are incorporated herein by reference.

In the event of the BIDDER's noncompliance with the nondiscrimination provisions of this Agreement, the VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including but not limited to:

a. withholding of payments to the LOCALITY under this Contract until the BIDDER complies; and/or

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b. cancellation, termination or suspension of this Contract, in whole or in part.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964: During the performance of this Agreement, the LOCALITY, for itself, its assignees and successors in interest (herein referred to as "the RECIPIENT"), agrees as follows:

a. Compliance with Regulations: The BIDDER will comply with the Regulations of the United States Department of Transportation relative to nondiscrimination in Federally-assisted programs of the United States Department of Transportation (Title 49), Code of Federal Regulations, Part 21, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

b. Nondiscrimination: The BIDDER with regard to the services provided by it after award and prior to completion of this Agreement, will not discriminate on the grounds of race, color, sex, national origin, age or handicap in the selection and retention of subContractors, including procurements of materials and leases of equipment. The BIDDER will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the services covers a program set forth in Appendix B of the Regulations.

c. Solicitations for SubContractors: In all solicitations, either by competitive bidding or negotiation made by the BIDDER for work to be performed under a subcontract, including procurements of materials or equipment, each potential subContractor or supplier shall be notified by the BIDDER of the BIDDER'S obligations under this Agreement.

d. Information and Reports: The BIDDER will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the VDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the BIDDER is in the exclusive possession of another who fails or refuses to furnish this information, the BIDDER shall so certify to the VDOT, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

CertiFication of Provisions: The BIDDER will include the provisions of paragraphs "a" through "e" in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, orders or instructions issued pursuant thereto. The BIDDER will take such action with respect to any subContractor or procurement as the VDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, in the event the BIDDER becomes involved in, or is threatened with, litigation with a subContractor or supplier as a result of such direction, the BIDDER may request the VDOT to enter into such litigation to protect the interests of the VDOT and, in addition, the BIDDER may request the United States to enter into such litigation to protect the interests of the United States.

CERTIFICATION REGARDING NON-SEGREGATED FACILITIES: By the execution of this Agreement, the BIDDER certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained.
maintained. The BIDDER further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, national origin, age or handicap, because of habit, local custom or otherwise. It agrees that, except where it has obtained identical certification from proposed subcontractors and material suppliers for specific time periods, it will obtain identical certification from proposed subcontractors or material suppliers prior to the award of subcontracts or the consummation of material supply agreements exceeding ten thousand dollars, and that it will retain such certifications in its files.

TDD/TTY EQUIPMENT FOR THE DEAF: When seeking public participation through the maintenance of a toll free hot line number and/or publishing Project-related materials, the BIDDER agrees to ensure that all citizens have equally effective communication. The BIDDER agrees to provide or identify a telecommunications device for the deaf/teletypewriter (TDD/TTY) or acceptable means of telephone access for individuals with impaired speech or hearing. The BIDDER will provide notice of a TDD/TTY number whenever a standard telephone number is provided.

DISADVANTAGED BUSINESS ENTERPRISES: The BIDDER, its agents, employee, assigns, or successors, and any person, firm or agency of whatever nature with whom it may contract or make an agreement, shall comply with the provisions of 49 CFR, Part 26, as amended, which is hereby made part of this Agreement by reference. The BIDDER shall take all necessary and reasonable steps in accordance with 49 CFR, Part 26, as amended, to ensure that DBE’s have equal opportunity to compete for and perform on contracts and subcontracts under this Agreement.

A Disadvantaged Business Enterprise (“DBE”) is a business certified in accordance with the guidelines of 49 CFR, Part 26, as amended, by the United States Department of Transportation designated and approved agency. A listing of certified firms can be located at www.dmba.state.va.us.

RECORD KEEPING

The BIDDER shall provide all information and reports required by the regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, and other sources of information, and its facilities as may be determined by the VDOT or the FHWA to be pertinent to ascertain compliance with such regulations, orders and requirements.

The VDOT’s Civil Rights Division or Office of Inspector General Auditing Division and FHWA will perform audits as needed to ensure compliance with all Guidelines.

SF030AF-0708
Reissued July 2008

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offeror’s or Bidder’s attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

AGREEMENT NO. 56-64
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2. The goals for female and minority participation, expressed in percentage terms of the Contractor's aggregate work force in each trade on all construction works in the covered area, are as follows:

   Females - 6.9%
   Minorities - See Attachment "A"

The goals are applicable to all the Contractor's construction work performed in the covered area, whether or not it is Federal or federally assisted. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications, set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established herein. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its Projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from Project to Project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days the award of any construction subcontract in excess of $10,000 at any tier for construction works under this contract. The notification shall list the name, address and telephone number of the subcontractor, employer identification number, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract and the geographical area in which the contract is to be performed.
FEDERAL TRANSIT ADMINISTRATION
For Professional Services – Operations/Management Contracts

This list uses the original FTA numbering of clauses for all clauses regardless of type of services. However, only those clauses required for Operations/Management contracts are included.

C1 - Federally Required Contract Clauses for federally funded contracts

1. Fly America Requirements
6. Energy Conservation Requirements
7. Clean Water
10. Lobbying: Signatures required, pg 18-19
11. Access to Records and Reports
12. Federal Changes
13. Bonding Requirements: For A&E, the County requires Errors and Omission Coverage
14. Clean Air
15. Recycled Products
19. No Government Obligation to Third Parties
20. Program Fraud and False or Fraudulent Statements and Related Acts
21. Termination
22. Government-wide Debarment and Suspension
23. Privacy Act
24. Civil Rights Requirements
25. Breaches and Dispute Resolution
28. Disadvantaged Business Enterprises (DBE)
30. Incorporation of Federal Transit Administration (FTA) Terms
1. **FLY AMERICA REQUIREMENTS**
   - 49 U.S.C. § 40118
   - 41 CFR Part 301-10

**Applicability to Contracts**
The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier’s designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

**Parties Covered**
The Fly America requirements flow down from FTA recipients and subrecipients to first tier Contractors, who are responsible for ensuring that lower tier Contractors and subcontractors are in compliance.

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

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6. **ENERGY CONSERVATION REQUIREMENTS**
   - 42 U.S.C. 6321 et seq.
   - 49 CFR Part 18

**Applicability to Contracts**
The Energy Conservation requirements are applicable to all contracts.

**Parties Covered**
Energy Conservation requirements extend to all third party Contractors and their contracts at every tier.

**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.
7. CLEAN WATER REQUIREMENTS
33 U.S.C. 1251

Applicability to Contracts
The Clean Water requirements apply to each contract and subcontract which exceeds $100,000.

(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.

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

Applicability to Contracts
The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

Parties covered
The Lobbying requirements mandate the maximum flow down, (All prime and sub Contractors) pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

Mandatory Clause/Language
- Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A. Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]


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

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


to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

_C1-A is a signature page required with the signed contract, pg 18t._

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**11. ACCESS TO RECORDS AND REPORTS**

49 U.S.C. 5325  
18 CFR 18.36 (i)  
49 CFR 633.17

**Applicability to Contracts**

Reference Chart "Requirements for Access to Records and Reports by Type of Contracts"

**Parties Covered**

Required for all prime Contractors, FTA does not require the inclusion of these requirements in subcontracts.

**Access to Records** - The following access to records requirements apply to this Contract:

1. 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.

2. 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).

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

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

<table>
<thead>
<tr>
<th>Contract Characteristics</th>
<th>Operational Service Contract</th>
<th>Turnkey</th>
<th>Construction</th>
<th>Architectural Engineering</th>
<th>Acquisition of Rolling Stock</th>
<th>Professional Services</th>
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<td>a. Contracts below SAT</td>
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(5100.000)

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*AGREEMENT NO. 56-09*
Sources of Authority:
1. 49 USC 5325 (a)
2. 49 CFR 633.17
3. 18 CFR 18.36 (i)

12. FEDERAL CHANGES
49 CFR Part 18

Applicability to Contracts
The Federal Changes requirement applies to all contracts.

Parties Covered
The Federal Changes requirement flows down appropriately to each applicable changed requirement.

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.

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

Applicability to Contracts
The Clean Air requirements apply to all contracts exceeding $100,000, including indefinite quantities where the amount is expected to exceed $100,000 in any year.

Parties Covered
Clean Air requirements flow down to all subcontracts which exceed $100,000.

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

Applicability to Contracts
The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or Contractor procures $10,000 or more of one of these items during the fiscal year, or has procured $10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases $10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was $10,000.

Parties Covered
These requirements flow down to all to all Contractor and subContractor tiers.

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.

19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts
Applicable to all contracts.

Parties Covered
Not required by statute or regulation for either primary Contractors or subContractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

No Obligation by the Federal Government.

(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.

20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS
AGREEMENT NO. 56-09
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AND RELATED ACTS
31 U.S.C. 3801 et seq.
49 U.S.C. 5307

Applicability to Contracts
These requirements are applicable to all contracts.

Parties Covered
These requirements flow down to Contractors and subContractors who make, present, or submit covered claims and statements.

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this 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.

21. TERMINATION
49 U.S.C. Part 18
FTA Circular 4220.1E

Applicability to Contracts
All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the Contractor.
Parties Covered
The termination requirements flow down to all contracts in excess of $10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

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

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

If it is later determined by the County 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 County, 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 (General Provision) The County in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 30 days or time period set by the program manager, in writing, 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 the County’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 County setting forth the nature of said breach or default, the County shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the County from also pursuing all available remedies against Contractor and its sureties for said breach or default.

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

e. Termination for Convenience or Default (Architect and Engineering) The (Recipient) may terminate this contract in whole or in part, for the Recipient’s convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications,
reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

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

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

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

22. GOVERNMENT-WIDE DEBARMMENT AND SUSPENSION
49 U.S.C. Part 29
Executive order 12549

Background and Applicability

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed $25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220(b).

Grantees, Contractors, and subContractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, Contractors, and subContractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.
The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

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

Signatures required on page 20

23. PRIVACY ACT
5 U.S.C. 552

Applicability to Contracts
When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

Parties Covered
The Federal Privacy Act requirements flow down to each third party Contractor and their contracts at every tier.

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

2. 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.

24. CIVIL RIGHTS REQUIREMENTS

AGREEMENT NO. 56-93
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Applicability to Contracts
The Civil Rights Requirements apply to all contracts.

Parties Covered
The Civil Rights requirements flow down to all third party Contractors and their contracts with all subcontractors.

Clause Language
The following clause was predicated on language contained at 49 CFR Part 19, Appendix A, but FTA has shortened the lengthy text.

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:


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.

25. BREACHES AND DISPUTE RESOLUTION
49 CFR Part 18
FTA Circular 4220.1E

Applicability to Contracts
All contracts in excess of $100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where Contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Parties Covered
The Breaches and Dispute Resolutions requirements flow down to all tiers (all Contractors and subContractors).

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the County, Transit Bureau Chief. 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 Director of the Division of Transportation. 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 Director of the Division of Transportation shall be binding upon the Contractor and the Contractor shall abide by the decision.

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

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages 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 County and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the Commonwealth of Virginia in which the County 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 County, or
Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)
49 CFR Part 26

Background and Applicability
The newest version on the Department of Transportation’s Disadvantaged Business Enterprise (DBE) program became effective July 16, 2003. The rule provides guidance to grantees on the use of overall and contract goals, requirement to include DBE provisions in subcontracts, evaluating DBE participation where specific contract goals have been set, reporting requirements, and replacement of DBE subContractors. Additionally, the DBE program dictates payment terms and conditions (including limitations on retainage) applicable to all subContractors regardless of whether they are DBE firms or not.

The DBE program applies to all DOT-assisted contracting activities. A formal clause such as that below must be included in all contracts above the micro-purchase level. The requirements of clause subsection b flow down to subcontracts.

Clause Language
The following clause language is suggested, not mandatory. It incorporates the payment terms and conditions applicable to all subContractors based in Part 26 as well as those related only to DBE subContractors. The suggested language allows for the options available to grantees concerning retainage, specific contract goals, and evaluation of DBE subcontracting participation when specific contract goals have been established.

Disadvantaged Business Enterprises

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The County’s overall goal for DBE participation is _7_%. A separate contract goal for DBE participation has not been established for this procurement. However, all attempts to obtain a certified DBE from the Commonwealth of Virginia Minority Business Enterprise list is requested.

 Virginia Department of Minority Business Enterprise
 111 East Main Street, Suite 300
 Richmond, VA 23219
 (Phone) 804-786-5560, (Toll Free) 1-800-223-0671 or at
 www.dmbe.Virginia.gov/programs.html

b. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County deems appropriate. Each subcontract the Contractor signs with a subContractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
c. The Contractor is required to pay its subContractors performing work related to this contract for satisfactory performance of that work no later than 7 days after the Contractor’s receipt of payment for that work from the County. In addition, the Contractor is required to return any retainage payments to those subContractors within 30 days after incremental acceptance of the subContractor’s work by the County and Contractor’s receipt of the partial retainage payment related to the subContractor’s work.

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

30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
FTA Circular 4220.1E

Applicability to Contracts
The incorporation of FTA terms applies to all contracts.

Parties Covered
The incorporation of FTA terms in all subContractor’s contracts

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 (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.
Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding $100,000)

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

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

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

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

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

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

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

[Signature of Contractor's Authorized Official]

[Name and Title of Contractor's Authorized Official]

[Date]
GOVERNMENT-WIDE DEBARMENT AND SUSPENSION CERTIFICATION

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

Signature of Contractor's Authorized Official

Mia Bank, VP; Corp Sec
Name and Title of Contractor's Authorized Official

3/31/10 Date

The undersigned chief legal counsel for the Alta Bicycle Share Inc., an Oregon Corporation

(enterprise)

Hereby certifies that the Alta Bicycle Share Inc. has authority under state and local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Firm’s Attorney

4/1/10 Date
1. As, used in this provision:
   a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
   b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
   c. "Employer identification number" means the Federal Social Security number used on the Employer’s Quarterly Federal Tax Return, U. S. Treasury Department Form 941;
   d. "Minority" includes:
      (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
      (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race);
      (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
      (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any SubContractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or SubContractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors and SubContractors toward a goal in an approved Plan does not excuse any covered Contractor or SubContractor’s failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make
substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, shall assign two or more women to each construction Project. The Contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off the street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or women sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor’s employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper or annual report; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting
the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents and General Foremen prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including in any news media advertisement that the Contractor is "An Equal Opportunity Employer" for minority and female, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and SubContractors with whom the Contractor does or anticipates doing business.

i. Directs its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities through appropriate training or other means.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated, except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Contractors and suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

q. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a Contractor association, joint Contractor-union, Contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables and can provide access to documentation which demonstrates the
effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. Goals for women have been established. However, the Contractor IS required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner that is even thought the Contractor has achieved its goals for women, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or nation origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director will proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate and make known to the Department a responsible official as the EEO Officer to monitor all employment related activity, to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors will not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).
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<th>Goal (Percent)</th>
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**AGREEMENT NO. 56-89**

**99**
NC Bertie; NC Camden; NC Chowan; NC Gates; NC Hertford; 
NC Pasquotank; NC Perquimans; VA Isle of Wight; VA 
Matthews; 
VA Middlesex; VA Southampton; VA Surry; VA Franklin.

Washington, DC:
020 Washington, DC.

SMSA Counties:
8840 Washington, DC - MD - VA
DC District of Columbia; MD Charles; MD Montgomery MD 
Prince 
Georges; VA Arlington; VA Fairfax; VA Loudoun; VA Prince 
William 
VA Alexandria; VA Fairfax City; VA Falls Church.

Non-SMSA Counties
MD Calvert; MD Frederick; MD St. Marys; MD Washington; VA 
Clarke; 
VA Culpeper; VA Fauquier; VA Frederick; VA King George; 
VA Page; VA 
Rappahannock; VA Shenandoah; VA Spotsylvania; VA 
Stafford; VA 
Warren; VA Westmoreland; VA Fredericksburg; VA Winchester 
WV Berkeley; 
WV Grant; WV Hampshire; WV Hardy; WV Jefferson; WV 
Morgan.

Tennessee:
052 Johnson City - Kingsport - Bristol, TN - VA

SMSA Counties:
3630 Johnson City - Kingsport -Bristol, TN-VA
TN Carter; TN Hawkins; TN Sullivan; TN Washington; VA 
Scott: VA 
Washington; VA Bristol.

Non-SMSA Counties
TN Greene; TN Johnson; VA Buchanan; VA Dickenson; VA Lee; 
VA Russell; VA Smyth; VA Tazewell; VA Wise; VA Norton; WV 
McDowell; 
WV Mercer.

Maryland:
019 Baltimore MD

Non-SMSA Counties
MD Caroline; MD Dorchester; MD Kent; MD Queen Annes; MD 
Somerset; 
MD Talbot; MD Wicomico; MD Worcester; VA Accomack; VA 
Northampton.
This list uses the original FTA numbering of clauses for all clauses regardless of type of services. However, only those clauses required for Operations/Management contracts are included.

**C1 - Federally Required Contract Clauses for federally funded contracts**

1. Fly America Requirements
2. Energy Conservation Requirements
3. Clean Water
4. Lobbying: Signatures required, pg 18-19
5. Access to Records and Reports
6. Federal Changes
7. Bonding Requirements: For A&E, the County requires Errors and Omission Coverage
8. Clean Air
9. Recycled Products
10. No Government Obligation to Third Parties
11. Program Fraud and False or Fraudulent Statements and Related Acts
12. Termination
13. Government-wide Debarment and Suspension
14. Privacy Act
15. Civil Rights Requirements
16. Breaches and Dispute Resolution
17. Disadvantaged Business Enterprises (DBE)
18. Incorporation of Federal Transit Administration (FTA) Terms
2. **FLY AMERICA REQUIREMENTS**

   49 U.S.C. § 40118
   41 CFR Part 301-10

**Applicability to Contracts**

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

**Parties Covered**

The Fly America requirements flow down from FTA recipients and subrecipients to first tier Contractors, who are responsible for ensuring that lower tier Contractors and subcontractors are in compliance.

**Fly America Requirements**

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

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6. **ENERGY CONSERVATION REQUIREMENTS**

   42 U.S.C. 6321 et seq.
   49 CFR Part 18

**Applicability to Contracts**

The Energy Conservation requirements are applicable to all contracts.

**Parties Covered**

Energy Conservation requirements extend to all third party Contractors and their contracts at every tier.

**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.

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7. **CLEAN WATER REQUIREMENTS**

   33 U.S.C. 1251
Applicability to Contracts

The Clean Water requirements apply to each contract and subcontract which exceeds $100,000.

(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.

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

Applicability to Contracts

The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

Parties covered


Mandatory Clause/Language

- Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A. Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1955, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]


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

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


contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Cl-A is a signature page required with the signed contract, pg 18r.

11. ACCESS TO RECORDS AND REPORTS
49 U.S.C. 5325
18 CFR 18.36 (i)
49 CFR 633.17

Applicability to Contracts
Reference Chart "Requirements for Access to Records and Reports by Type of Contracts"

Parties Covered

Required for all prime Contractors, FTA does not require the inclusion of these requirements in subcontracts.

Access to Records - The following access to records requirements apply to this Contract:

3. 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.

4. 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(1)(11).

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

Requirements for Access to Records and Reports by Types of Contract

<table>
<thead>
<tr>
<th>Contract Characteristics</th>
<th>Operational Service Contract</th>
<th>Turnkey Construction</th>
<th>Architectural Engineering</th>
<th>Acquisition of Rolling Stock</th>
<th>Professional Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>11 Non State Grantees</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>a. Contracts below SAT ($100,000)</td>
<td>Yes'</td>
<td>Those imposed on non-state Grantee pass thru to Contractor</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>b. Contracts above $100,000/Capital Projects</td>
<td>Yes'</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
15. RECYCLED PRODUCTS
42 U.S.C. 6962
40 CFR Part 247
Executive Order 12873

Applicability to Contracts
The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or Contractor procures $10,000 or more of one of these items during the fiscal year, or has procured $10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases $10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was $10,000.

Parties Covered
These requirements flow down to all to all Contractor and subContractor tiers.

Recovered Materials - The Contractor agrees to comply with all the requirements of Section 6062 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.

19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts
Applicable to all contracts.

Parties Covered
Not required by statute or regulation for either primary Contractors or subContractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

No Obligation by the Federal Government.

(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.

20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS
31 U.S.C. 3801 et seq.
49 U.S.C. 5307

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Sources of Authority:
1 49 USC 5325 (a)
2 49 CFR 633.17
3 18 CFR 18.36 (1)

12. FEDERAL CHANGES
49 CFR Part 18

Applicability to Contracts
The Federal Changes requirement applies to all contracts.

Parties Covered
The Federal Changes requirement flows down appropriately to each applicable changed requirement.

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.

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

Applicability to Contracts
The Clean Air requirements apply to all contracts exceeding $100,000, including indefinite quantities where the amount is expected to exceed $100,000 in any year.

Parties Covered
Clean Air requirements flow down to all subcontracts which exceed $100,000.

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.
Applicability to Contracts
These requirements are applicable to all contracts.

Parties Covered
These requirements flow down to Contractors and subContractors who make, present, or submit covered claims and statements.

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, 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.

21. TERMINATION
49 U.S.C. Part 1B
FTA Circular 4220.1E

Applicability to Contracts
All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the Contractor.

Parties Covered
The termination requirements flow down to all contracts in excess of $10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

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

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

If it is later determined by the County 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 County, 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 (General Provision) The County in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 30 days or time period set by the program manager, in writing, 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 the County’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 County setting forth the nature of said breach or default, the County shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the County from also pursuing all available remedies against Contractor and its sureties for said breach or default.

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

e. Termination for Convenience or Default (Architect and Engineering) The (Recipient) may terminate this contract in whole or in part, for the Recipient’s convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

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

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contact or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.
If, after termination for failure to fulfill contract obligations, it is determined that the Contractor
was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County.

22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION
49 U.S.C. Part 29
Executive order 12549

Background and Applicability

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed $25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220(b).

Grantees, Contractors, and subContractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, Contractors, and subContractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

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

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

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

Signatures required on page 20

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23. PRIVACY ACT
5 U.S.C. 552

Applicability to Contracts
When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

Parties Covered
The Federal Privacy Act requirements flow down to each third party Contractor and their contracts at every tier.

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

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

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

24. CIVIL RIGHTS REQUIREMENTS
29 CFR Part 1630, 41 CFR Parts 60 et seq.

Applicability to Contracts
The Civil Rights Requirements apply to all contracts.

Parties Covered
The Civil Rights requirements flow down to all third party Contractors and their contracts with all subcontractors.

Clause Language
The following clause was predicated on language contained at 49 CFR Part 19, Appendix A, but FTA has shortened the lengthy text.

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.

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(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.

25. BREACHES AND DISPUTE RESOLUTION
49 CFR Part 18
FTA Circular 4220.1E

Applicability to Contracts
All contracts in excess of $100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where Contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Parties Covered
The Breaches and Dispute Resolutions requirements flow down to all tiers (all Contractors and subContractors).
Disputes - Disputes arising in the performance of this Contract which are not
resolved by agreement of the parties shall be decided in writing by the authorized
representative of the County, Transit Bureau Chief. 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 Director of the
Division of Transportation. 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 Director of the Division of Transportation shall be
binding upon the Contractor and the Contractor shall abide by the decision.

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

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims,
disputes and other matters in question between the County and the Contractor arising
out of or relating to this agreement or its breach will be decided by arbitration if
the parties mutually agree, or in a court of competent jurisdiction within the
Commonwealth of Virginia in which the County 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 County, or Contractor shall
constitute a waiver of any right or duty afforded any of them under the Contract, nor
shall any such action or failure to act constitute an approval of or acquiescence in
any breach thereunder, except as may be specifically agreed in writing.

26. DISADVANTAGED BUSINESS ENTERPRISE (DBE)
49 CFR Part 26

Background and Applicability
The newest version on the Department of Transportation’s Disadvantaged Business
Enterprise (DBE) program became effective July 16, 2003. The rule provides guidance
to grantees on the use of overall and contract goals, requirement to include DBE
provisions in subcontracts, evaluating DBE participation where specific contract
goals have been set, reporting requirements, and replacement of DBE subContractors.
Additionally, the DBE program dictates payment terms and conditions (including
limitations on retainage) applicable to all subContractors regardless of whether they
are DBE firms or not.

The DBE program applies to all DOT-assisted contracting activities. A formal clause
such as that below must be included in all contracts above the micro-purchase level.
The requirements of clause subsection b flow down to subcontracts.

Clause Language
The following clause language is suggested, not mandatory. It incorporates the
payment terms and conditions applicable to all subContractors based in Part 26 as
well as those related only to DBE subContractors. The suggested language allows for
the options available to grantees concerning retainage, specific contract goals, and
evaluation of DBE subcontracting participation when specific contract goals have been
established.

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112
Disadvantaged Business Enterprises

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The County's overall goal for DBE participation is ___ %. A separate contract goal for DBE participation has not been established for this procurement. However, all attempts to obtain a certified DBE from the Commonwealth of Virginia Minority Business Enterprise list is requested.

Virginia Department of Minority Business Enterprise
111 East Main Street, Suite 300
Richmond, VA 23219
(Phone) 804-786-5560, (Toll Free) 1-800-223-0671 or at www.dmbe.Virginia.gov/programs.html

b. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the County deems appropriate. Each subcontract the Contractor signs with a subContractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. The Contractor is required to pay its subContractors performing work related to this contract for satisfactory performance of that work no later than 7 days after the Contractor's receipt of payment for that work from the County. In addition, the Contractor is required to return any retainage payments to those subContractors within 30 days after incremental acceptance of the subContractor's work by the County and Contractor's receipt of the partial retainage payment related to the subContractor's work.

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

30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
FTA Circular 4220.1E

Applicability to Contracts
The incorporation of FTA terms applies to all contracts.

Parties Covered
The incorporation of FTA terms in all subContractor's contracts

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 (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.
Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding $100,000)

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

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

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

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

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

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

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

[Signature]
Signature of Contractor's Authorized Official

[Title]
Name and Title of Contractor's Authorized Official

[Date]
Date

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GOVERNMENT-WIDE DEBARMENT AND SUSPENSION CERTIFICATION

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

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

The undersigned chief legal counsel for the

Hereby certifies that the

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AGREEMENT NO. 56-09

EXHIBIT F

BILL OF SALE

THIS BILL OF SALE is made and entered into this ___ day of __________, 20___, by and between the County Board of Arlington County, Virginia, a body politic and a political subdivision of the Commonwealth of Virginia ("County Board" or "County") and Alta Bicycle Share, Inc. ("Alta").

Pursuant to the terms of an Agreement Between Alta and the County Board of Arlington County, Virginia Concerning all personal property purchased by the Contractor to satisfy its obligations and requirement of the Work in Agreement Number 56-09 dated __________, 20___ ("Agreement"), and in consideration of the premises set forth in the Agreement, the sufficiency of which are hereby acknowledged, Alta conveys, transfers, and assigns to the County all of its right, title, and interest in and to the inventory, Equipment, and other personal property described in Schedule A attached hereto (collectively, the "Personal Property").

The County will have all of the right, title, and interest in and to the aforesaid Personal Property for itself and its successors and assigns.

Alta hereby represents and warrants that Alta is the sole and lawful owner of the Personal Property; that all the Personal Property is free from all liens, claims financing statements, encumbrances, and rights of others; that Alta has the right to sell and convey the Personal Property and to execute this Bill of Sale; and that Alta will warrant and defend the sale of the Personal Property to the County, its successors, and assigns against the claims and demands of all persons and entities whatsoever.

IN WITNESS WHEREOF, the undersigned duly executes this Bill of Sale as of the date first above written above.

ALTA BICYCLE SHARE, INC.

By: 

Name: MIA BIRK

Title: V.P. AND CORPORATE SECRETARY
SCHEDULE A

Personal Property

[ATTACH LIST]