

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

705 Elmwood Avenue
Providence, RI 02907

GENERAL GUIDELINES FOR COMPLETING REQUEST FOR PROPOSAL PACKAGE

This document is intended as a guideline to assist prospective Bidders in successfully completing the necessary Bid paperwork. You are strongly encouraged to read the Instructions for Bidders Sections very carefully. This document is NOT intended to replace the more-detailed instructions that are included in the attached Bid Package.

- It is **EXTREMELY IMPORTANT** that all required forms be filled out completely. Federal and State Regulations mandate that these forms be filled out properly. Failure to fill out these forms may result in your Bid being ruled non-responsive. Non Responsive Bids **will not** be awarded the contract.
- **REMEMBER to completely fill out** all REQUIRED FORMS (see REQUIRED FORMS Checklist). The **forms that are checked off are the only ones that apply to this Bid.**
- If a form does not apply to your business or bid, please mark the form Not Applicable or some other similar wording at your discretion.
- DBE (Disadvantaged Business Enterprise) Obligation. RIPTA agrees to ensure that DBES as outlined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts. Therefore it is imperative that you read the DBE Section and complete the necessary Paperwork. All DBEs submitted must be certified by the State of Rhode Island at the time of proposal submittal.
- Make Sure the Bid Response is received by the RIPTA Purchasing Department by the designated date and time. Late Bids will not be accepted
- It shall be the responsibility of prospective bidders to check the State of Rhode Island, Department of Administration Division of Purchases Website for any addenda.
- Make Sure that the Bid is returned in an Envelope or Box **CLEARLY LABELED** with the following Information: **Bid Number and what the Bid is for. This information should be in the lower left hand corner.** The envelope should also be labeled **BID DOCUMENTS ENCLOSED**
- When in doubt, contact RIPTA Contracts Manager (401) 784-9500 extension 214 for assistance.
- **Bid must be submitted pre-punched for standard three ring binders. Spiral bound bid submittals will not be allowed.**

Please refer to Page 80 for Scope of Work

Return Address

DUE: **February 7, 2012**

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

265 Melrose Street
Providence, RI 02907

REQUIRED COMPANY INFORMATION FORM

The following information is mandatory; Failure to complete this section may jeopardize your eligibility to be awarded the contract.

THIS INFORMATION IS REQUIRED IN ACCORDANCE WITH 49CFR 26.11

PLEASE PRINT OR TYPE YOUR INFORMATION

COMPANY NAME _____

COMPANY STREET: ADDRESS: _____

COMPANY MAILING: ADDRESS: _____

COMPANY CONTACT PERSON: _____

COMPANY TELEPHONE NUMBER: _____

COMPANY TELEFAX NUMBER: _____

COMPANY CONTACT EMAIL: _____

AGE OF THE FIRM (YEARS): _____

ANNUAL GROSS RECEIPTS (DOLLARS): _____

IS YOUR FIRM CERTIFIED BY THE STATE
OF RHODE ISLAND AS A DISADVANTAGED
BUSINESS ENTERPRISE ?

DUNN AND BRADSTREET NUMBER: _____

RHODE ISLAND PUBLIC TRANSIT AUTHORITY
Request for Proposal Number 12-16

REQUEST FOR PROPOSALS

<u>PROPOSAL NO:</u>	<u>12-16</u>
<u>DATE OF INVITATION:</u>	<u>January 4, 2011</u>
<u>PRE-PROPOSAL MEETING:</u>	<u>January 24, 2012</u>
<u>PROPOSAL RECEIPT DATE:</u>	<u>February 7, 2012</u>
<u>FURNISHING OF:</u>	<u>Indoor/Outdoor Bus Advertising</u>
<u>FEDERAL TRANSIT ADMINISTRATION PROJECT NO.</u>	<u>RIPTA Operating Funds</u>

The participant shall specify the official name of his/her company in the upper left-hand corner of the Proposal Response Envelope and show **PROPOSAL NO: and Proposal Description in the lower left-hand corner and send or deliver to:**

**Purchasing Department
Room 217
705 Elmwood Avenue
Providence, RI 02907**

The participant shall execute the offer form enclosed herewith.

Proposals will be reviewed and evaluated; all participants will be notified as soon as approval of award is made.

The proposer shall execute the offer form enclosed herewith. The proposer shall return **Five copy(ies)** with the **original** proposal.

RIPTA RESERVES THE RIGHT TO REJECT PROPOSALS FROM PARTICIPANTS WHO HAVE NOT USED THE FORM AND PROPER PROPOSAL RESPONSE ENVELOPE FORMAT.

RIPTA RESERVES THE RIGHT TO CANCEL ANY PARTICULAR SOLICITATION, AND/OR REJECT ANY OR ALL PROPOSALS.

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I. CALENDAR

A. Date of Invitation:

January 4, 2011

B. Pre-Proposal Conference:

1. Date: January 24, 2012

2. Time: 1:00 p.m. Eastern Time

3. Place: RIPTA Board Conference Room
269 Melrose Street, Providence, RI

Any and all appeals must be submitted in writing prior to the time and date set for the Pre-Proposal Meeting.

C. Request for Approved equals and Questions

must be submitted **ELECTRONICALLY IN MICROSOFT WORD FORMAT** to RIPTA Contracts Manager by:

1. Date: January 24, 2012

2. Time: 1:00 p.m. Eastern Time

3. Response to approved equals: 10 - 14 days prior to proposal opening.

D. Proposal Receipt:

1. Date: February 7, 2012

2. Time: 1:00 p.m. Eastern Time

RHODE ISLAND PUBLIC TRANSIT AUTHORITY

Request for Proposals Number 12-16

II. NOTICE TO OFFERORS

A. DATE: January 4, 2011

The Rhode Island Public Transit Authority (RIPTA) is requesting proposals for the following:

Indoor/Outdoor Bus Advertising

All proposals shall be submitted in the required format and quantity as set forth in the RFP. This proposal must be received by February 7, 2012 at 1:00 p.m. Eastern Time by the Purchasing Department, Room 217, 705 Elmwood Avenue Providence, Rhode Island 02907.

Award of contract is subject to financial assistance of 80% from the U.S. Department of Transportation (FTA Project RIPTA Operating Funds) and 20% from RIPTA. The successful proposer shall comply with the conditions and terms applicable thereunder.

A Pre-Proposal Meeting will be held at the RIPTA Transportation Building Conference Room, 269 Melrose Street Providence, RI at 1:00 pm Eastern Time on January 24, 2012.. Proposers are expected to download and review the Proposal Scope of Work prior to the pre-proposal meeting.

The successful proposer shall be required to comply with all applicable Equal Opportunity and Disadvantaged Business Enterprise regulations. Bidders are encouraged to view the Rhode Island Minority Business Enterprise (RIMBE) website for a list of Disadvantaged Business Enterprise vendors that may be interested in working with your company on this proposal. All DBEs submitted must be certified by the State of Rhode Island at the time of proposal submittal. The RIMBE Website address is: <http://www.mbe.ri.gov/search.php>.

The Disadvantaged Business Enterprise goal for this project is: not applicable

The successful proposer shall be required to certify that he is not on the Comptroller General's List of Ineligible Contractors.

An electronic copy of the RFP is available on the State of Rhode Island, Department of Administration, Division of Purchases Website.

The website address is: www.purchasing.ri.gov/RIVIP/ExternalBidSearch.asp. RIPTA Requests for Proposals can be Public Bid Opportunities, Quasi Public Sector, listed under the Rhode Island Public Transit Authority. ***Proposers must download the proposal documents and complete the required forms.***

If you are unable to access the Internet; a printed copy of the Proposal may be obtained from RIPTA's Purchasing Department by calling Michael J. McGrane at (401) 784-9500, ext. 214.

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III. CONTACT LIST

PLEASE CONTACT THE FOLLOWING PERSONS FOR ANY
QUESTIONS YOU MAY HAVE:

A. Specifications/Scope of Work

Mr. Daniel Banister
Phone (401) 784-9500 extension 219

B. Contracts Manager

Mr. Michael J. M^cGrane
Phone: (401) 784-9500 extension 214
mmcgrane@ripta.com

C. DBE Liaison Officer

Mrs. Lisa Hanson
Phone: (401) 784-9500 extension 125.
lhanson@ripta.com

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IV. INSTRUCTIONS FOR PROPOSERS

A. Definition of Terms.

Whenever herein or in the proposal contract documents the following terms, pronouns or abbreviations are used, the intent and meaning shall be interpreted as follows:

1. **Procuring agency**

Procuring Agency is defined as the Rhode Island Public Transit Authority.

2. **RIPTA**

RIPTA shall refer to the Rhode Island Public Transit Authority.

3. **Contractor**

Contractor shall mean the successful proposer to whom a contract is awarded.

4. **Request for Proposal (RFP)**

Request for Proposal shall mean the complete assembly of related documents, whether attached or incorporated by reference, furnished by RIPTA for the purpose of proposing, including the Request for Proposal, the Instructions for Proposers, Supplemental Conditions, Specifications, Proposal Form, Proposal Attachments, and Addenda, if any. Proposals shall be in strict accordance with the Terms of the RFP.

5. **Authorized Signature.**

The person who is executing this contract on behalf of the Proposer and who is authorized to bind the Proposer.

6. **Request for Proposal.**

The advertisement of the issuance by RIPTA of a Request for Proposal, which is published, posted and sent to prospective Proposers informing interested persons of the proposed procurement.

7. **Proposal Evaluation Factors/Criteria**

Evaluation Factors/Criteria given in the scope of work are not listed in order of priority. The order of the listing has no relationship to the relative importance of the factors.

8. **Basis of Award**

The Contract will be awarded to the vendor that submits the proposal that is rated the overall best value to the Authority.

9. **Notice of Award.**

The receipt of a Purchase Order or Letter of Contract issued by RIPTA shall serve as notice of the award of contract.

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10. Specifications.

The written description and statement of necessary requirements of the equipment/construction, supplies and/or service to be provided.

11. Tender

The Proposer's documents and all attachments tendered in response to the proposal requests.

B. Form of Proposal and Signature.

The proposal shall be presented with an original and Five copies on the forms provided herewith by RIPTA and shall be enclosed in a sealed envelope marked and addressed as required on the proposal form.

Depending upon whom the proposal is made by, the following signature and instructions must be followed:

1. Sole Owner.

Proposal shall be signed with his full name, and his address shall be given.

2. General Partnership.

Proposal shall be signed with the partnership name by a partner who shall also sign his/her own name, and the name and address of each partner shall be given.

3. Limited Partnership

Proposal shall be signed with the partnership name by a general partner who has authorization to do so who shall also sign his/her own name.

4. Corporation.

Proposal shall be signed by an officer or other individual who has the full and proper authorization to do so, and the corporate seal shall be affixed to the contract, or if the corporate seal is not affixed to the contract and it is signed by a person other than an officer, there must be attached to the contract a certified copy of a resolution of the corporation authorizing such officer or person to sign written contracts for and on behalf of the corporation.

C. Proposal.

The terms of the proposal must not be changed. All blank spaces in said form shall be properly filled. Alterations by erasure or interlineation must be explained or noted in the proposal over the signature of the Proposer. If the unit price and the total amount named by a Proposer for any item, do not agree, **the unit price** alone will be considered as representing the Proposer's intention.

D. Unauthorized Conditions.

Unauthorized conditions, limitations or provisions attached to a proposal will render it informal and may cause its rejection.

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E. Submission of Proposal.

Prior to the hour specified in the Request for Proposal inviting sealed proposals, all proposals shall be delivered to the Contracts Manager at the address shown in the Request for Proposal.

Each proposal shall be in a sealed envelope properly labeled on the outside with the proposal number and description. No proposals received after said time or at any place other than the time and place as stated in the Request for Proposal will be considered. No proposal electronically transmitted , e.g. email and fax will be considered.

F. Modification or Withdrawal of Proposal.

A proposal may be modified or withdrawn by written or telegraphic notice received in the office designated in the Request for Proposal not later than the exact time set for receiving of proposals. A telegraphic notice of modification or withdrawal of a proposal telephoned by the receiving telegraphic office no later than the set for opening of proposals will be considered if the message is confirmed by the telegraph company by sending a copy of a written telegram which formed the basis of the telephone call. A proposal may be withdrawn in person by a Proposer or his/her authorized representative provided his/her identity is made known and he signs a receipt for the proposal if the withdrawal is prior to the exact time set for receiving the proposals. Modifications of proposals and requests for withdrawal of proposals which are received in the office designated in the Request for Proposals after the exact time set for opening are "late modifications" and "late withdrawals" respectively. A late modification or late withdrawal will be subject to the rules and procedures applicable to late proposals. A late modification of an otherwise successful proposal will be opened at any time it is received. If, in the judgment of the Director of Procurement, it makes the terms of the proposal more favorable to RIPTA, it will be presented to the Contract Manager and Director of Procurement for consideration.

G. Samples

Samples, when required, must be submitted within the time specified, at no expense to RIPTA. If not, destroyed or used up during testing, samples will be returned upon request at the Proposer's expense.

H. Canvass of Proposals.

At the hour specified in the Request for Proposal, a designee will receive the proposals. An award will be made or proposals rejected by RIPTA within the time specified in the specifications or proposal forms, or if not specified, within a reasonable time after proposals have been opened.

I. Rejection of Proposals.

RIPTA reserves the right to reject any and all proposals. The right is reserved to reject any or all proposals, and to waive technical defects as the interest of RIPTA may require. Each Proposer shall be notified if all proposals are rejected.

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J. Sales Tax Exemption.

RIPTA confirms there are no state, local or federal taxes applicable to this purchase.

K. Delivery Charges.

Unless otherwise stated in the RFP, Proposers shall include freight and/or delivery charges in the total price of their proposals.

L. Alternative Proposal

Submissions of an alternative proposal or proposals, except as specifically called for in the Specifications or RFP, will render the proposal informal and may cause its rejection.

M. Non-Collusive Affidavit.

The Proposer represents and warrants that its proposal is genuine and not sham or collusive or made in the interest or in behalf of any person not therein named, and that the Proposer has not, directly or indirectly, induced or solicited any other Proposer to submit a sham proposal or any other person, firm or corporation to refrain from proposing, and that the Proposer has not in any manner sought by collusion to secure itself an advantage over any other Proposer.

N. Interest of RIPTA Personnel.

The Proposer represents and warrants that neither the General Manager, nor any Board Member, nor any employee of RIPTA, is in any manner interested directly or indirectly in the proposal or in the contract, which may be made under it, or in any expected profits to arise therefrom.

O. Penalty for Collusion.

If at any time it shall be found that the person, firm or corporation to whom a contract has been awarded has, in presenting any proposal or proposals, colluded with any other party or parties, then the contract so awarded shall be **voidable** by RIPTA and the Contractor and his bondsmen shall be liable to RIPTA for all loss or damage which RIPTA may suffer thereby and the RIPTA Board may advertise for a new contract for said labor, supplies, materials, equipment or service.

P. Proposal Acceptance Period

All proposals shall remain in effect one hundred twenty (120) calendar days from the date of proposal opening. Proposals offering less than one hundred twenty (120) calendar days for acceptance by RIPTA from the date set for opening will be considered non-responsive and will be rejected.

Q. Postponement.

RIPTA reserves the right to postpone, for its own convenience, the date the proposal is to be received, but any Proposer whose proposal has already been submitted to RIPTA when the decision to postpone is made shall be afforded the opportunity to revise or withdraw its proposal.

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R. Amendment and/or Postponement.

RIPTA reserves the right to revise or amend the specifications up to the time set for the receiving of proposals. Such revisions and addenda, if any, shall be announced by addenda to this solicitation. It shall be the responsibility of prospective bidders to check the State of Rhode Island, Department of Administration Division of Purchases Website for any addenda. If the revisions and addenda require changes in quantities or price proposal, or both, the date set for receiving proposals may be postponed by such number of days as in the opinion of RIPTA shall enable Proposers to revise their proposals. In any case, proposal openings shall be at least seven (7) working days after the last addendum, and the addenda shall include an announcement of the new date, if applicable.

S. Single Proposal.

1. In the event a single proposal is received, RIPTA will, at its option, either conduct a price and/or cost analysis of the proposal and make the award by negotiation or reject the proposal and re-advertise. A price analysis is the process of examining the proposal and evaluating a prospective price without evaluating the separate cost elements. Price analysis shall be performed by comparison of the price quotations submitted on other current quotations, with published price lists, or other established or competitive prices. The comparison shall be made to a purchase of similar quantity and involving similar specifications. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto.
2. Where it is impossible to obtain a valid price analysis, it may be necessary for RIPTA to conduct a cost analysis of the proposal price. Cost analysis is the review and evaluation of a contractor's cost or pricing data and of the factors applied in projecting from such data the estimated costs of performing the contract, assuming reasonable economy and efficiency.
3. The price and/or cost analysis shall be made by RIPTA's Procurement Department.

T. Qualifications for Award.

The Proposer must be a person, firm or corporation that:

1. Has in operation, or has the capability to have in operation, a manufacturing plant adequate to assure delivery of all equipment within the time specified under this contract.
2. Has adequate service personnel, or has the capability to have such personnel, to satisfy any service problems that may arise during the warranty period.

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3. Has the necessary facilities and financial resources or has the capability to obtain such facilities and resources to complete the contract in a satisfactory manner within the required time.
4. The Procuring agency shall have the right to conduct a pre-award survey on each Proposer. Doubt as to the capability or technical ability, productive capacity or financial strength, which cannot be resolved affirmatively, shall require a determination of non-responsibility by RIPTA.

U. Ineligible Proposers.

The Proposer shall be required to certify, upon request, that it is not on the U.S. Comptroller General's Consolidated List of Persons or Firms currently Debarred for Violations of Various Public Contracts Incorporating Labor Standards Provisions.

V. Disadvantaged Business Enterprise

The Rhode Island Public Transit Authority will not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. RIPTA will take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Rhode Island Public Transit Authority of its failure to carry out its approved program the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Action of 1986 (31 U.S.C. 3801 et. Seq).

W. Addenda.

RIPTA may issue addenda containing amendments to its proposal solicitation documents. Any addendum issued less than seven (7) days prior to the receipt of proposal shall, if necessary, contain a provision postponing the date of the receipt of proposal to a date that will provide Proposers adequate time to respond to the addenda. Addenda shall be numbered sequentially.

X. Proposer's Requests and Appeals.

1. Appointments.

Proposers and suppliers may make appointments with the contact person listed in the specifications to discuss the specifications.

2. Amending Materials.

Any amending material issued by RIPTA pertaining to the proposal solicitation documents (including, without limitation: clarifications, approved equals, and corrections) shall be set forth in an addendum and sent to all parties who are on record as having obtained a copy of the proposal solicitation documents.

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3. Appeal.

Should any Proposer or supplier choose to appeal RIPTA's decision, such appeal must be in writing and received by RIPTA not less than seven (7) calendar days before the date of receipt of proposal. RIPTA has no obligation to consider appeals received less than seven (7) calendar days before the date of the receipt of proposal.

4. Withdrawal.

The Proposer or supplier may withdraw its appeal at any time before RIPTA issues a final decision. There shall be no further review of the appeal after the final decision is issued.

5. Notification.

Should RIPTA postpone the date of the receipt of proposal owing to the appeal, RIPTA shall notify all parties who are on record as having obtained a copy of the proposal solicitation documents that an appeal has been filed and that the date of the receipt of proposal shall be postponed until RIPTA has issued its final decision. RIPTA shall issue appropriate amendments postponing the re-scheduling date of the receipt of proposal.

Y. Equal Employment Opportunity.

In connection with the execution of this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap or national origin. The contractor shall take affirmative action to insure that applicants are employed and that employees are treated during their employment, without regard to their race, religion, color, sex, age, handicap or national origin. Such actions shall include, but not limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination, rates of pay, or other forms of compensation, and selection for training, including apprenticeship.

Z. Prohibited Interest.

No member, officer, or employee of RIPTA or of a local public body during his tenure or for one year thereafter shall have any interest, directly or indirectly, in this contract or the proceeds thereof.

AA. Interest of Members of Congress.

No member or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising therefrom.

BB. Contract Commencement Date.

The contract commencement date shall be the date of the signing of the Purchase Order or by Letter of Contract signed by an authorized RIPTA employee.

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CC. Notice, Waiver and Applicable Law.

Notice given to Contractor and RIPTA shall be given to the parties in writing by certified mail at the respective addresses set forth herein. Waiver by RIPTA of a breach by Contractor of any provision of this contract shall not be deemed a waiver of future compliance therewith, and such provision as well of future provisions hereunder, shall remain in full force and effect. The rights and duties of the parties hereto shall be determined by the laws of the State of Rhode Island, and to that end this agreement shall be considered and construed as a contract made and to be performed in the State of Rhode Island.

DD. Protest.

1. General.

Protests will be accepted from prospective proposers or Offerors whose direct economic interest would be affected by the award of a Contract or by failure to award a contract. The RIPTA Director of Purchasing will consider all protests or objections filed in a timely manner regarding the award of a contract, whether submitted before or after award. If the protest is oral and the matter cannot be otherwise resolved, written confirmation of the protest will be requested. Protest submissions should be concise, logically arranged, and clearly state the grounds for the protest. Protests must include at least the following information:

- a. Name, address and telephone number of protester.
- b. Identification of the solicitation or Contract number.
- c. A detailed statement of the legal and factual grounds of protest, including copies of relevant documents
- d. A statement as to what relief is requested.
- e. Protest should be sent to:

Director of Procurement
RI Public Transit Authority
Room 217
705 Elmwood Avenue
Providence, RI 02907
- f. Protests must be filed with the RIPTA in accordance with our procedures and time requirements. The protest to RIPTA must be complete and contain all the issues that the protester believes relevant. RIPTA will respond to each substantive issue raised in the protest. Failure to include an issue in the protest eliminates that issue from further consideration. All protest decisions entered by RIPTA are final in accordance with FTA "Third Party Contract" Regulation.

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- g. On occasion, when considered appropriate, an informal conference on the merits of the protest with all interested parties may be held.

EE. Protests Before Award

1. Solicitation Phase.

Protests concerning the solicitation must be submitted in writing five (5) working days prior to proposal opening or closing date for receipt of proposals. If the written protest is not received by the time specified, award may be made in the normal manner unless the Director of Purchasing, upon investigation, finds that remedial action is required. Oral protests not followed up by a written protest will be disregarded.

Notice of a protest and the basis therefore will be given to all potential proposers or Offerors.

2. Pre-Award Phase.

When a protest against the making of an award is received after receipt of proposals but prior to award, the Director of Purchasing may determine to withhold the award pending disposition of the protest. The proposers or proposers whose proposals might become eligible for award should be requested, before expiration of the time for acceptance of their proposals, to extend the time for acceptance (with consent of sureties, if any) to avoid the need for readvertising. RIPTA will provide a written response to each material issue raised in the written protest.

Where a written protest against the making of an award is received in the time specified, award will not be made prior to five (5) working days after resolution of the protest or, if a protest has been filed with FTA during the pendency of that protest, unless RIPTA determines that:

- a. The items to be procured are urgently required;
- b. Delivery or performance will be unduly delayed by failure to make award promptly; or,
- c. Failure to make award will otherwise cause undue harm to RIPTA or the Federal Government.

If award is made, the Director of Procurement will document the file to explain the need for an award, and will give written notice of the decision to proceed with the award to the protester and, as appropriate, to others concerned.

FF. Protests After Award.

A protest received not later than 10 (ten) working days after award shall be reviewed by the Director of Purchasing. The Contractor will, in any event, be furnished with the notice of protest and the basis therefore. When it appears likely that an award may be invalidated and a delay in

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receiving the supplies or services is not prejudicial to the Authority's interest, the Director of Purchasing should consider a mutual agreement with the Contractor to suspend performance on a no-cost basis.

GG. Source Selection and Contract Award

The contract shall be awarded with reasonable promptness by written notice to the responsive and responsible Proposer whose proposal will be evaluated using a best value approach. The ultimate selection of an offeror will be on the basis of overall best value to the Authority.

HH. Title VI Assurances

Contractors and subcontractors will be required to comply with all requirements imposed by Title VI of the Civil Rights Act of 1964 (49 U.S.C. 2000d), and the Assurances by RIPTA pursuant thereto.

II. Energy Conservation Requirements:

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the State of Rhode Island Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act.

JJ. Program Fraud

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. Department of Transportation 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 Federal Transit Administration 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 the FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 5307 (n) (1) on the Contractor, to the extent the Federal Government deems appropriate.

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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.

KK. No Government Obligation to Third Parties:

1. The Purchaser and the 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.

V. GENERAL PROVISIONS

A. Definitions:

As used throughout this Contract, the following terms shall have the meanings set forth below:

1. Authority

Authority means Rhode Island Public Transit Authority (RIPTA).

2. Contracting Manager

the person executing this Contract on behalf of the Authority, and his or her successor, and the term includes, except as otherwise provided in this Contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

3. Directed, Ordered, designated or prescribed

Wherever in the scope of the work the words directed, ordered, designated, prescribed, or words of like importance are used, it shall be understood that the direction, requirement, order, designation, or prescription of the Contracting Manager is intended and similarly the words approved, acceptable, satisfactory, or words of like importance shall mean approved by, or acceptable to, satisfactory to the Contracting Officer, unless expressly stated.

B. Changes:

The Contracting Officer may at any time, by a written order, and without notice to the sureties, make changes within the general scope of this Contract. If any such changes causes an increase or decrease in the

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cost of, or the time required for, the performance of any part of the work under this Contract, whether changed or not changed by the order, the Contracting officer shall make an equitable adjustment in the Contract price, the delivery schedule, or both, and shall modify the Contract.

The Contractor must assert its right to an adjustment under this article within 30 days from the date of receipt of the written order. Failure to agree to any adjustment shall be a dispute under the Disputes article. However, nothing in this article shall excuse the Contractor from proceeding with the contract as changed.

C. **Extras:**

Except as otherwise provided in this Contract, no payment for extras shall be made unless such extras and the price therefore have been authorized in writing in advance by the Contracting Officer.

D. **Inspection:**

All supplies, which term throughout this article includes without limitation raw materials, components, intermediate assemblies, and end products, shall be subject to inspection and test by the Authority, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance.

In case any supplies or lots of supplies are defective in material or workmanship or otherwise not in conformity within the requirements of this Contract, the Authority shall have the right either to reject them or require their correction. If any inspection or test is made by the Authority on the premises of the Contractor or a subcontractor, the Contractor without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the Authority inspectors in the performance of their duties.

All inspections and test by the Authority shall be performed in such a manner as not to unduly delay this work. The Authority reserves the right to charge to the Contractor any additional cost of Authority inspection and test when supplies are not ready at the time such inspection and test is requested by the Contractor or when re-inspection or retest is necessitated by prior rejection. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Contract; but failure to inspect and accept or reject supplies shall neither relieve the Contractor from responsibility for such supplies as are not in accordance with the contract requirements nor impose liability on the Authority therefore. The inspection and test by the Authority of any supplies or lots thereof does not relieve the Contractor from any responsibility regarding defects or other failures to meet the Contract requirements, which may be discovered prior to acceptance. Except as otherwise provided in this Contract, acceptance shall be conclusive except as regard latent defects, fraud, or such gross mistakes as amount to fraud. The Contractor shall provide and maintain an inspection system acceptable to the Authority covering the supplies hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Authority during the performance of this

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Contract and for such longer period as may be specified elsewhere in this Contract.

E. Responsible:

Notwithstanding the requirements for any Authority inspection and test contained in Specifications applicable to this Contract, except where specialized inspections or tests are specified for performance solely by the Authority, the Contractor shall perform or have performed the inspections and tests required to substantiate that the supplies and services provided under the contract conform to the Drawing, Specifications and Contract requirements.

F. Title and Risk of Loss

Unless this Contract specifically provides for earlier passage of title, title to supplies covered by this Contract shall pass to the Authority upon formal acceptance. Unless this Contract specifically provides otherwise, risk of loss of or damage to supplies covered by this Contract shall remain with the Contractor, until acceptance by the Authority.

Notwithstanding the above, the risk of loss of or damage to supplies which so fail to conform to the Contract as to give a right of rejection shall remain with the Contractor until cure or acceptance, at which time the above shall apply.

G. Payments

The Contractor shall be paid, upon the submission of proper invoices or vouchers, the prices stipulated herein for supplies delivered and accepted or services rendered and accepted, less deductions, if any, as specified. The failure to perform may result in partial or full suspension of payment and/or process payment.

H. Stop Work Order

The Contracting Manager may, at any time, by written order to the Contractor, require the Contractor to stop all, or part of the work called for by this Contract. Any such order shall be specifically identified as a STOP WORK ORDER issued pursuant to this article. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

I. Disputes

1. Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the General Manager. The decision of the General Manager or his/her duly authorized representative for the determination of such appeals shall be final and conclusive

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unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. In connection with any appeal proceeding under this article, the Contractor shall be awarded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

- 2 This **DISPUTES** article does not preclude consideration of questions of law in connection with decisions provided for in paragraph a. above. Nothing in this Contract, however, shall be construed as making the final decisions of the General Manger of his/her representative on a question of law.

J. Default

1. The Authority may, subject to the provisions of paragraph b. below, by written notice of default to the Contractor, terminate the whole or any part of this Contract in any one of the following circumstances:
 - a. If the Contractor fails to make delivery of the supplies or to satisfactorily perform the services within the time specified herein or any extension thereof; or
 - b. If the Contractor fails to perform any of the other provisions of this Contractor, or so fails to make its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period of as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure
2. Default without the fault or negligence of the Contractor. Such causes may include, but are restricted to, acts of God or of the public enemy, acts of the Government in its sovereign capacity or the Authority in its contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
3. If the Contractor fails to deliver the supplies or satisfactorily perform the services within the time specified in this Contract, or any extension thereof, the actual damage to the Authority for the delay will be difficult or impossible to determine. Therefore in lieu of actual damages, the Contractor shall pay to the Authority as fixed, agreed and liquidated damages for each calendar day of delay, the amount set forth elsewhere in this Contract. The Contractor shall not be charged with liquidated damages when the delay arises out of causes beyond the control and without the fault

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or negligence of the Contractor, and in such event, subject to this DISPUTES article, the Contracting Officer shall ascertain the facts and extent of the delay and shall extend the time for performance of the contract when in his judgment the findings of fact justify an extension.

4. The rights and remedies of the Authority provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

K. Termination for Convenience of the Authority

The performance of work under this Contract may be terminated by the Authority in accordance with this article in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in the best interest of the Authority. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer his termination claim, in the form and with certification prescribed by the Contracting Officer. Such claims shall be submitted promptly by in no event later than one year from the effective date of termination. Upon failure of the Contractor to submit his termination claim within the time allowed, the Contracting Officer may, subject to any review required by the contracting agency's procedures in effect as of the date of execution of this Contract, determine, on the basis of information available to him, the amount, if any, due the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

In the event of the failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid the Contractor by reason of the termination of work pursuant to this article, the Contracting Officer shall, subject to any review by the contracting agency's procedures in effect as of the date of execution of this Contract, determine, on the basis of information available to him, the amount if any, due the Contractor by reason of the termination.

Costs claimed, agreed to, or determined pursuant to this paragraph shall be in accordance with the applicable with the applicable contract cost principles and procedures of the Federal Acquisition Regulations (48 CFR 31.1) in effect on the date of this Contract. The Contractor shall have the right to appeal, under the DISPUTES article of this Contract from any determination made by the Contracting Officer, except that, if the Contractor has failed to submit his claim within the time provided above and has failed to request extension of such time, he shall have no such right of appeal. Unless otherwise provided for in this Contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of three years after final settlement under this Contract, shall preserve and make available to the Authority at all reasonable times at the office of the Contractor but without direct charge to the Authority, all

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his books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, micro photographs, or other authentic reproductions thereof.

L. Federal, State and Local Taxes

Except as may be otherwise provided in this Contract, the Contract price includes all applicable Federal, State, and Local taxes and duties. The Authority upon the request of the Contractor shall, without further liability, furnish evidence appropriate to establish exemption from any Federal, State, or Local tax.

M. Walsh-Healey Public Contracts Act

If this contract is for the manufacture or furnishing of materials, supplies articles, or equipment in an amount which exceeds or may exceed \$10,000 and is otherwise subject to the Walsh-Healey Public Contract Act, as amended (41 U.S.C. 34-35), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations of the Secretary of Labor which are now or may hereafter be in effect.

N. Officials Not to Benefit

No member, officer, or employee of the Authority during his tenure or one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

O. Covenant against Contingent Fees

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Authority shall have the right to annul this Contract without liability or in its discretion, to full amount of such commission, percentage, brokerage, or contingent fee.

P. Notice to the Authority of Labor Disputes

Whenever the Contractor has knowledge that any or potential labor disputes is delaying or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to the Contracting Officer. The Contractor agrees to insert the substance of this clause, in any subcontract hereunder as to which a labor dispute may delay the timely performance of this Contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the Contractor, as the case may be, of all relevant information with respect to such dispute.

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Q. Patent Indemnity

1. If the amount of this Contract is in excess of \$10,000, the Contractor shall indemnify the Authority and its officers, agents, and employees against liability, including costs, for infringement of any United States letters patent arising out of the manufacture or delivery of supplies under this Contract.
2. In addition, if specifically requested by the Contracting Officer prior to execution of the Contract, a copy of the current license agreement and identification of applicable claims of specific patents shall be furnished.

R. Use of Trade Names

Any trade names used in this document are merely used for a point of reference. The Authority will consider submission of approved equals on any or all products specified. Use of trade names by the Authority bears no actual or implicit approval for the violation of any current or pending patents or copyrights.

S. Rights in Technical Data

1. The Authority shall have the right to use, duplicate or disclose technical data, which includes computer software, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so:
 - a. Any manuals, instructional materials prepared for installation, operation, maintenance or training purposes;
 - b. Technical data pertaining to end items, components or processes which were prepared for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("for, fit and function: data; e/g/ specification control drawing, catalog sheets, outline drawing; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software);
 - c. Other technical data which has been, or is normally furnished without restriction by the Contractor or subcontractor;
 - d. Other specifically described technical data, which the parties have agreed will be furnished without restriction.
2. The Authority shall have the right to use, duplicate, or disclose technical data other than that defined in paragraph a. in whole or in part, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be

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- a. released or disclosed in part by the Authority for manufacture, or
 - b. used in whole or in part by the Authority for manufacture, or
 - c. used by a party other than the Authority except for emergency repair or overhaul work only, by or for the Authority where the item or process concerned is not otherwise reasonably available to enable timely performance of the work; provided, that the release or disclosure thereof outside the Authority shall be made subject to a prohibition against further use, release or disclosure.
3. Technical data provided in accordance with the provisions of paragraph b. shall be identified by a legend, which suitably recites the aforesaid limitation. Nothing herein shall impair the right of the Authority to use similar or identical data acquired from other sources.
4. The term technical data as used in this article means technical writing, computer software, sound recording, pictorial reproductions, drawings, or other representations and works of a technical nature, whether or not copyrighted, which are specified to be delivered pursuant to this Contract. The term does not include financial reports, cost analysis, and other information incidental to Contract administration. Computer software as used in this article means computer programs, computer databases, and documentation.
5. Material covered by copyright:
 - a. The Contractor agrees to and does hereby grant to the Authority, and to its officers, agents and employees acting within the scope of their official duties, a royalty-free, nonexclusive and irrevocable license throughout the world for Authority purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so, all technical data now or hereafter covered by copyright.
 - b. No such copyright matter shall be included in technical data furnished hereunder without the written permission of the copyright owner for the Authority (or higher-tier contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data delivered hereunder.
6. Relation to patents: Nothing contained in this article shall imply a license to the Authority under any patent, or be construed as

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affecting the scope of any license or other right otherwise granted to the Authority under any patent.

7. Any dispute under this article shall be subject to the Disputes article of this contract

T. Audit and Inspection of Records

The Contractor shall maintain records, and the Contracting Officer, the State of Rhode Island, the U.S. Department of Transportation, and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three years after final payment under this Contract, have access to and the right to examine any directly pertinent books, documents, papers and records of such contractor, involving transactions related to the Contract, for the purpose of making audit, examination, excerpts and transactions.

The Contractor further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Contracting Officer, the State of Rhode Island, the U.S. Department of Transportation and the Comptroller General of the United States or any of their Duly authorized representatives shall, until the expiration of three years after final payment under the Contract, have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor, involving transactions related to the subcontract, for the purpose of making audit, examination, excerpts and transcription.

U. Gratuities

In connection with performance of work required under this Contract, or any changes or modifications relative thereto, the giving of or offering to give gratuities (in the form of entertainment, gifts or otherwise) by the Contractor, or any agent, representative or other person deemed to be acting on behalf of the Contractor, or any supplier or subcontractor furnishing material to or performing work under this Contract, or agent, representative or other person deemed to be acting on behalf of such supplier or subcontractor, to any Director, Officer or employee of the Authority; or to any Director, employee or agent of any of the Authority's agents, consultants, representatives or other persons deemed to be acting for or on behalf of the Authority with a view toward securing a contract or securing favorable treatment with respect to the awarding to the awarding or amending, or the making of any determinations with respect to the performing of such contract is expressly forbidden. The terms of this GRATUITIES article shall be strictly construed and enforced in the event of violations hereto.

V. Limitation on Withholding Payments

If more than one article or schedule provision of this Contract authorized the temporary withholding of amounts otherwise payable to the Contractor for supplies delivered or services performed, the total of the amounts so withheld at any one time shall not exceed the greatest amount which may be withheld under any one such article or schedule provision at that time; provided, that this limitation shall not apply to:

1. Withholdings pursuant to any clause relating to wages or hours of employees;

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2. Withholdings not specifically provided for by this Contract; and
3. The recovery of overpayment.

W. New Material

The Contractor represents that the supplies and components to be provided under this Contract are new (not used or reconditioned, and not of such age or so deteriorated as to impair their usefulness or safety).

X. Order of Precedence

In the event of an inconsistency in the Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

1. The Proposal Schedule;
2. Special Conditions;
3. General Provisions;
4. The other provisions of the Contract, whether incorporated by reference or otherwise;
5. The Specifications; and
6. Drawings.

Y. Correction of Deficiencies

1. Definitions:

As used in this article:

- a. Deficiency means any condition or characteristics in any supplies (which term shall include related technical data) or services furnished hereunder, which is not in compliance with the requirements of this Contract.
- b. Correction means any and all actions necessary to eliminate any and all deficiencies.
- c. Supplies mean the end item(s) furnished by the Contractor and related services required under this Contract.

2. General:

- a. The rights and remedies of the Authority shall not be affected in any way by any other provisions under this Contract concerning the conclusiveness of inspection and acceptance.
- b. The Contractor shall not be responsible under this article for the correction of deficiencies caused by the Authority. These shall be no extension in time for performance; no

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increase in contract price for the correction of deficiencies that are the responsibility of the Contractor, his suppliers, and/or subcontractors.

3. **Deficiencies in accepted supplies or services:**

If the Contracting Officer determines that a deficiency exists in any of the supplies or services accepted by the Authority under this Contract, he shall promptly notify the Contractor of the deficiency, in writing, within 30 days. Upon timely notification of the existence of such a deficiency, or if the Contractor independently discovers a deficiency in accepted supplies or services, the Contractor shall promptly submit to the Contracting Officer his recommendation for corrective actions, together with supporting information in sufficient detail for the Contracting Officer to determine what corrective action, if any, shall be undertaken.

4. **Correction of Deficiencies by Contractor:**

The Contractor shall promptly comply with any timely written direction by the Contracting Officer to correct or partially correct a deficiency, at no increase in the Contract price. The Contractor shall also prepare and furnish to the Authority data and reports applicable to any correction required under this article (including revision and updating of all other affected data called for under this Contract) at no increase in the Contract price.

5. **Deficiencies in supplies or services not yet accepted:**

If the Contractor becomes aware at any time before acceptance by the Authority (whether before or after tender to the Authority) that a deficiency exists in any supplies or services, he shall promptly correct the deficiency or, if he elects to invoke the procedures in paragraph c. above he shall promptly communicate information concerning the deficiency to the Contracting Officer, in writing, together with his detailed recommendation for corrective action.

6. **Extensions or Delays**

In no event shall the Authority be responsible for extension or delays in the scheduled deliveries or periods of performance under this Contract as a result of the Contractor's obligations to correct deficiencies, nor shall there be any adjustment of delivery schedule or period of performance as a result of corrections of deficiencies, except as may be agreed to by the Authority in a supplemental agreement with adequate consideration.

7. **Contract Price**

It is hereby specifically recognized and agreed by the parties hereto that this article shall not be construed as obligating the Authority to increase the Contract price of this Contract.

8. **Failure to correct:**

If the Contractor fails or refuses to promptly rectify the deficiency the Contracting Officer shall give the Contractor written notice

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specifying the failure or refusal and setting a period after receipt of the notice within which it must be cured. If the failure or refusal is not cured within the specified period, the Contracting Officer may, by contract or otherwise, as required:

- a. Obtain detailed recommendations for corrective action;
- b. Correct the supplies or services, or
- c. Replace the supplies or services; and if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of nonconforming supplies for the Contractor's account in a reasonable manner, in which case the Authority is entitled to reimbursement from the Contractor or from the proceeds for the reasonable expenses of case and disposition, as well as for excess costs incurred or to be incurred; and
- d. Obtain applicable data and reports; and charge to the Contractor the cost occasioned the Authority thereby.
- e. Impose Liquidated Damages in accordance the terms of this document
- f. Terminate the contract. Termination of contract by RIPTA does not relieve the contractor of any liquidated damages imposed by the Authority.

Z. Assignment

1. The Contractor shall not transfer the rights and obligations of the Contract to third parties without the prior written approval of the Authority's Contracting Officer. After review of facts and circumstances without exception the assignment shall not be approved unless the surety, in writing, agrees to that assignment and accepts the assignee as the Contractor and principal on the payment and/or performance bonds.
2. If this Contract provides for payments aggregating \$1,000 or more, claims for monies due or to become due the Contractor from the Authority under this Contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, any may thereafter by further assigned and reassigned to any institution. (Notice of such assignment shall be made to the Authority.) Any such assignment or reassignment shall cover all amounts payable under this Contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment or reassignment may be made to one party as agent or trustee for two or more parties participating in such financing. It is the Authority's intent to recognize only bona fide lending institutions, therefore, assignment to any private corporation, business or

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individual, which does not qualify as such, is specifically prohibited.

3. Any attempt to transfer by assignment not authorized by this article shall constitute a breach of the Contract and the Authority may for such cause terminate the right of the Contractor to proceed as provided in the DEFAULT article of these General Provisions, and the Contractor and his sureties shall be liable to the Authority for any excess costs incurred by the Authority.
4. The Rhode Island Public Transit Authority may assign some or all of its rights to purchase the items specified in this contract to one or more third parties, provided, however, that any such assignment shall not relieve RIPTA of its obligations under this contract unless otherwise agreed to by Contractor in writing.

AA. Certificates of Current Cost or Pricing Data

The Contractor shall provide a Certificate of Current Cost or Pricing Data as required in Subpart 15.804 of the Federal Acquisition Regulations (48 CFR 15.804) in support of any negotiated contract expected to exceed \$100,000 any modification to a formally advertised or negotiated contract on which the aggregate of the increase and decrease in cost are expected to exceed \$100,000; the Contracting Officer at his discretion may request cost or pricing data for modifications on which cost are \$100,000 or less and an attendant certificate of current cost or pricing data.

BB. Cargo Preference

Use of United States Flag Vessels

Pursuant to Pub. L 664 (56 U.S.C. 1241 (b)):

"Cargo Preference-Use of United States-Flag Vessels

The Contractor agrees

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
2. To furnish within 20 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) above to the Grantee (through the prime Contractor in the care of subcontractor bills-of lading) and to the Division of National Cargo, Officer of Market Development, Maritime Administration, Washington, D.C. 20230, marked with appropriate identification of the Project.

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3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Contract.

CC. Buy America Act

The Contractor agrees to comply with 49 U.S.C. §533(j), and its implementing regulations at 49 C.F.R. Part 661, any amendments thereto, and any implementing guidelines issued by FTA.

DD. Equal Opportunity

1. 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 CFR Parts 60 et seq., (which implements 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 contract 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.

2. 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.

3. 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 CFR Part 1630, pertaining to employment of persons with

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disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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.

EE. Nondiscrimination under Federal Grants

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.

FF. Rights in Data and Copyrights-FTA (June 1996)

The term "subject data" used in this section means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Example include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to Project administration.

When the Federal Transit Administration (FTA) provides financial assistance for a planning, research, development, or a demonstration project, it is FTA's general intention to increase mass transportation knowledge, rather than limit the benefits of the Project to participants in the Project. Therefore, unless FTA determines otherwise, the Contractor agrees that FTA may make available to any FTA recipient, subrecipient, third party contractor, or third party subcontractor, either FTA's license in the copyright to the subject data derived under this contract or a copy of the subject data as defined in subsection a. of this clause and shall be delivered as the Government may direct. Unless prohibited by state law, the Contractor agrees to indemnify, save, and hold harmless RIPTA and the Government, their officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under this Contract. The Contractor shall not be required to indemnify RIPTA and the Government for any such liability arising out of the wrongful acts of employees or agents of RIPTA and the Government.

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GG. Davis-Bacon Act

40 USC &167; 276a -276a-5 (1998) 29 CFR § 5 (1999)

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- b. The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification

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and wage rate and fringe benefits therefore only when the following criteria have been met:

- i. Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - ii. The classification is utilized in the area by the construction industry; and
 - iii. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
 - iv. With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.
- c. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- d. In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in

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the classification under this contract from the first day on which work is performed in the classification.

- f. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- g. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- h. The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - i. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - ii. The classification is utilized in the area by the construction industry; and
 - iii. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- i. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional

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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.

- j. In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 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.
- k. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

2. **Withholding**

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

3. **Payrolls and basic records**

- a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of

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

- b.
 - i. The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Rhode Island Public Transit Authority for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.
 - ii. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29

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CFR part 5 and that such information is correct and complete;

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

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

- c. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
- d. The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

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

4. **Apprentices and trainees**

- a. Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and

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Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- b. Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment

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

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

5. **Compliance with Copeland Act requirements**

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. **Subcontracts**

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

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7. Contract termination: debarment

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

8. Compliance with Davis-Bacon and Related Act requirements

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards

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

10. Certification of eligibility.

- a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001

HH. Contract Work Hours and Safety Standards Act

40 U.S.C. 327-333 (1995) 29C.F.R. 5 (1995) 29 C.F.R. 1926 (1995)

1. Overtime requirements

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

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2. **Violation; liability unpaid wages; liquidated damages**
In the event of any violation of the clauses set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clauses set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clauses set forth in paragraph (1) of this section.
3. **Withholding for unpaid wages; liquidated damages**
The Rhode Island Public Transit Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clauses set forth in paragraph (2) of this section.
4. **Subcontracts**
The contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section. (Section 102 nonconstruction contracts should also have the following provision:)
5. **Payrolls and basic records**
Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the names, address, and social security number of each worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Beacon Act), daily and weekly number of hours worked, deductions. Whenever the made and actual wages paid Secretary of labor has found under 29 CFR 5.5

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(a)(1)(iv) that the wages of any laborer or mechanic included 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-Beacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

6. Contract Work Hours and Safety Standards Act

The contractor agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. section 333, and applicable DOL regulations, "Safety and Health Regulations for Construction" 29 C.F.R. Part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

7. Subcontracts

The Contractor also agrees to include the requirements of the section in each. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials, which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may said to be construction activity. If goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

II. Seismic Safety Requirements

42 U.S.C. 7701 et seq. 49 CFR Part 41

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation

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Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

JJ. Energy Conservation Requirements

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

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.

KK. Clean Air

42 U.S.C. 7401 et Seq 40 CFR 15.61 49 CFR Part 18

- 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.

LL. Clean Water

- 1 The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et Seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- 2 The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

MM. 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.

NN. 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

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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.

OO. National Intelligent Transportation Systems Architecture and Standards

The Contractor agrees to conform, to the extent applicable, to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by section 5206(e) of TEA-21, 23 U.S.C. § 502 note, and comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 *et seq.*, January 8, 2001, and other Federal requirements that may be issued

PP. 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 Agreement (Form FTA MA (9) dated October, 2002) 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.

QQ. 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 4220.1D, dated April 15, 1996, 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.

RR. Force Majeure

Neither Party shall be liable to the other Party for failure of or delay in performance of any obligation under this Agreement, directly or indirectly, owing to war, acts of terrorism, acts of God, embargoes, riots, strike and other events beyond its reasonable control, the effect of which, by the exercise of reasonable diligence, the non-performing party could not avoid. In the event that such failure or delay occurs, the affected Party shall notify the other Party of the occurrence thereof as soon as possible

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and the Parties shall discuss the best way to resolve the event of force majeure.

Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable and which the non-performing party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The non-performing party shall within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement. “

SS. Governing Law

The Contract shall be interpreted under and its performance governed by the laws of the State of Rhode Island.”

TT. Indemnification

Bidders shall indemnify and hold harmless, the State of Rhode Island, all departments and division thereof and the Rhode Island Public Transit Authority from all liability, and said indemnification shall cover and include any and all aspects of liability arising from any lawsuit pertaining to the execution of this contract.

UU. Policy Concerning Federal and Stated False Claim Laws

As required by 42 U.S.C. §1396a(a)(68), the Rhode Island Public Transit Authority (“RIPTA”) publishes the following information to all employees, contractors and agents about federal and state False Claims laws and RIPTA’s policies to detect and prevent fraud, waste and abuse.

1. Prohibitions Against False Claims
Federal False Claims Act

The federal False Claims Act, among other things, applies to the submission of claims for payment by Medicare, Medicaid and other federal and state programs. The False Claims Act is the federal government’s primary civil remedy for improper or fraudulent claims. It applies to all federal programs, including welfare and health care benefits.

2. Prohibitions of the Federal False Claims Act

The False Claims Act prohibits, among other things:

- a knowingly presenting or causing to be presented to the federal government a false or fraudulent claim for payment or approval;
- b knowingly making or using, or causing to be made or used, a false record or statement in order to have a

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false or fraudulent claim paid or approved by the government;

- c conspiring to defraud the government by getting a false or fraudulent claim allowed or paid; and
- d knowingly making or using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.

“Knowingly” means that a person, with respect to information: (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

3. Enforcement

The United States Attorney General may bring civil actions for violations of the False Claims Act. As with most other civil actions, the government must establish its case by presenting only a preponderance of the evidence rather than by meeting the higher burden of proof that applies in criminal cases.

The False Claims Act allows private individuals to bring “qui tam” actions for violations of the Act.

VV. American with Disabilities Act

All products, equipment or construction provided in accordance with this contract shall comply with the current version of the Americans with Disabilities Act of 1990 - 42 U.S.C. 12101, et seq. at the time of the solicitation.

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VI. REQUEST FOR APPROVED EQUAL FORM

**This form must be submitted electronically IN MICROSOFT WORD
FORMAT TO RIPTA CONTRACTS MANAGER**

REQUEST FOR APPROVAL EQUAL QUALIFICATION OR CLARIFICATION

Page: _____

Ref: RFP NO. 12-16

Project No. _____

To: Rhode Island Public Transit Authority

From: _____

Page & Reference: _____

Request Description

Use Additional Sheet If More Space Is Required

Accepted: _____ Rejected: _____ See Addendum # _____

Explanation: _____

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VII. REQUIRED BID SUBMISSIONS

The following items marked with an "X" must be submitted with Response
Failure to submit forms may result in Proposal being deemed non-responsive

Required Company Information Form	<u> X </u>
Solicitation	<u> X </u>
Offer	<u> X </u>
Statement of Eligibility	<u> X </u>
Affidavit of Non-Collusion	<u> X </u>
Certification of Restrictions on Lobbying	<u> X </u>
Buy America Certificate FORM MUST BE SUBMITTED WITH BID, IF CHECKED, OR BID WILL BE CONSIDERED NON RESPONSIVE <u> </u>	
Disadvantaged Business Enterprise	<u> X </u>
General Contract Compliance Certificate Agreement (EEO)	<u> X </u>
Certification of Primary Participant Debarment (The form must be signed by Legal Counsel)	<u> X </u>
Certification of a Subcontractor (Debarment) Each Subcontractor must fill in and sign. (The form must be signed by Legal Counsel)	<u> X </u>
Non-Resident Contractor (if applicable)	<u> </u>
Davis Bacon Act Compliance	<u> </u>
Drug & Alcohol Testing	<u> </u>
Bid Guarantee (Surety)	<u> </u>

The following items marked with an "X" must be submitted AFTER AWARD of the Contract

Performance Bond	<u> </u>
Certificate of Insurance- (as required in Section XX and the Scope of Work)	<u> X </u>

NOTE:

ITEMS WITHOUT AN "X" AND THEIR RESPECTIVE TERMS AND CONDITIONS ARE NOT REQUIRED IN THIS PROPOSAL

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VIII. SOLICITATION FORM

COMPANY NAME _____

PROPOSAL NO. OR PROJECT NO. 12-16

DESCRIPTION Indoor/Outdoor Bus Advertising

A. PROPOSAL REQUIREMENTS

Sealed proposals in original and Five copy(ies) will be received at the offices of the Rhode Island Public Transit Authority, 705 Elmwood Avenue Providence, Rhode Island 02907, at the proposal date and hour set forth on the Request for Proposal or anytime prior to the date and hour. Late proposals will not be accepted.

B. CONTRACT DOCUMENTS

By executing the offer form enclosed herewith, the proposer agrees to provide all services set forth on the specifications attached hereto upon the terms and conditions set forth in paragraphs A, B, C and D.

C. PAYMENT SCHEDULE

Payment will not be made until receipt and installation of merchandise is accepted by the Transit Authority.

D. COST FOR SERVICE

Please complete necessary cost information as outlined in the Proposal Scope of Work.

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IX. OFFER FORM

Proposer understands that any condition other than stated in the specifications, clarification made to the above, or information submitted on or with this form, other than that requested, may render the proposal non-responsive.

By execution below, proposer hereby offers to furnish services in accordance with the contract documents that are a part of the specifications, and agrees to fully comply with the contract documents.

PROPOSAL NO 12-16

PROPOSER _____

EMPLOYER IDENTIFICATION NO. _____

NAME _____

ADDRESS _____

CITY/STATE/ZIP _____

TYPE OF BUSINESS ENTITY: (Please check one)

Sole Proprietor _____

Partnership _____

Corporation _____

PROPOSER'S CONTRACTING OFFICER

Name (*Please Print*)

Authorized Signature

Title

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X. STATEMENT OF ELIGIBILITY FORM

The _____ hereby certifies that he/she
(Name of Proposer)

is/is not (underscore one) included on the Comptroller General's Lists of
Persons or Firms Currently Barred for Violations of Various Public Contracts
Incorporating Labor Standards Provisions.

Name of Firm

Address

City, State, Zip

Signature of Authorized Person

Date Authorized

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XI. AFFIDAVIT OF NON-COLLUSION FORM

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

1. that I am the Proposer (if the proposer is an individual), a partner of the Proposer (if the proposer is partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the Proposer is a corporation).
2. that the attached proposal has been arrived at by the Proposer independently, and has been submitted without collusion with, and without agreement, understanding, or planned common course of action with, any other vendor of materials, supplies, equipment, services described in Invitation for Proposals, designed to limit independent bidding or competition.
3. that the contents of the proposal has not been communicated by the Proposer or its employees or agents, to any person not an employee or agent of the Proposer or its surety on any bond furnished with the proposal, and will not be communicated to any such person prior to the official opening of the proposal; and
4. that I have fully informed myself regarding the accuracy of the statement made on this affidavit.

Name

Address

City, State, Zip

Signature of Authorized Official

Date Authorized

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

Notary Public

My commission expires _____

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XII. CERTIFICATION OF RESTRICTIONS ON LOBBYING FORM

I, _____, hereby certify on
(Name/title of Proposer Authorized Official)

behalf of: _____ that:
(Name of Proposer)

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any 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, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or an employee of a member of Congress in connection with this Federal contract, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclosure accordingly.

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

Executed this _____ day of _____, 20____.

By _____
(Signature of Authorized Official)

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XIII. BUY AMERICA CERTIFICATION REQUIREMENTS ! **FOR PROCUREMENT OF STEEL OR MANUFACTURED PRODUCTS**

49 U.S.C. 5323(j) and 49 CFR 661 provide that no Federal funds may not be obligated for mass transportation projects unless steel and manufactured products used in these projects are produced in the United States.

If steel or manufactured products are being procured, the appropriate certificate as set forth below shall be completed and submitted by each proposer.

Certificate of Compliance-The Proposer hereby certifies that it will comply with the requirements of 49 U.S.C. 5323 (j)(1) and the Applicable regulations on 49 CFR Part 661.

COMPANY NAME _____

SIGNATURE _____

TITLE _____

DATE _____

Certification of Non-Compliance-The Proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323 (j)(1).

COMPANY NAME _____

SIGNATURE _____

TITLE _____

DATE _____

FORM MUST BE SIGNED AND SUBMITTED WITH PROPOSAL OR
PROPOSAL WILL BE CONSIDERED TO BE NON-RESPONSIVE.

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XIV. BUY AMERICA CERTIFICATION REQUIREMENTS II **OF PROCUREMENT OF BUSES, OTHER ROLLING STOCK AND** **ASSOCIATED EQUIPMENT**

49 U.S.C. 5323 (j) and 49 CFR 661 provide that no Federal funds be obligated for procurement of buses, other rolling stock and associated equipment unless the following conditions are met:

1. The cost of components which are produced in the United States is more than 60 per centum (60%) of the cost of all components of the vehicle or equipment described in this paragraph; and
2. Final assembly of the vehicle or equipment described in this paragraph has taken place in the United States.

If buses or other rolling stock (including train control, communication and traction power equipment) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each proposer in accordance with the requirements.

Certificate of Compliance-The proposer hereby certifies that it **will comply** with the requirements of the 49 U.S.C. 5323 (j)(2)(c) and CFR Part 661.

COMPANY NAME _____

SIGNATURE _____

TITLE _____

DATE _____

Certificate of non-Compliance-The proposer hereby certifies that it **cannot comply** with the requirements of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements.

COMPANY NAME _____

SIGNATURE _____

TITLE _____

DATE _____

FORM MUST BE SIGNED AND SUBMITTED WITH PROPOSAL OR
PROPOSAL WILL BE CONSIDERED TO BE NON-RESPONSIVE.

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XV. BUY AMERICA PRE-AWARD AND POST-DELIVERY AUDITS:

A. Prior to Contract award,

The apparent successful offeror shall provide to the Authority's auditors the cost of the components and subcomponents to be used in the manufacturing of the rolling stock, their country of origin, the location of final assembly, the activities that will take place at the location and pertinent supporting documentation for the purpose of RIPTA performing the cited Pre-Award Audit of Buy-America requirements.

B. After delivery and acceptance of the vehicles,

The Contractor shall provide to the Authority's auditors the cost of the components and subcomponents used in the manufacture of the rolling stock, their country of origin, the location of final assembly, the activities that took place at the location and pertinent supporting documentation to enable RIPTA to perform the cited Post-Delivery Audit of Buy America Requirements.

C. Authority Review

The contractor shall facilitate the reviews by the Authority's auditors by providing the supporting documentation for the above information in a timely fashion.

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XVI. DISADVANTAGED BUSINESS ENTERPRISES PROGRAM

Bidders are strongly encouraged to have Disadvantage Business Enterprise Participation, regardless of the DBE Goal in this Bid.

Disadvantaged Business Enterprise (DBE) Special Provisions

A firm's DBE Participation and/or demonstration of a "Good Faith Effort" will be considered when reviewing submittals for responsiveness. This will be considered when evaluating Proposal Responses

A. Policy

1. It is the policy of Department of Transportation (DOT) that the DBE requirements in 49 CFR Part 26, as amended, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26, as amended, apply to this agreement.
2. DBE Obligation – RIPTA or its contractor agrees to ensure that DBE's as designed in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, RIPTA or its contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that DBE's have the maximum opportunity to compete for and perform contracts. RIPTA and its contractors shall not discriminate on the basis of race, color, religion, national origin, age or sex in the award and performance of DOT assisted contracts.
3. Contractor Obligation – Contractors and subcontractors failing to carry out the requirement set forth in 1 and 2 above, shall constitute a breach of contract and, after the notification to the Department (DOT), may result in termination of the agreement or contract by RIPTA or such remedy as RIPTA deems appropriate.

B. DBE Utilization

1. DBE Utilization

The Contractor agrees to provide for full and fair utilization of Disadvantaged Business Enterprises (DBEs) by complying with the requirements of this clause. Included in these requirements is the achievement of the stated goal for the utilization of DBEs in the performance of work under this contract. Nothing in this clause shall be construed to require the utilization of any DBEs, which is either not qualified or unavailable. . **All DBEs submitted must be certified by the State of Rhode Island at the time of proposal submittal. A copy of the DBE Certification Letter from the State of Rhode Island Office of Civil Rights must accompany the proposal submittal**

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2. **Utilization Goal**

For the purpose of this contract, the goal for utilization of DBEs shall be as follows: not applicable DBE percent of the Contract Dollar Amount.

C. Definitions.

The terms used in these special provisions shall be defined as follows:

1. **Joint Venture**

an association of two or more persons to carry out a single business enterprise for profit, for which purpose they combine their property, money, efforts, skills and knowledge.

2. **Disadvantaged Business**

means a small business concern in which is, at least, 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically, disadvantaged individuals who own it.

3. **Small Business Concern**

a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

4. **Socially and Economically Disadvantaged Individuals**

means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans and any other minorities of individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8 (a) of the Small Business Act, RIPTA shall make a rebuttal presumption the individuals in the following groups are socially and economically disadvantaged. RIPTA may also determine, on a case-by-case basis, that individuals who are not a member of one of the following groups are socially and economically disadvantaged:

- a. **Black Americans**, which includes persons having origins in any of the Black racial groups of Africa;
- b. **Hispanic Americans**, which includes persons of Mexican, Puerto Rican, Cuban, Central or South America, or other Spanish culture or Portuguese culture, regardless of race;
- c. **Native Americans**, which includes persons who are American Indian, Eskimo, Aleuts, or Native Hawaiians;
- d. **Asian-Pacific Americans**, which includes persons whose origins are Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and
- e. **Asian-Indian Americans**, which includes persons whose origins are from India, Pakistan, and Bangladesh.
- f. **Disadvantaged Business Enterprise (DBE) Liaison Officer** – the individual designated by the Authority to

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monitor compliance with these Special Provisions and to assist in their implementation.

- g. **Proposer** – any individual, partnership, joint venture, corporation or firm submitting a proposal for the contract.

5. **Recognition of DBE Commitment**

Each proposer shall recognize RIPTA's commitment to insure that DBE's be afforded full opportunity to participate in contracts awarded by RIPTA and will not be discriminated against on the grounds of race, religion, color, national origin, handicap, age or sex.

6. **Submissions**

all proposers shall submit the following information with the proposal by using the Schedule of DBE Participation (Attachment A);

1. The Name and address of each DBE firm that will participate in the contract;
2. A description of the work each named DBE firm will perform; and
3. The dollar amount of participation by each named DBE firm.

The Authority encourages firms located in the United States that are currently certified as DBEs by Federal, State and Local agencies to apply for certification in the State of Rhode Island.

If a minority business would like to be certified by the State of Rhode Island contact: Mr. Charles Newton, Department of Administration, 1 Capital Hill, Providence, Rhode Island, 02908, Telephone (401) 222-6253.

If the apparent successful competitor's submissions does not satisfy the goal, RIPTA shall determine whether the apparent successful competitor has made good faith efforts to obtain DBE participation in accordance with the guidelines stated in Paragraph F, Sub-paragraph 1, below.

Unsuccessful efforts in gaining DBE participation must be documented on the "DBE Unavailability Certification" attached hereto as Attachment D. Meeting the DBE contract goals or making good faith efforts to meet the goals is a condition of receiving a Federal Transit Administration assisted contract for which contract goals have been established by RIPTA.

The legitimacy of each DBE or disadvantaged-majority joint venture shall be determined by RIPTA, based on the information submitted in the affidavits attached hereto as Attachments C and D. RIPTA will require all prime contractors to make good faith efforts to replace a DBE subcontractor that is unable to perform

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successfully with another DBE. RIPTA shall approve all substitutions of subcontractors **before** award of contract and **during** contract performance, in order that substitute firms are eligible DBE's.

7. Procedure Prior to Contact Award

a. **Guidance Concerning Good Faith Efforts to Meet DBE Contract Goals.**

RIPTA may decide that a competitor that has failed to meet DBE contract goals may receive the contract upon determining that the efforts the competitor made to obtain DBE participation were "good faith efforts" to meet the goal. RIPTA shall not consider efforts that are merely pro forma to be good faith efforts to meet the goals, even if they are sincerely motivated, if, given all relevant circumstances, they could not reasonably be expected to produce a level of DBE participation sufficient to meet the goals. In order to award a contract to a competitor that has failed to meet DBE contract goals, RIPTA must determine that the competitor's efforts were those that, given all relevant circumstances, a competitor, actively and aggressively seeking to meet the goals would make.

Following is a list of the kinds of efforts RIPTA may consider. The list is not exclusive or exhaustive and in appropriate cases RIPTA shall consider other relevant factors or types of efforts. RIPTA shall consider not only the different kinds of efforts the contractor has made, but also the quantity and intensity of those efforts. All information must be in writing and copies of all ads, written notices, follow-up letters and/or all other correspondence must be presented whenever a waiver is asked for.

RIPTA will consider the following efforts:

- i. whether the contractor attended any pre-solicitation or pre-proposal meetings that were scheduled by RIPTA to inform DBEs of contracting opportunities;
- ii. whether the contractor advertised in general circulation, trade association, and disadvantaged focus media concerning the sub-contracting opportunities;
- iii. whether the contractor provided written notice to a reasonable number of specific DBEs that their interest in the contract was being solicited in sufficient time to allow the DBEs to participate effectively;
- iv. whether the contractor followed up initial solicitation of interest by contracting DBEs to determine with certainty whether the DBEs were interested;

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- v. whether the contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation;
- vi. whether the contractor provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;
- vii. whether the contractor negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
- viii. whether the contractor made efforts to assist interested DBEs in obtaining bonding lines of credit, or insurance required by RIPTA or contractor; and
- ix. whether the contractor effectively used the services of available disadvantaged community organizations, disadvantaged contractor's groups, Local, State and Federal disadvantaged business assistance offices, and other organizations that provide assistance in the recruitment and place of DBEs.

8. **Proposal, Execution & Compliance with Subcontracts**

Prior to the execution of a contract between RIPTA and the successful proposer, the proposer shall present, for RIPTA's approval, DBE subcontracts corresponding in all respects to the proposed agreements. Upon approval by RIPTA, the successful proposer shall enter into each such approved DBE sub-contract and shall thereafter neither terminate such DBE nor reduce the scope of the work to be performed by, or decrease the price to be paid to, the DBE and the disadvantaged non-disadvantaged joint venture thereunder without in each instance the prior written approval of RIPTA.

9. **Substitution of Subcontractors**

RIPTA shall review for its approval all substitutions of subcontractors in order to determine if the percentage goal will be decreased by substitution of a disadvantaged contract/supplier with a non-disadvantaged contractor/supplier.

Where RIPTA has approved termination of a sub-contract held by an DBE or disadvantaged non-disadvantaged joint venture, the successful proposer shall make every reasonable effort to propose and enter into an alternative sub-contract or subcontracts for the same work to be performed by another qualified DBE for a contract price or prices totaling not less than the contract price of the terminated sub-contract. Satisfactory evidence of reasonable efforts shall be timely furnished by RIPTA.

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10. Program Compliance

At all times, discrimination on the basis of race, color, religion, national origin, handicap, age or sex will not be tolerated. RIPTA will monitor the schedule for participation by disadvantaged contractors in an effort to isolate those prime contractors who do not adhere to the non-discriminatory policies of RIPTA. If such contractor fails to respond to counseling with respect to the disposition of subcontracts pertaining to RIPTA funds, RIPTA reserves the right to terminate the contract and to consider future proposals of such contractor to be non-responsive in the absence of written assurance from it of the full opportunity for DBEs to participate in its awards of subcontracts, together with the follow-up to verify such participation.

11. Maintenance of Records

All records relating to the contract shall be maintained by the contractor for a period of three (3) years after project completion.

12. Contract Assurance

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

13. Prompt Payment

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Rhode Island Public Transit Authority. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above reference time frame may occur only for good cause following written approval of the Rhode Island Public Transit Authority. This clause applies to both DBE and non-DBE subcontractors.

14. Monitoring Payments to DBEs

RIPTA requires that prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of RIPTA or United States Department of Transportation. This requirement also extends to any DBE Subcontractor. Reports of payments to DBE Subcontractors shall be provided to the RIPTA DBE

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Liaison Officer on a monthly basis. Failure to submit these reports on a timely basis may result in delay of payments.

XVII. DISADVANTAGED BUSINESS ENTERPRISE REQUIRED FORMS

Attachment A: Schedule of DBE Participation

Submitted if DBE firm or firms will be participating in the Bid.

Attachment B: DBE Application Agreement

Submitted if DBE firm or firms will be participating in the Bid.

Attachment C: Letter of Intent to Perform as a Subcontractor

Submitted if DBE firm or firms will be participating in the Bid.

Attachment D: DBE Unavailability Summary Sheet

Submitted if DBE firm or firms you have contacted cannot participate.

This form is used to document good faith effort. This form only needs to be completed when there is a DBE Participation Goal.

Attachment E: Narrative Explanation for Lack of DBE Participation

Submitted by the Prime Contractor to explain lack of DBE participation.

Attachment F: Documentation of DBE/WBE Utilization

To be filled in by the DBE firm and the prime contractor once the DBE Subcontractor has been paid.

Please Note: Final payment to the Prime Contractor will be held until this form or forms are received for each DBE Subcontractor.

DBE FIRMS BIDDING AS A PRIME CONTRACTOR: the following forms must be filled in, signed and submitted with the Bid:

Attachment A, Attachment B

Please state, on these forms, that you are bidding as a prime contractor.

CERTIFICATION LETTER OR NOTIFICATION MUST BE INCLUDED FOR EACH DBE FROM THE STATE THEY ARE CERTIFIED BY.

Please record by letter (using the list below) under the DBE Category Column found on Attachment A: Schedule of DBE Participation Form on the following page

- a. "Black Americans", which includes persons having origins in any of the Black racial groups of Africa;
- b. "Hispanic Americans", which includes persons of Mexicans, Puerto Rican, Cuban, Central or South America, or other Spanish culture or Portuguese or origin, regardless of race;
- c. "Native Americans", which include persons who are American Indian, Eskimos, Aleuts, or Native Hawaiians;
- d. "Asia-Pacific Americans", which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;
- e. "Asian-Indian Americans", which includes persons whose origins are from India, Pakistan, and Bangladesh; and
- f. any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8 (a) of the Small Business Act.

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SCHEDULE OF DBE PARTICIPATION

A. Attachment A

Company Name: _____

Project Number: 12-16 Project: Indoor/Outdoor Bus Advertising

***Please provide copy of DBE Certification Letter for each DBE firm listed from the Rhode Island Office of Civil Rights. DBE Vendors must be certified in the State of Rhode Island at the time of Proposal Submittal to be considered**

DBE Firm Name	DBE Firm Address	DBE Category	Phone Number	Contact Name	Work to be Performed	Estimated Value Dollars	Estimated Value Percent of Bid

The undersigned will enter into a formal agreement with Disadvantaged Business Enterprise firms for work listed in this schedule conditioned upon execution of a contract with the Rhode Island Public Transit Authority.

Authorized Signature of Bidder Official

***Use additional forms as needed.**

1. *Journal of the American Medical Association*, 1997; 277: 1039-1043.

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LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR

C. Attachment C

To: _____
(Name of Prime or General Bidder)

The undersigned intends to perform work in connection with the above project as (check one):

___ an individual

___ a corporation

___ a partnership

___ a joint venture

The undersigned is prepared to perform the following described work in connection with the above project (specify in detail particular work items or parts thereof to be performed).

for the following compensation: _____

(Name of DBE Contractor)

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DBE GOOD FAITH EFFORT SUMMARY SHEET

D. Attachment D.

RIPTA requires a listing of DBE firms contacted; but not able to perform work. Use additional pages as needed. The DBE Goal for this project is Not Applicable

Project Name: **Indoor/Outdoor Bus Advertising**

Project Number: **12-16**

DBE Firm Name	DBE Firm Address	DBE Category	Phone Number Email Address	Contact Name	Reason Unable to Perform Work

Form completed by: _____

Date: _____

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

DOCUMENTATION OF DBE UTILIZATION

F. Attachment F

Prime Contractor: _____

DBE Name: _____

Starting Date: _____ **Completion Date:** _____

- I was the approved DBE on the above contract.
- I performed the items of work Subcontracted.
- I actually received \$_____ for my work.

(Signature & Title of DBE) (Date)

 (Signature & Title of Prime Contractor)

 (Date)

Please Note: Final payment to the Prime Contractor will be held until this form or forms are received for each DBE Subcontractor.

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XVIII. PERFORMANCE BOND INFORMATION

The selected Proposer shall furnish, within twenty (20) calendar days (if required) after the date of notice of award of contract by RIPTA, a Performance and Payment Bond in the amount of 50% of the proposal amount covering the faithful performance of the contract.

The Performance Bond is to be secured through an insurance company or companies which is licensed in the State of Rhode Island or which is approved by the Authority.

The Bond will remain in effect throughout the warranty period.

XIX. BID GUARANTEE (SURETY)

A Bid Guarantee (if required) shall be submitted with the bid response. This guarantee shall be equivalent to five (5) percent of the bid price. The "bid guaranty shall consist of a firm commitment such a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon will, upon acceptance of its bid, execute such contractual documents as may be required within twenty (20) calendar days after the date of notice of award of contract by RIPTA.

XX. REQUIRED INSURANCE

The bidder will be required to secure and maintain the following insurance coverages:

1. Commercial comprehensive general liability insurance, with limits of \$3,000,000.00 per accident and \$5,000,000.00 aggregate.
2. Workers' Compensation Coverage in accordance with RI Statutory requirements.
3. The Rhode Island Public Transit Authority shall be named as additional insured under said policies.
4. Automotive Liability Insurance
 - \$1,000,000.00 per accident and \$3,000,000.00 aggregate: bodily injury.
 - \$1,000,000.00 property damage

Bidder shall provide to RIPTA Contracts Manager a Certificate of Insurance upon award of contract. This Certificate shall be kept in effect at all times. Current copies shall be provided to the Contracts Manager

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XXI. GENERAL CONTRACT COMPLIANCE CERTIFICATE AND AGREEMENT

RHODE ISLAND STATE EQUAL OPPORTUNITY OFFICE

The undersigned Contractor agrees and certifies, unless otherwise exempt, that it is in compliance with the applicable requirements of Federal Executive order No. 11246, as amended, Rhode Island General Law 28-5.1-10, and other regulations as issued by the Rhode Island Public Transit Authority, as set forth below, or will take steps to comply with such requirements prior to acceptance of any order from us. This agreement and certificate shall form a part of, and be deemed incorporated in, each order submitted to you for supplies or services exceeding \$10,000. Failure to comply will be considered a substantial breach of the contract.

A. Equal Opportunity Clause

During the performance of this contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or natural origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the non-discrimination clause.
2. The Contractor will, in all solicitations or advertisements for placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Contractor will send to each labor union or representative of workers with which he/she has collective bargaining agreement or other contract or understanding a notice, advising the labor union or worker's representative of the Contractor's commitments under Section 202 of Federal Executive order No. 11246, as amended, Rhode Island Law 28-5.1-10, and other regulations and relevant orders of the Secretary of Labor.
4. The Contractor will comply with all provisions of Federal Executive Order No. 11246, as amended, Rhode Island General Law 28-5.1-10, and other regulations and relevant orders of the Secretary of Labor.

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5. The Contractor will furnish all information and reports required by Executive Order No. 11246, as amended, Rhode Island General Law 28-5.1-10 and other regulations as issued by the State of Rhode Island, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records and accounts by the State Equal Opportunity Office and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the Contractor's non-compliance with the non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or part, and the Contractor may be declared ineligible for further State contracts in accordance with procedures authorized in Federal Executive Order No. 11246, as amended, Rhode Island General Law 28-5.1-10 , and other regulations as issued by the State of Rhode Island, and such other sanctions may be imposed and remedies invoked as provided in Federal Executive Order No. 11246, as amended; Rhode Island Public Transit Authority, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law, or the State of Rhode Island and Providence Plantations.
7. The Contractor will include the provisions of paragraphs (1) through (7) in every sub-contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Federal Executive Order No. 11246, as amended, Rhode Island General Law 28-5.1-10, and other regulations as issued by the Rhode Island Public Transit Authority, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any sub-contract of purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States and the State of Rhode Island to enter into such litigation to protect the interest of the United States and the State of Rhode Island.

B. Age Discrimination

Pursuant to Federal Executive Order No. 11246, as amended, the Contractor will not, in connection with the employment, advancement or discharge of employees, or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a bona fide occupational qualification, retirement plan or statutory requirement, nor will the Contractor specify, in solicitations or advertisements for employees, a maximum age limit for employment unless the specified maximum age limit is based upon a

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bona fide occupational qualification, retirement plan or statutory requirement.

C. Employment of the Handicapped

1. Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as at the following employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination, rates of selection for training, including apprenticeship.
2. Contractor agrees that if a handicapped individual files a complaint with him/her that he/she is not complying with the requirements of the Rehabilitation Act of 1973, he/she will (1) investigate the complaint and take appropriate action consistent with requirements of 41 CFR Part 60-741.29 and (2) maintain on file for three years, the record regarding the complaint and the actions taken.
3. Contractor agrees that if a handicapped individual files a complaint with the Department of Labor that he/she has not complied with the requirements of the act, (1) he/she will cooperate with the Department in its investigation of the complaint, and (2) he/she will provide all pertinent information regarding his/her employment practices with respect to the handicapped.
4. Contractor agrees to comply with the rules and regulations of Section 503 of the Rehabilitation Act of 1973 as interpreted in 41 CFR Part 60-741.29.
5. in the event of Contractor's noncompliance with the requirements of this clause contract may be terminated or suspended in whole or in part.
6. This clause shall be included in all subcontracts. In the event that this contract exceeds \$10,000 but is less than \$500,000 and provides for performance in 90 days or more, Contractor further agrees as follows:
7. Contractor agrees (1) to establish an affirmative action program, appropriate procedures consistent with the guidelines and the rules of the Secretary of Labor, will provide the affirmative action regarding employment and advancement of the handicapped required by P.L. 93-516, (2) to publish the program in the employees or personnel handbook or otherwise distribute a copy to all personnel, (3) to review the program each year and to make

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such changes as may be appropriate, and (4) to designate one of the principal officials to be responsible for the establishment and operation of the program.

8. Contractor agrees to permit the examination by appropriate contracting agency officials or the Assistant Secretary for Employment Standards or the designee, of pertinent books, documents, papers and records concerning employment and advancement of the handicapped.
9. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Assistant Secretary for Employment Standards, provided by the contracting officer, stating Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment and the rights and remedies available.
10. Contractor will notify each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract understanding, that he/she is bound by the terms of Section 503 of the Rehabilitation Act, and is committed to take affirmative action to employ and advance in employment, physically and mentally handicapped individuals.

In the event this contract exceeds \$100,000 and provides for performance in 90 days or more, Contractor further agrees as follows:

11. Contractor agrees to submit a copy of his/her affirmative action program to the State Equal Opportunity Office within 30 days after the award of a contract or sub-contract.
12. Contractor agrees to submit a summary report to the State of Rhode Island and Providence Plantations Equal Opportunity Office by March 31 of each year during performance of the contract and by March 31 of the year following completion of the contract, in the form prescribed by State Equal Opportunity Office covering employment and complaint experience accommodations made and all steps taken to effectuate and carry out the commitments set forth in the affirmative action program.

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XXII. CERTIFICATE OF NON-SEGREGATED FACILITIES

Contractor certifies that he/she does not maintain or provide for his/her Employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any such location, under his/her control, where segregated facilities are maintained. He/she certifies further that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. Contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "Segregated Facilities" means any waiting room, work areas, rest rooms, and wash rooms, restaurants and other eating 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, or national origin, because of habit, local custom, or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods), he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000, which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will forward the following notice to proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods).

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XXIII. NOTICE OF PROSPECTIVE SUBCONTRACTORS **OF REQUIREMENT FOR CERTIFICATION OF NONSEGREGATED** **FACILITIES**

A Certificate of Nonsegregated Facilities must be submitted prior to the award of a sub-contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity Clause. The certification may be submitted either for each sub-contract or for all subcontracts during a period (i.e. quarterly, semi-annually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 USA 1001.

A. Affirmative Action Compliance Program

Contractor agrees to develop a written Affirmative Action Compliance Program for each of its establishments as required by Section 60-1.40 of Title 41 of the Code of Federal Regulations.

B. Employer's Information Report (EE)-1 Form 100

Contractor agrees to file in duplicate, Standard Form 100, entitled, "Equal Employment Opportunity Employer Information Report EEO-1" as required by Section 60-1.7 of Title 41 of the Code of Federal Regulations.

Send original copy to Federal authorities, duplicate copy to the State Equal Opportunity Office, 1 Capitol Hill, Providence, Rhode Island 02908-5865.

C. Notice to All Vendors

If it should be determined by the State Equal Opportunity Office that any company doing business with the State is guilty of non-compliance with the provisions of this document, said company will be given two (2) written warnings. If the said company does not comply immediately after the second written notice, then the State Equal Opportunity Office will notify the Rhode Island Public Transit Authority, who shall have the authority to have the contract **revoked** and all contractual obligations of the State dealing with the contract in question will be **null and void**.

D. Post Award Conference

Post Award Conference for the Implementation of Affirmative Action prior to Signing of Contract.

C. Signature Required

Failure to provide a signature prior to Award to successful Proposer shall be cause for Rejection of proposal.

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XXIV. GENERAL CONTRACT COMPLIANCE CERTIFICATE **& AGREEMENT FORM**

(Equal Employment Opportunity)

Authorized Signature: _____

Print Name: _____

Title: _____

Company Name: _____

Date: _____

Indicate Job Location Address: _____

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XXV. CERTIFICATION OF PRIMARY PARTICIPANT FORM

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Project Indoor/Outdoor Bus Advertising

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

- 1) Are not presently debarred, suspended, proposed for debarment, declared eligible, or voluntarily excluded from covered transactions by any Federal Department or Agency;
- 2) 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; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- 4) 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.
- 5) The Primary Participant also certifies that, if it later becomes aware of any information contradicting the statements of Paragraphs 1-4 above, it will promptly notify RIPTA.

The primary participant _____, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C Sections 3801 **ET SEQ.** are applicable thereto.

Signature/Title of Authorized Official

Date

The undersigned Chief Legal counsel for _____ hereby certifies that _____ has authority under state and local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Chief Legal Counsel

Date

Print Signature

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XXVI. DEBARMENT CERTIFICATION

CERTIFICATION REQUIREMENTS FOR RECIPIENTS OF GRANTS AND COOPERATIVE AGREEMENTS REGARDING DEBARMENT AND SUSPENSIONS

The purpose of the attached certifications is to exclude entities and individuals that the Federal Government has either debarred or suspended from obtaining Federal assistance funds through grants, cooperative agreements or third party contracts.

To assure that such entities and individuals are not involved in projects financed with Federal Transit Administration (FTA) assistance, FTA requires its applicants to complete the certificates.

The primary participant must sign the "**Certification of Primary Participant**" and, if there is a subcontractor, they must sign the "**Certification of a Subcontractor**" (If there is more than one subcontractor, they must all sign one of these forms.).

XXVII. CERTIFICATION OF A SUBCONTRACTOR FORM

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Project Indoor/Outdoor Bus Advertising

The potential Subcontractor, _____
Certifies, by submission of this certification, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal Department or agency.

The Subcontractor, _____ certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Sections 3801 **ET SEQ.** are applicable thereto.

Signature/Title of Authorized Official

Print Signature

Date

The undersigned chief legal counsel for _____
hereby certifies _____ has authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Applicant's Attorney

Print Signature

Date

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XXVIII. NON-RESIDENT CONTRACTOR INFORMATION

From: Department of Administration
Division of Taxation
289 Promenade Street
Providence, RI 02908

Notice: "To All Persons Engaging Non-Resident Contractors"
Regulation Re: Contractors and Subcontractors - "Regulation C"

Article III, Non-Resident Contractors

Any individual, partnership, joint venture, corporation, state, municipal government or exempt organization awarding a construction contract in Rhode Island to a non-resident contractor (as hereinafter defined) is required, pursuant to Section 44-1-6 of the General Laws, as last amended, to withhold 3% of the contract price to secure payment of any sales and use tax or income tax withheld, or both, that may be due to the State of Rhode Island in carrying out the contract.

Upon completion of the contract, the non-resident contractor is required to notify the Tax Administration shall, within 30 days after receipt of the request, audit the records and provide by certified mail to the person holding the funds and to the non-resident contractor, either a certificate of no tax due or a notice of taxes due.

The person holding the funds is required to pay to the Tax Administrator the amount set forth in the notice of taxes due, including interest and penalties, but not in excess of 3% of the contract price. Monies withheld in excess of taxes due the Tax Administrator may be paid to the non-resident contractor.

If the Tax Administrator does not furnish a certificate of no tax due or a notice of taxes due within 30 days after receipt of the request for the making of the audit, the person holding the funds may remit the full amount due to the non-resident contractor. The Tax Administrator shall not have any claim against such funds in the hand of the person holding the funds.

DEFINITION OF NON-RESIDENT CONTRACTOR

"A non-resident contractor is one who does not maintain a regular place of business in this state. A regular place of business shall be deemed to mean and include any bona fide office (other than a statutory office), factory, warehouse or other space in this state at which the taxpayer is doing business in its own name in a regular and systematic manner and which is continuously maintained, occupied and used by the taxpayer in carrying on its business through its regular employees regularly in attendance. A temporary office at the site of construction shall not constitute a regular place of business".

In order to effectively implement this legislative change which became effective on passage, non-resident contractors shall forward such notice of completion by certified or registered mail (in duplicate) to the Division of Taxation.

R. Gary Clark
Tax Administrator

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XXIX. DRUG & ALCOHOL TESTING PROGRAM

In accordance with the Federal Transit Administration Rules 49 CFR 40, 653, and 654, pertaining to prohibited drug use and Contract Service Providers who perform safety-sensitive functions as follows:

- Operation of Revenue Service Vehicles In and Out of Service.
- Dispatch or Control Movement of Revenue Service Vehicles.
- Maintain, Repair and Inspect Revenue Service Vehicle.

The standards they must meet are:

1. Provide each employee performing a RIPTA safety-sensitive function a copy of RIPTA's Prohibited Drug Use and Alcohol Misuse Policy and Procedures. Each Employee must sign and return to RIPTA "Confirmation of Receipt" form.
2. Provide RIPTA with documentation that all employees, both full and part-time, participate in a prohibited drug use testing program in compliance with 49 CFR 653 and an alcohol misuse testing program in compliance with 49 CFR 654. Documentation must be provided which insures that all testing is performed in compliance with 49 CFR 40.
3. Provide to RIPTA's, by February 1st, following each calendar year, annual Management Information Systems (MIS) reports for submission to the FTA. The MIS form used must be that which is contained in 49 CFR 653 and 654.
4. Identify a contact person responsible for handling all 49 CFR 40, 653 and 654 regulation compliance.

XXX. DRUG AND ALCOHOL POLICY ACKNOWLEDGEMENT

CONTRACT SERVICE PROVIDER ACKNOWLEDGEMENT AND CONFIRMATION OF RECEIPT

Employee Name: _____

Company Name: _____

I have received a copy of Rhode Island Public Transit Authority's Prohibited Drug Use and Alcohol Misuse Policy and Procedures.

Employee

Signature: _____

Date: _____

Return To: Drug and Alcohol Test Coordinator
Department of Human Resources
Rhode Island Public Transit Authority
Room 217
705 Elmwood Avenue
Providence, Rhode Island 02907

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XXXI. SCOPE OF WORK

A. Purpose

The Rhode Island Public Transit Authority (RIPTA) desires that competent advertising franchise services be secured to operate the revenue producing advertising program on all RIPTA vehicles under the control and operation of the Rhode Island Public Transit Authority (RIPTA Fact Sheet Attachment A). Franchisee shall do everything necessary at the franchisee's expense in consideration of the exclusive right to leasing and operation of the revenue producing advertising program, which right is granted herein.

B. Description

The Contractor shall provide advertising services to RIPTA for RIPTA's bus fleet and paratransit fleet in accordance with the authorized inventory (See Attachment B). These services shall be performed in accordance with the task descriptions listed herein. The work consists of, but is not limited to, these task descriptions.

C. General Services

Contractor shall provide an attractive and profitable means to develop and maintain a commercial advertising business for the display of qualified advertiser's products and/or services, in sufficient volume to utilize, as is reasonably possible, one hundred percent (100%) use and occupancy rate of the available advertising space. Contractor shall do all things necessary and reasonable to lease the space for advertising of the highest graphic quality and content and to employ criteria and standards and integrity in design and advertising content appropriate to the dignity of the State of Rhode Island. All leasing of space shall be made in the name of the Contractor and not RIPTA.

D. Acceptance of Assignment of Existing Advertising Contracts

The successful proposer agrees to accept assignment by the Authority or its nominee, all rights, title and interest in and to any and all contracts for advertising on RIPTA's bus fleet and paratransit fleet in effect.

E. Advertising Guidelines

All advertising displayed inside or outside RIPTA buses shall conform to the "Guidelines Governing Quality of Commercial Advertising" (See Attachment D) and the national outdoor advertising policy. Whenever a question arises as to the propriety of an advertisement, in that it may be considered objectionable or controversial, Contractor is required to submit the advertisement to the Director of Marketing, or their designee, for review and

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approval. Final determination of acceptability shall be the responsibility of the Director of Marketing. All advertising leased by the Contractor shall be subject to review by RIPTA and any advertisement found to be unacceptable, by the Director of Marketing shall be immediately removed by the Contractor upon verbal or written demand, at no cost or expense to RIPTA.

F. National Leasing Organization

Contractor shall provide and maintain a national leasing organization with the expertise, integrity, experience and with business relationships of sufficient scope to solicit leases and to lease both national and local advertising for display on RIPTA's bus fleet and paratransit fleet.

G. Local Leasing Organization

Contractor shall maintain a fully staffed office within the State of Rhode Island, under the direction of a Resident Sales Manager who will direct a fully trained sales organization and an adequate service and maintenance force to maintain all advertising in prime condition at all times. Contractor shall also produce and distribute sufficient quality promotional material to advance the lease of bus advertising in the Rhode Island market.

H. Leasing Plan

The Contractor shall submit a leasing plan that will include precisely how they plan to lease the authorized space. The plan shall include any packaging that is envisioned by the Contractor.

I. Sublease of Advertising Space

The Contractor shall not permit the subdivision and/or the sublease of any advertising space that is leased pursuant to this contract without the expressed written permission of RIPTA. The Contractor shall further be required to include such prohibition in the terms and conditions that the Contractor enters into with any party leasing advertising space on RIPTA's bus fleet and paratransit fleet. Such conditions shall require the immediate removal of any advertising that is subdivided or subleased by the client. This section is not intended to preclude a group of merchants in a shopping center or the shopping center management from purchasing space and naming the separate merchants or businesses.

J. Fiscal Judgment

Contractor shall exercise sound financial and administrative judgment in order to maintain high quality leasing, service and maintenance and to ensure the maximum revenue return to the Authority, subject to the provisions and limitations described herein.

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K. Advertising & Digital Displays

Except as otherwise directed by the Authority, advertisement and digital displays shall be placed only in those locations and in a manner as approved, or directed, by the Authority. Installation and removal of all advertising and digital displays shall be solely the responsibility of the Contractor. The quantities and specific configurations of advertising on the existing RIPTA bus fleet and paratransit fleet are described in Attachment B.

L. Increase to Inventory

Any expansion of advertising inventory authorized or directed by RIPTA in addition to the specifications contained in Attachment B shall increase the monthly guarantee payments due from the Contractor by forty percent (40%) of the potential revenue that would have been generated by one-hundred percent (100%) occupancy of such additional space, regardless of whether or not such additional space is actually installed or leased.

The increased guarantee amount shall be included with the guarantee payment on the first business day of the month following the inclusion of new inventory. The value of the increased inventory shall be calculated by taking the current twelve-month, unit rate as it appears on the approved rate card and multiplying the rates times the quantity of new inventory. This value will then be multiplied by 40 % to produce the amount by which the monthly guarantee will be increased. This “add-on” to the guarantee value will then be adjusted by the same rate as any approved rate increase over the term of the contract.

M. Vinyl Direct Application on Buses and Trolleys

All Vinyl direct application Advertising placed on buses and trolleys must not damage the paint when removed from the vehicles; it should leave no glue residue.

- For Kings and Tails – Flexcon BusMark #5800 with UV liquid laminate
- Super Tails - Flexcon BusMark #5800 with hard laminate
- Kongs, Wraps, Headliners & Trolleys – Bus Art with hard laminate
- Windows – Clear Focus perforated
- Interiors – 18 point coated card stock

N. Ownership of Adverting Hardware

All advertising display hardware (frames, racks, moldings, card springs, etc.) once installed on or in RIPTA buses under this Contract shall become the property of the Authority. As buses are

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taken out of service for disposal, it shall be the Contractor's responsibility to remove all advertising hardware from such buses and store hardware until it is required on other buses.

O. Hours of Carding and Framing

The Contractor shall install all advertising hardware and apply, insert and remove all advertising copy during those hours when the Authority's buses are not in revenue service, or at those other times as approved by the Authority.

RIPTA's paratransit fleet is located at different sites. The contractor will be responsible for the installation of hardware and frames at no cost to the Authority. The Authority will work out a schedule with the contractor so that the contractor may maintain this fleet.

P. RIPTA Bus Paint Scheme

The Contractor shall not remove, alter or cover the corporate logos of the Authority and/or the bus numbers without the written approval of the Director of Marketing, or their designee, except on those buses designated for the whole-bus program.

Q. Frame Relocation

The Contractor should consider the present configuration and location of all advertising and advertising hardware to be permanent. No advertising hardware may be removed or relocated by the Contractor without prior written approval of the Director of Marketing. The Contractor shall remove, reinstall and/or relocate any advertising hardware at the Director of Marketing's discretion and upon his/her direction, at no cost or expense to the Authority.

R. Graphics Relocation

The relocation of any graphics on or in RIPTA buses made necessary due to the relocation of advertising displays shall be coordinated through, and approved in writing by, the Director of Marketing, Communications & Corporate Affairs, or their designee, on the basis of a specific plan for each series of buses affected. Any costs associated with graphics relocation shall be borne by the Contractor.

S. Removal of Dated Materials

Contractor shall remove advertisements at the end of the contract period, and all dated messages or cards featuring a special event within seven (7) days of the date shown on the advertisement.

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T. Interior Advertising

Contractor shall give special effort to the proper spacing of cards installed in the interior 11" longitudinal racks. All advertising in these racks shall be secured on both ends with retaining straps. The appropriate size strap shall be used for each model bus. When installing the straps, care must be taken to ensure that the copy on the card is not covered.

Contractor's responsibility to replace interior advertising cards shall exist regardless of whether the cards were negligently or intentionally damaged, removed or otherwise subject to malicious mischief or acts of vandalism. Contractor's obligation to replace cards is absolute, and is not dependent upon notification by RIPTA.

U. Interior Information Cards

Contractor shall withhold from inventory, two (2) spaces in the longitudinal advertising rack at all times for cards relating to the authority business. The first position on the curbside and street side shall be reserved for RIPTA business information. In addition, any available inventory may be used by the authority at any time for authority business or cooperative promotions.

V. Exterior RIPTA Information Cards

The Contractor shall maintain as available (reserve from lease), post (install and remove) and store for the Authority, at no cost to the Authority, five (5) king-size displays each month. The Contractor shall also maintain as available (reserve from lease); post (install and remove) at no cost to the Authority, five (5) tails each month. Other size exterior displays shall be posted (made-up, installed and removed) and stored for the Authority, at no cost to the Authority on a space-available basis.

W. Public Service Advertising

The Authority has the right upon inventory availability to have the contractor post at no expense to the Authority/Organization Public Services Advertising. All public service advertising requests shall be submitted to the Director of Marketing, or their designee for approval prior to posting of such materials.

X. Rate Schedule

The Contractor shall establish all rates and charges for the lease of advertising space in and on RIPTA's bus fleet and paratransit fleet and the terms, conditions and manner of payment thereof. All rates and charges shall be subject to the Authority approved rate card. Rates and charges that will be effective April 1, 2012 shall be included in the proposer's response to this RFP, including any long-

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term discount to be offered (i.e., three-month, six-month, twelve-month rate). Subsequent rate adjustments shall be submitted to the Director of Marketing, or their designee, in writing no later than ninety (90) days prior to the proposed effective date of the new rates for the Authority's approval.

Y. Contract Forms

Contractor shall provide all contracts and associated forms for advertising space leases, subject to the prior approval of the Authority. Among other provisions, each contract must contain a provision, which prohibits the subleasing of advertising space without the expressed permission of the Authority. A copy of the intended contract must be included in proposer's response to this RFP, which includes all contract language, terms and conditions.

Z. Cooperative Promotions

From time to time, the Authority enters into cooperative promotional agreements with retailers or other organizations that have events occurring or have businesses within the Rhode Island area. The purpose of these agreements is to encourage the use of public transportation to a specific activity, event or retail area and, at the same time, promote attendance at the activity, event or retail area. The contractor will post such promotional information upon space availability when requested by the Authority.

AA. Use of Unsold Space by Contractor

The Contractor may, from time to time, use any unleased advertising space on or in the RIPTA buses for purposes, which directly further the leasing of such space. At no time will the Contractor offer any prospective client the use of any space at a rate, which is less than the rate stated in the approved rate card, without prior approval of the Authority.

The Contractor will notify the Director of Marketing, or their designee, anytime when there is space availability on any of the vehicles in the fleet.

BB. Policy on No Empty Spaces

Contractor shall commit to a policy of "No Empty Spaces". Those spaces not filled by paid advertising shall be filled with public service advertising, as approved by the Authority, RIPTA system information and/or cooperative promotions. The Contractor shall maintain an adequate inventory of RIPTA Information and promotional information that shall be printed and provided at the Authority's cost but shall be prepared and posted by the Contractor at no cost to the Authority.

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CC. Use of Corrugated Plastics

The Contractor, in cooperation with the Authority, shall require that all "local" taillight advertising and taillight public service advertising be produced on an approved transit-grade pressure sensitive vinyl, or on 3/16" corrugated plastic. Contractor should encourage all advertisers to utilize these materials to the fullest extent possible on all sizes of exterior advertising.

DD. Leasing and Financial Records

Contractor shall maintain separate sales and financial records relating to each account of the RIPTA bus and paratransit vehicle revenue-advertising program.

EE. Billings and Collections

The Contractor shall perform all billings and collections connected with the lease of advertising space on RIPTA buses and paratransit vehicles. The Authority shall not be responsible, in any way, for any uncollected billings. Contractor shall maintain complete and accurate accounts of all leases, billings and other pertinent matters, relating to this Contract, and will submit them, without notice, to audit by the Authority.

FF. Audit

An audit will be performed annually, the cost of which shall be borne equally by the Authority and the Contractor. It is understood by the parties that the cost of the audit will be pre-approved by the Authority and Contractor before embarking on same. The audit will coincide with the Authority's Fiscal year (ending June 30).

GG. Grant

That for and in consideration of the payments and agreements heretofore mentioned to be made by the Contractor, the Authority does hereby grant to the Contractor, for the term stated, an exclusive right and privilege to lease and display advertising in those spaces where advertising matter is ordinarily and customarily exhibited, as authorized by the Authority on the inside and outside of attached inventory of buses and paratransit vehicles. That right shall not include advertising matter printed in circular or hand out form to be distributed in the on-board "take-one" racks or by the bus operators or which may be printed on the transfer and/or tickets themselves, these rights being expressly reserved by RIPTA. (The Authority will entertain separate proposals for advertising on RIPTA's printed materials.)

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HH. Rules and Regulations

The Contractor, while exercising rights and privileges granted under this Contract, must observe and obey all rules and regulations authorized by law or by RIPTA for the care, operation, maintenance and protection of the RIPTA bus system. Failure of the Contractor or anyone under its control, to observe and obey such rules and regulations shall, at the option of the Authority, be cause for termination of the Contract.

II. Independent Contractor

The Contractor is an independent contractor and nothing in this Contract is intended to create, and nothing herein shall be construed, as creating any co-partnership or joint venture between RIPTA and the Contractor, or as constituting the Contractor as an agent or representative of the Authority for any purpose whatsoever. The payment of consideration to RIPTA has been adopted by the parties hereto solely as a convenient means for measuring the value of the rights and privileges herein granted.

JJ. Employers of the Contractor

1. The Contractor shall require its employees, who come in contact with the public, if directed by the Authority in writing, to wear uniforms or other identification items by which they may be distinguished as employees of the Contractor.
2. The Contractor shall not employ or retain in its services, or permit to remain on the premises, any person declared, for cause, to be unfit for such employment or otherwise objectionable.
3. The Contractor shall require its employees in all circumstances to exercise courtesy and consideration in all dealings with the public and RIPTA employees.
4. The Contractor must file with the Director of Marketing, or their designee, a list of names of Contractor's employees who are to perform work on the Authority's premises.

KK. Shop and Storage Space

The authority will provide adequate space on its premises located in the Elmwood campus, Providence, R.I. for the purpose of storage of advertising material.

LL. Federal, State and Local Law

The Contractor shall comply, at its own cost and expense, with all Federal, State and local laws, county and local ordinances, rules or

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regulations now or hereafter in force, which may be applicable to its operations within the RIPTA system, including obtaining and paying for all licenses and permits necessary for operation, and the payment of all fees and charges assessed under Federal, State, County or local statutes or ordinances insofar as they apply to the franchise operation.

MM. Indemnification and Insurance

1. The Contractor shall save and keep harmless and indemnify the Authority against any and all liability, claims, and the cost of whatsoever kind and nature arising or alleged to arise for injury, including personal injury to or death of any person or persons, and for loss or damage to any property, occurring in connection with or in any way incident to or arising out of the occupancy, use, service, operations, or performance of work in connection with this contract, resulting in whole or in part from the acts, errors, or omissions of the Contractor, any Subcontractor or any employee, agent or representative of the Contractor or Subcontractor.
2. The Contractor shall, during the entire period of performance under this Contract, be responsible for and make good at no additional cost to the Authority all damage to the Authority property caused by his acts and those of his employees, subcontractors and subcontractors' employees in carrying out the operations required by this contract.
3. The Contractor shall procure and maintain, at his own cost and expense, during the entire period of the performance under this Contract, the Insurances coverages as specified in Section XX of this RFP.
4. In the event that any of the above required insurance policies should be cancelled, terminated, or modified so that the insurance is not in full force and effect as required herein, the Authority, may terminate this Contract for default or obtain insurance coverage equal to that required therein, the full cost of which shall be charged to the Contractor and deducted from any payments due the Contractor.
5. The Contractor shall require each subcontractor, at all tiers, to provide insurance coverages specified herein and such evidence of insurance shall be provided to the contractor prior to commencement of work. Such coverage shall remain in full force and effect during the performance of work relative to this contract.
6. Any contract of insurance or indemnification naming the Authority, the United States of America or any of its dependents, agencies, administration or authorities, shall be

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endorsed to provide that the insurer will not contend in the event if any occurrence, accident, or claim that the Authority or the United States of America, et al, are not liable in tort by virtue of the fact of being governmental instrumentalities or public or quasi-public bodies.

7. No separate payment will be made for providing insurance as prescribed herein but the cost thereof shall be included in the prices for the various items as set forth in the Unit Price Schedule.

NN. **Performance Bond**

The contractor agrees to furnish the Authority a performance bond in the amount equal to fifty per cent (50%) of the annual minimum guarantee each year of the contact. Failure to submit the annual performance bond will constitute default of contact and conditions regarding default will take effect. This Performance Bond shall be forwarded to the Contracts Manager on an annual basis.

OO. **Notice**

Notice to the Authority shall be sufficient if sent by certified mail, postage prepaid, addressed to the Contracts Manager, and a copy to the Director of Marketing, or their designee, at the Rhode Island Public Transit Authority official address. Notices to the Contractor shall be sufficient if sent by certified mail, postage prepaid, addressed to the Contractor at the address sent forth in the Contract may designate in writing from time to time.

PP. **Right of Ingress and Egress**

The Authority hereby grants, subject to rules of the Authority, the right to duly authorized and properly identified representatives of the Contractor to enter upon the Authority's buses and maintenance/storage yards for the purpose of inspecting advertising space and other purposes necessary to carry out the requirements of the Contract, provided such work does not interfere with maintenance, repair or operation of vehicles or other property by the Authority.

QQ. **Waiver of Performance**

The failure of the Authority to insist in any one or more instances upon a strict performance by the Contractor of any of the provisions, terms, covenants, reservations, conditions or stipulations contained in the Contract shall not constitute nor be construed as a waiver or relinquishment thereof for the future, but shall continue and remain in full force and effect, and no waiver by the Authority of any provisions, terms, covenants, reservations, conditions or stipulations hereof shall be deemed to have been

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made in any instance unless specifically expressed in writing by the Authority as an amendment of the Contract.

RR. Removal of Equipment

Upon termination of the Contract by either the Contractor or the Authority, for any reason, the Contractor shall remove, at its sole cost and expense, from the property and premise of the Authority all advertising related equipment which the Authority, does not own, and shall restore said property and premises to the condition that existed immediately prior to the commencement of this contract, less reasonable wear and tear. Failure to effect this removal within thirty (30) days of notification shall cause the Authority to effect such removal and restoration of the Contractor's expense.

SS. Labor

The Contractor shall provide its own labor force, at its own expense, to perform all work required in connection with the installation of all advertising hardware and to install, change and remove advertising displays in and on RIPTA buses and paratransit vehicles.

TT. Damage to RIPTA Buses or Paratransit Vehicles

The Contractor shall reimburse RIPTA for the cost of repairs for any damage to a RIPTA bus and/or paratransit vehicles caused by the installation or removal of a frame or while replacing advertising copy or any other reason caused by the Contractor. The cost of repairs shall include material and labor. Labor cost shall be at the current rate plus fringe benefits.

UU. Housekeeping by Contractor

The Contractor agrees that its representatives and employees will not deface or damage the buses or paratransit vehicles, or any property of the Authority, or deposit or scatter any rubbish, waste, or litter in or about the buses or premises of the Authority, and that it will, at its own expense, promptly remove any such rubbish, waste and litter caused by any of its representatives or employees.

VV. Supplemental Cleaning of Advertising Displays

While the Authority continually makes a good faith effort to keep the interiors and exteriors of RIPTA buses and paratransit vehicles in a reasonably clean condition, so that the ability of the Contractor to sell and renew advertising accounts will not be impaired, the Authority cannot guarantee the cleanliness of its buses or the Contractor's advertising installed thereon. Contractor should take whatever steps are necessary to supplement RIPTA's efforts in the cleaning of frames and advertising display surfaces.

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WW. Service Interruptions

In the event there is a temporary service interruption for more than three (3) consecutive days, of thirty (30%) or more of RIPTA's peak hour bus service, by reason of labor dispute, fire, flood, earthquake, act of God or public emergency, thereby causing loss of income to the Contractor, the annual guarantee shall be reduced on a pro-rata basis for the period of time of such interruption, or to be reduced by the amount of money refunded to advertisers due to the interruption, whichever sum shall be the less of the two.

XX. Authority Copies of Contracts/Change Orders

The Contractor shall forward one (1) copy of each fully executed leasing contract, renewal contract and change order to the Authority within five (5) days of execution.

YY. Tobacco Advertising

The contractor shall neither accept for display nor display tobacco or tobacco related products. The Authority reserves the right to amend this restriction if in the sole judgment of the Authority; amendment is in the best interest of the Authority.

ZZ. Authority Promotions

The Authority reserves the right to pull from the inventory up to seven (7%) of its buses for promotional purposes.

AAA. Overposting

The practice of over posting for the purpose of assuring sufficient advertising exposures of fulfilling the terms of contracts with advertisers will be permitted provided, however, that the required number of spaces for public service advertising are maintained as available and that any over posting above fifteen (15%) of the contracted space sold shall require prior authorization in writing by the Director of Marketing, or their designee. Violation of this provision shall be subject to payment of a cash penalty equal to three times the one-month, approved rate card rate for each display posted in excess of the fifteen (15%) limit.

Any penalty payment required by this section shall be paid by the Contractor within thirty (30) days after notification by the Authority, and shall be made without regard to any other payment or payments required under this Contract.

BBB. Assignment of Contracts for Advertising

Upon expiration of the term of this Contract or the extension thereof, or upon earlier termination not attributable to default by the Contractor, the Contractor shall immediately assign and transfer to

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RIPTA, and RIPTA agrees to accept, all contracts for advertising on RIPTA buses, which are in effect, and such contracts shall there upon become the property of RIPTA. All advertising contracts written by the Contractor shall expressly permit such assignments. Following such assignment and transfer, RIPTA or its assigns shall pay to the Contractor, when and as received, twenty percent (20%) of the gross income received from such contracts for the unexpired period of the contract. Contractor shall not enter into any contracts with advertisers that extend more than twelve (12) months beyond the expiration date of this Contract.

CCC. Adjustment to Size of Operating Fleet

In the event of a reduction, or increase, of fifteen percent (15%) or more in the number of RIPTA buses operating peak-hour service in any calendar year, the parties agree to consider adjustments as appropriate under the provisions of this Contract.

DDD. Photographs of Advertising

Within five (5) calendar days from the installation of the first piece of copy of either a new or changed display, the Contractor shall deliver a photograph, in a format acceptable to the Director of Marketing, Communications & Corporate Affairs, of the advertising copy as it is displayed on RIPTA buses. A list of the locations where the copy is displayed (Completion Report) shall be provided upon request. Failure of the Contractor to deliver photographs and/or completion reports as required by this section shall require a cash penalty equal to two times the monthly gross value of the advertising subject's contract. Any penalty payment required by this section shall be paid by the Contractor within thirty (30) days after notification by the Authority, and shall be made without regard to any other payment, or payments, required under this Contract.

EEE. Authority Audits of Space and Billings

The Authority shall perform unscheduled and unannounced audits of advertising space for the purpose of monitoring the Contractor's performance and compliance with the terms and conditions of the Contract. The findings of these physical audits shall be one basis for assessment of penalty payments prescribed herein. The findings shall be compared to advertiser's contracts provided by the Contractor to assure posting compliance and proper billing by the Contractor. The findings shall be considered public information and may be provided to advertisers and other transit properties at the discretion of the Authority. Formal reports containing the Authority's findings will be transmitted to the Contractor for response and comment. Response to questions requiring action or comments by the Contractor shall be made within ten (10) working

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days from the Contractor's receipt of report. Receipt of the report shall also be considered as notification for penalty payments required by specific sections of this Contract.

FFF. Severability

The provisions of this contract are severable and if any phrase, clause, sentence or provision of this contract is declared to be unconstitutional or the applicability of such provision to any part is held invalid, the constitutionality of the remainder of the agreement and the applicability in other circumstances shall not be affected thereby.

In the event that any provision of this contract, or any provision of any attachment which is incorporated herein, is held unconstitutional, in whole or in part, the remainder of the contract and the attachments will continue in full force and effect. It is the intent of the parties to the contract that this contract shall be construed so as to render it constitutional.

GGG. Detailed Report of Billing

The Contractor shall provide a schedule setting forth all advertising space leased during the month covered by the report, showing the following: clients name, name of advertising agency, if any; term of contract; beginning date of contract; expiration date of contract; kind of showing (i.e. King, Queen, Tall, Interior), size of showing, rate card amount for showing, agency commission (if any), net billing, billing date and amount received.

No credit refund that decreases the amount of billings shall be shown on the report unless said credit or refund has first been submitted to the Director of Marketing. Any submission for credit or refund must be in writing and shall be accompanied by sufficient supporting documentation. Uncorrectable accounts are the sole responsibility of the Contractor and shall not be used to decrease or offset billings or payments to the Authority.

XXXII. TECHNICAL SPECIFICATIONS

Proposal responses shall be limited to no more than ten (10) double sided pages.

A. Technical Proposal Format

1. Consultant Identification

State name and address of your organization or office and nature of organization (individual, partnership or corporation, private or public, profit or non-profit). Subcontractors, if any,

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must be identified in a similar manner. Include name and telephone number of person(s) in your organization authorized to negotiate the proposed contract, state qualifications of your organization, provide a listing of transit advertising background experience completed or currently ongoing.

2. Prior Experience

State relevant experience of persons who will be actively engaged in the proposed project, including experience of subcontractors. Indicate for whom the work was performed, year completed and a reference person who can be contacted regarding the work.

3. Proposed Approach to Tasks

Discuss fully your proposed approach to each of the tasks described in the Scope of Work.

4. Management Summary

Describe individual staff and subcontractor responsibilities with lines of authority and interface with the Authority.

5. Additional Information

Include other information you believe to be pertinent but not required in this section.

6. References

Please provide a list of at least five references from a similar or larger transit agency. Please provide the contact name and contact information

XXXIII. PROPOSAL EVALUATION CRITERIA

The following criteria will be used by the management committee in recommending contract award to the Authority Board Members. The technical proposal factors are as stated below:

- A. Amount of minimum yearly cash guaranty and any other revenue options proposed. Please note: The highest minimum cash guarantee is not the sole criteria for recommending contract award.
- B. Experience and qualification of applicant and subcontractor staff to perform tasks described in Scope of Work.
- C. Company payment history.
- D. Adequacy of proposed approach to the tasks described in Scope of Work.

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- E. Percent of trade if any applicant will share with the Authority for media, merchandise, gift certificates, services or any other retribution for reciprocal advertising space on Authority vehicles.
- F. Reference

XXXIV. CONTRACT DURATION

This is a three year contract with up to two annual renewal options to be exercised at the sole discretion of the Authority.

XXXV. BASIS FOR AWARD

Award will be made to the responsible offeror:

- A. Whose offer is technically acceptable and
- B. Whose technical/price relationship is the most advantageous to the Authority. The evaluated price will be the offeror's total of the minimum guarantees for the five-(5) year period of the contract.
- C. Offerors are advised that award may be made without discussion or any contact with the offerors concerning the offers received. Therefore, offers should be submitted initially on the most favorable terms that the offeror can submit to the Authority.

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XXXVI. PAYMENT SCHEDULE

A. Minimum Annual Guarantees

Commencing April 1, 2012, the Contractor shall provide the Authority a minimum annual guarantee payment. The amount will for each calendar year for the three (3) years with two (2) one (1) year renewal options in which the contract is in force shall be paid in twelve (12) equal monthly installments, on the first business day of the month, in advance, without billing by the Authority. Payments received more than seven (7) days late will be assessed a late payment charge at the current short term Treasury Bill rate.

2012 \$_____

2013 \$_____

2014 \$ _____

2015 (option year) \$ _____

2016 (option year) \$ _____

The Contractor may also include in their proposal any dollar amount they can guarantee regarding media trade. All media trade will be approved by the Director of Marketing, Communications & Corporate Affairs to determine value to the Authority. Only the Authority has the right to approve trade for the purpose of this contract.

B. Revenue Sharing

The Contractor further agrees to pay the Authority an amount equal to sixty percent (60%) of all net billing, as defined below, resulting from the leasing of advertising space on RIPTA buses and paratransit vehicles, or the Minimum Guarantee described in Paragraph A above, whichever the greater.

XXXVII. LIST OF ATTACHMENTS

- A. Fact Sheet on RIPTA**
B. List of Revenue Vehicles
C. Authorized Advertising Racks and Frames
D. Guidelines Governing Quality of Commercial Advertising
E. Revenue Breakdown 2009 and 2010

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XXXVIII. ATTACHMENT A

FACT SHEET

	Fixed Route Service	Paratransit Service	Flex Service
Service Miles	8,000,490	4,438,006	426,946
Vehicle Trips Weekdays	3,266/day 831,346/year	N/A	N/A
Number of Routes (Local)	55	104	8 zones
Number of Routes (Park N' Ride)	15	N/A	N/A
Average Weekday Ridership	62,951/day	2,362/day	1,139/day
Total Annual Passengers	19,172,278	641,134	291,208
Daily Miles Operated (Weekday)	26,458	16,057	1,645
Total Number of Active Buses	240	147	15
Total Number of Peak Hour Buses (Weekdays)	202	118	13
Total Number of Off Peak Buses (Weekdays)	127	N/A	N/A
Hours of Operation (Weekdays)	4:40 AM - 1:50 AM	4:30 am-2:00 AM	6:00 AM-1230 AM
Number of Towns in RI that receive service	34	38	10

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XXXIX. ATTACHMENT B LIST OF REVENUE VEHICLES
As of December 31, 2012

A. List of Revenue Vehicles and Sign Racks per Vehicle

Notes: All exterior signage is framed except Small Tails.
Trolley Tails are direct application

Year	Vehicle Type Length (feet)	Number of Vehicles	King Size 30" x 144"	Queen Size 30" x 108"	Bus Tails 21" x 72"	Bus Small Tails 16"x 48"	Premium Cards 21" x 22"	Interior Car Cards 11"x 28"	Trolley Tails 25" x 90"	Trolley Premium Cards 19"x 24"
1992	Nova RTS OC T80206 40 ft bus	1	2	0	0	1	1	Yes	0	0
1998	Nova RTS OC T80206 40 ft bus	9	2	0	1	0	1	Yes	0	0
1999	Nova RTS OC T80206 30 ft bus	5	0	1	1	0	1	Yes	0	0
2000	Nova RTS OC T80206 40 ft bus	25	2	0	1	0	1	Yes	0	0
2001	Orion V 40 ft Transit Bus	27	2	0	1	0	1	Yes	0	0
2001	Chance Coach Model AH 28 Trolley	4	0	0	0	0	0	No	1	1
2002	Ford E 450/Turtletop Flex Bus	5	0	0	1	0	0	No	0	0
2004	Orion V 40 ft Transit Bus	24	2	0	1	0	1	Yes	0	0
2004	Chance Coach Model AH 28 Trolley	1	0	0	0	0	0	No	1	1
2004	Ford E 450/Turtletop Paratransit Van	36	0	0	1	0	0	No	0	0
2004	Ford E 450/Turtletop Flex Bus	2	0	0	1	0	0	No	0	0
2005	Ford E 450/Turtletop Paratransit Van	14	0	0	0	0	0	No	0	0

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Year	Vehicle Type Length (feet)	Number of Vehicles	King Size 30" x 144"	Queen Size 30" x 108"	Bus Tails 21" x 72"	Bus Small Tails 16"x 48"	Premium Cards 21" x 22"	Interior Car Cards 11"x 28"	Trolley Tails 25" x 90"	Trolley Premium Cards 19"x 24"
2005	Gillig Low Floor 40 Floor Transit Buses	36	1	1	1	0	0	Yes	0	0
2006	Ford E 450/Turtletop Paratransit Van	35	0	0	0	0	0	No	0	0
2009	Gillig Low Floor 40 Floor Transit Buses	24	1	1	1	0	0	Yes	0	0
2010	Gillig Low Floor 40 Floor Trolleys	10	1	1	1	0	0	Yes	0	0
2010	Gillig Low Floor 40 Floor Transit Buses	53	1	1	1	0	0	Yes	0	0
2010	Gillig Low Floor 35 Floor Transit Buses	10	1	1	1	0	0	Yes	0	0
2011	Chevrolet/Turtletop Flex Bus	4	0	0	0	0	0	NO	0	0

Cards 11" x 28" run the length of each coach. Behind the operator 21" x 22" on 85% of all buses.

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XL. ATTACHMENT C

AUTHORIZED ADVERTISING RACKS AND FRAMES

The purpose of this attachment is to make proposers fully aware of the types of frames and racks that are presently installed on RIPTA Buses and those types of frames and rack that will be required under this Contract.

A. Interior Longitudinal Racks

Each RIPTA bus has the standard eleven (11) inch curved longitudinal advertising racks that run from the front to the rear of the bus on both sides above the windows. Advertising placed in the longitudinal racks shall be held securely in place with the appropriate size straps at both ends.

B. Interior “Hi-Light Square” Frames

Most buses also have interior frames that display advertising measuring twenty-one (21) inches wide and twenty-two (22) inches high. These frames are mounted either on the bulkhead just to the rear of the bus operator’s platform or on, and in line with, the longitudinal racks. All interior 21” x 22” advertising frames shall be attached in such a manner as to prevent any vibrating or rattling.

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XLI. ATTACHMENT D

GUIDELINES GOVERNING QUALITY OF COMMERCIAL ADVERTISING

- A. All advertising placed in the RIPTA system should reflect a high level of good taste and decency in copy and art. All advertising should harmonize with the environment of its placement.
- B. All advertising should be truthful and comply with the spirit and letter of all applicable laws and regulation of the various jurisdictions into which it is introduced. All copy and art should avoid conveying derisive, exaggerated, distorted, deceptive or offensive impressions.
- C. Advertising promoting contest should insure the contest is being conducted with fairness to all entrants and complies with all applicable laws and regulations.
- D. Testimonials should be authentic and should honestly reflect the response of the person making them. (The sales contract provides for the indemnification of RIPTA against action by any person quoted or referred to in any advertisement placed in the RIPTA system).
- E. Medical products or treatments should be presented in a restrained and inoffensive manner.
- F. Advertisers should take special care to avoid illustrations or references, which disregard normal safety precautions.
- G. Advertising offering premiums or gifts should avoid representations, which would enlarge the value of the item in the minds of the viewers.
- H. Use of RIPTA graphics or representations in advertising is subject to approval by RIPTA.
- I. No implied or declared endorsements of any product or service by RIPTA is permitted.
- J. RIPTA reserves the right to reject or remove any advertising which it deems to be not in the public interest.
- K. Items which might be objectionable to a substantial segment of the community should be avoided. For example, advertising depicting or referring to undesirable social behavior, or which might be offensive because of racial or religious references should be avoided. Copy which might be contrary to the best interests of the Transit system will be acceptable.

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XLII. REVENUE SUMMARY 2009 AND 2010

<u>Contract 2009</u>			<u>Contract 2010</u>	
<u>Monthly Guarantee</u>	\$27,500		<u>Monthly Guarantee</u>	\$28,333
	<u>Monthly Revenue (dollars)</u>			<u>Monthly Revenue (dollars)</u>
<u>May</u>	69,801.25		<u>May</u>	72,572.50
<u>June</u>	79,690.75		<u>June</u>	95,418.75
<u>July</u>	66,131.00		<u>July</u>	75,595.00
<u>August</u>	71,372.00		<u>August</u>	77,210.00
<u>September</u>	74,682.00		<u>September</u>	77,944.85
<u>October</u>	80,732.00		<u>October</u>	82,000.00
<u>November</u>	69,204.50		<u>November</u>	69,682.50
<u>December</u>	65,859.50		<u>December</u>	35,477.50
<u>January</u>	56,545.00		<u>January</u>	65,797.50
<u>February</u>	54,697.50		<u>February</u>	60,776.25
<u>March</u>	63,605.50		<u>March</u>	67,197.50
<u>April</u>	69,095.00		<u>April</u>	77,917.00
	821,416.00			877,639.35

Note: These revenue numbers include RIPTA's Transit Watch program with represented approximately \$540,000 in revenue. This program has concluded therefore it should not be included in future projections

The Revenue Split is 60% to RIPTA; 40 % to The Vendor.