



**CENTRAL OREGON  
INTERGOVERNMENTAL COUNCIL  
REQUEST FOR PROPOSAL (RFP)  
FOR**

**PUBLIC TRANSIT  
SERVICES IN BEND**

**RFP Number: CET 16-3**

**Release Date:** October 3rd, 2016

**Closing Date:** December 21st, 2016 - Time: 2:00 p.m. PT

**Requests for changes/clarification Deadline:** November 7th, 2016 @ 5:00 p.m. PT

**PRE-PROPOSAL CONFERENCE:**  
Tuesday, October 17th, 2016 @ Noon PT

**Expected Start Date of Contract: May 1, 2017**

**Central Oregon Intergovernmental Council  
334 NE Hawthorne Ave  
Bend, Oregon 97701**

**DESCRIPTION OF WORK:**

The Central Oregon Intergovernmental Council, hereinafter referred to as "COIC", intends to enter into a contract with the successful proposer to operate Cascades East Transit's Bend fixed route and dial a ride services provided to meet the general and specialized travel needs, respectively, of the community.

For additional information about the Central Oregon Intergovernmental Council and its services, please refer to the COIC website at: [www.coic.org](http://www.coic.org). For additional information about Cascades East Transit and its services, please refer to the CET website at: [www.cascadeseasttransit.org](http://www.cascadeseasttransit.org). Documents of interest include the Bend Master Transit Plan completed March 2013 by the Bend Metropolitan Planning Organization. <http://www.bend.or.us/index.aspx?page=759>

**PROPOSAL VALIDITY PERIOD:** One hundred twenty (120) days after the closing date.

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## Section 1 - Proposal Requirements and Conditions

- 1.1 Sealed proposals will be received until 2:00 p.m. PT, December 21, 2016 at the Bend CET office; 1250 NE Bear Creek Road, Bend, Oregon 97701. Proposals mailed must be received at COIC prior to closing date and time. Each proposal should indicate on the outside of the envelope/package the name of the Proposer, the RFP title, and the words "PROPOSAL RFP CET 16-3" on the front lower left hand side. Proposals will not be publicly opened.
- 1.2 COIC reserves the right to make changes to the RFP. All changes to the RFP, prior to receipt of proposals, shall be made by an addendum to the RFP which shall be made available to all firms that have registered for this RFP via the contact information provided in section 1.3. Following receipt of proposals, any changes to COIC's RFP will be conveyed in writing by COIC to those Proposers determined to be in the competitive range.
- 1.3 Proposers may submit questions, request clarification, or request a change to the RFP by submitting a written request to the address, fax or E-mail listed below.

**Central Oregon Intergovernmental Council**  
**Attn: Transp. Bus Admin RFP CET 16-3**  
**1250 NE Bear Creek Road**  
**Bend, Oregon 97701**  
**E-mail: dorr@coic.org**  
**FAX: (541) 389-7367**

The request shall specify the provision of the RFP in question, and, if a change is requested, contain an explanation for the requested change. The deadline for requested changes must be submitted by the date provided in section 1.30 herein, or a date provided on a subsequent Addendum. COIC may decline to respond to questions or change requests received after this deadline.

- 1.4 COIC shall evaluate any question or request submitted, but reserves the right to determine whether to respond or accept the requested change. Proposers shall not rely on oral or written representations regarding this RFP unless issued in writing as an addendum by the Transportation Business Administrator.
- 1.5 Proposers are cautioned that until submission of their proposal, they may have contact with only those COIC representatives, agents, or personnel designated in writing within this RFP. Discussions or communications in any capacity with COIC Managers, COIC employees, its CONTRACTOR'S, or members of the Board of Directors, are strictly prohibited. Any violation of this restriction may result in disqualification of the Proposer from further participation in this procurement and from award of any contract or subcontract under this solicitation.
- 1.6 COIC acknowledges the possible confidential nature of any cost or price information requested by the Requests for Proposals (RFP), and COIC obliges itself in good faith not to disclose such information during the evaluation process. After contract award, disclosure of information shall be made only in accordance with Oregon Law and applicable Federal requirements. All materials submitted with regard to this RFP become the property of COIC and may be returned only at COIC's option.
- 1.7 The parties agree that paragraph headings and other titles used in this Contract are for convenience only, and are not to be used to interpret this Contract.

- 1.8 COIC reserves the right to analyze, examine and interpret any proposal for a period of not more than one hundred twenty (120) days, commencing from the proposal due date and time. Proposals shall not be conditioned to allow for less than a one hundred twenty (120) day acceptance period.
- 1.9 A proposal is late if COIC receives it after the deadline stated in this RFP for delivery of proposals. A proposal shall be deemed received by COIC when the Transportation Business Administrator has physically received it. Delays due to mail handling, including but not limited to COIC's internal mail handling, will not excuse late delivery of a proposal.
- 1.10 A single Proposer may submit more than one proposal. Each proposal must be submitted separately and each shall be complete in all respects. COIC will evaluate each area of each proposal without reference to other proposals submitted by the same Proposer. If more than one proposal falls within the competitive range, COIC may negotiate with the Proposer regarding all of them simultaneously.
- 1.11 COIC does not anticipate multiple contract awards as a result of this solicitation.
- 1.12 COIC reserves the right to cancel this RFP at any time without liability prior to execution of a contract by COIC.
- 1.13 If any proposal indicates minor noncompliance or variance with the RFP, COIC may, but need not, request that the proposal be supplemented. All proposers will receive notice of all requests to other proposers for submission of supplements. If requested, the Proposer may submit a supplement to the proposal responsive to such a request within the time period established in such request, which COIC will receive and evaluate in conjunction with the proposal. Supplements shall not be considered to be Best and Final Offers unless so indicated.
- 1.14 Proposer shall promptly notify the COIC Transportation Business Administrator of any ambiguity, inconsistency, or error, which they discover upon examination of the Contract Documents (see section 1.3).
- 1.15 Proposers are cautioned that the rules and regulations under the State of Oregon may be stricter than other jurisdictions. Compliance with all applicable regulations and laws are the responsibility of the selected CONTRACTOR.
- 1.16 Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective response to this solicitation are not desired and may be construed as an indication of the Proposer's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor required.
- 1.17 If received by December 21, 2016 2:00 p.m. PT, COIC shall accept and review reference questionnaires completed by transit agencies that the Proposers have recently provided, or currently do provide transit service to. Completed reference questionnaires received before the deadline shall be used as part of the evaluation of Proposer's past performance. Completed reference questionnaires need to be sent (fax, email, or mail) to the designee listed under section 1.3. The reference questionnaire is attached as Exhibit D.
- 1.18 Proposers are cautioned that the item descriptions on the price form are not intended as complete descriptions of the required supplies or services to be purchased under this solicitation. Each Proposer must consult the Specifications or Statement of Work sections of the solicitation document for complete descriptions of the required supplies or services.

- 1.19 The line item proposal prices must include any incidental expenses including, but not limited to indirect costs, overhead, travel and lodging, insurance, gas and other ordinary expenses or other incidental costs.
- 1.20 COIC shall evaluate proposals for award purposes by including the total price for the basic requirement together with any option pricing; i.e., option pricing will be included in the evaluation for award purposes. Optional items shall not necessarily be purchased under this solicitation.
- 1.21 This contract is funded in part by a financial assistance agreement between COIC and the U.S. Department of Transportation, Federal Transit Administration (FTA). This procurement and contract is subject to all applicable federal laws and regulations relating to, and third party contract provisions prescribed by that financial assistance agreement, including, but not necessarily limited to, the provisions in Exhibit E, which is attached to and made a part of this contract.

CONTRACTOR must comply with Federal Transit Administration Drug and Alcohol Regulations. (see Exhibit E and Attachment 6). COIC reserves the right to audit CONTRACTOR'S drug and alcohol program documentation as set forth under the Audit and Inspection of Records clause of this contract.

- 1.22 Prior to award of any contract as a result of this solicitation, COIC, at its sole discretion, may perform, or have performed, a pre-award accounting system review to ascertain the CONTRACTOR'S ability to accurately accumulate and bill program costs under any resulting contract. COIC shall be responsible for only its own costs associated with the pre-award accounting system review. The CONTRACTOR, by submission of a proposal, agrees to assist COIC or its designated representative(s) in performing the pre-award accounting system review.
- 1.23 Whenever a particular make of material is shown or specified herein, such make of material shall be regarded as a standard. Any other make of material will be accepted, upon Transportation Manager's approval, which is comparably equal to or better than, that specified in formulation, quality, quantity, workmanship, economy in operation, and suitability for the purpose intended.
- 1.24 Proposer may seek administrative remedies under Proposal Protest Procedures of COIC's Contracting Procedures. Copies of COIC's Protest Procedures are available upon request from COIC at the address listed under section 1.3.
- 1.25 By submitting their proposals, Proposers certify that they have all requisite authority and ability to perform the work.
- 1.26 Pre-contractual expenses are defined as expenses incurred by the Proposer in:
  1. Preparing its proposal in response to the RFP;
  2. Submitting the proposal to COIC;
  3. Negotiating any matter related to this proposal with COIC;
  4. Proposer staff time involved in pre-award accounting system review; or
  5. Any other expenses incurred by the Proposer prior to the date of award, if any, of the proposed contract.
  6. COIC shall not, in any event, be liable for any pre-contractual expenses incurred by Proposer in the preparation of a proposal.

- 1.27 COIC will not enter into a contract where compensation is based upon cost plus a percentage of cost. Compensation will be at the prices set forth in the successful Proposer's initial proposal and/or best and final offer.
- 1.28 All proposers are encouraged to participate in the pre-proposal conference held on October 17th, 2016, Noon PT. The conference will be held at the COIC Admin Office located at 334 NE Hawthorne Ave., Bend, Oregon. **Proposers are not required to attend a pre-proposal conference in person and may call in to participate by calling the following phone number ten (10) minutes before the scheduled conference: 800-392-9139. The conference ID for these two conferences is 489537.** Proposers are encouraged to submit questions in writing to [dorr@coic.org](mailto:dorr@coic.org) prior to the conferences. The purpose of the Pre-Proposal Conference is to answer questions and provide clarification regarding the RFP and to help ensure COIC's receipt of thorough responses to the RFP that are prepared using the same base assumptions. A record of attendance will be conducted. COIC intends to provide addenda to the RFP to those firms who have either attended in the pre-proposal conference or registered for this procurement by simply emailing interest in the solicitation to the Transportation Business Administrator at [dorr@coic.org](mailto:dorr@coic.org).
- 1.29 The responsibility for attending one of the pre-proposal conference and submission of the proposal to COIC on or before December 21 2016 2:00 pm PT will be solely and strictly the responsibility of the proposer. COIC will in no way be responsible for delays in the United States Mail or delay by other occurrence or means of delivery.
- 1.30 The following schedule is provided for informational purposes only and is subject to change. All times are Pacific Daylight Time (PDT):

Issue RFP	October 3rd, 2016
Pre-Proposal Conference	October 17th, 2016 @ Noon PT
Requests for changes/clarification Deadline	November 7 <sup>th</sup> , 2016 @ 5:00 p.m. PT
Response to Requests for changes/clarification	November 21 <sup>st</sup> , 2016 @ 5:00 p.m. PT
Proposals Due	December 21st, 2016 @ 2:00 p.m. PT
Completed Reference Questionnaires Due	December 21st, 2016 @ 2:00 p.m. PT
Competitive Range Determination	January 5th, 2017
Contractor Interviews (if necessary)	January 12th, 2017
Request for Best and Final Offer (if necessary)	January 13th, 2017
Best and Final Offers Due (if necessary)	January 27 <sup>th</sup> , 2017 @ 5:00 p.m. PT
CONTRACTOR Selection	January 31st, 2017
Notice of Intent to Award	February 1st, 2017
<b>Signed Contract</b>	<b>February 15th, 2017</b>

- 1.31 **Submission Procedure-** Technical Proposals must be submitted separate from Price Proposals. Proposals are to be submitted as listed below:
1. One Envelope – clearly marked as “**TECHNICAL PROPOSAL**”
  2. Envelope from item 1. above shall include (1) original unbound Technical Proposal– clearly marked as “**ORIGINAL**” plus two (2) copies of technical proposals.
  3. One (1) electronic PDF version of the technical proposal on either compact disk (CD) or flash drive.
  4. One Envelope – clearly marked as “**PRICE PROPOSAL**”
  5. Envelope from item 4. above shall include (1) original unbound Price Proposal– clearly marked as “**ORIGINAL**” plus two (2) copies of Price Proposals.

6. In the event of any conflicts between the paper copy marked “ORIGINAL” and the electronic copy, the paper copy marked “ORIGINAL” will prevail.

## Section 2 - PROPOSAL EVALUATION CRITERIA

2.1 Proposals shall be prepared simply and economically, providing a straightforward, concise description of the Proposer’s capabilities to satisfy the requirements of the RFP. Submission of technical literature, display charts, or other supplemental materials is the responsibility and within the discretion of the Proposer.

2.1.1 Proposers are cautioned not to minimize the importance of an adequate response in any area.

2.1.2 Technical proposal documents shall be sectionalized as described below. Each section should be preceded by a blank page with an index tab extending beyond the far right side of the page. The index tab shall have the appropriate section number typed thereon.

2.2 COIC will consider all of the Proposer’s materials to determine whether the Proposer’s proposal is in compliance with the terms and conditions set forth in this RFP. Proposers must submit all required information in the manner described, unless otherwise waived by COIC, in order for the Proposal to be considered responsive. Any exceptions, conditions, reservations or understandings that are explicitly stated on the required form “Form for Proposal Deviation” in Exhibit P will be evaluated for their acceptability. Unacceptable exceptions, conditions, reservations or understandings, if not withdrawn by the Proposer upon request by COIC, would be cause for the proposal to be rejected.

2.3 At a minimum, the items described in each section below shall be addressed. Points will be awarded based on the Proposer’s response relevant to COIC’s needs. Provide the following information:

### 2.3.1 **Technical Proposal Section 1 – Qualifications Of The Proposer And Staff (20 Points)**

- 1) **Introduction:** Provide an introduction of the Proposer, and/or introduction of all members who may be involved in this contract. Describe primary business experience of the Proposer, the Proposer’s overall mission statement, length of time in business, ownership, the location of office, telephone number, E-mail address, web-site address and other information Proposer might deem pertinent and introductory in nature. Report other names the business may have held over the past ten years. Company resumes are acceptable as long as all information requested is provided. A primary contact person for solicitation purposes with office address, phone number, E-mail address and fax number must be included.
- 2) **Qualifications of the Proposer:** In this section, the Proposer shall provide its history, experience and past performance relevant to COIC's needs, including but not limited to, a description of the Proposer's direct experience which is similar in nature, scope and complexity to that required by this contract. This section shall also contain a description of any specialized and unique services that are available or any specialized experience relevant to the work to be performed under this contract. Describe the resources available to perform the work under this contract and the ability to accomplish the work in an efficient manner.
- 3) **Qualifications of the Transition Team:** This section shall contain the Proposer’s staffing and organizational plan, which shall identify the Manager(s) and other key personnel who will be assigned to the Transition Team under this contract. This section shall also

contain the Resumes, with direct qualifications, experience and training, of each individual in the Transition Team. Resumes must be complete and concise, including, at a minimum, education, training, and degrees and certificates earned. Resumes should also provide experience directly relevant to the work to be performed under this contract.

- 4) Qualifications of Long Term On-Site Management Staff: This section shall contain the Proposer's staffing and organizational plan, which shall contain the qualifications, experience and training required of each long term position within the Long Term On-Site Management Staff.
- 5) On-site Staffing System: Describe the staffing plan for the Bend office including approximate number of FTE's required to perform the work, compensation system, proposer's benefits and wages and the proposer's recruitment and retention strategies. Describe how work would be organized between staff, including rotational assignments. Describe the new-hire and ongoing training programs including the number of hours spent in training and evaluation tools used to assure the effectiveness of the training. Describe training specific to customer service including, but not limited to, confronting and/or handling difficult or sensitive passenger situations and passenger sensitivity. Lastly, describe the Proposer's basic approach to supervision and disciplinary methodology.

### **2.3.2 Technical Proposal Section 2 – Work Plan (25 Points):**

Points will be awarded based on Proposer's understanding of the Scope of Work and the appropriateness of the proposed approach/methodology to provide the required services; and the description of a detailed and logical plan for providing the services requested herein. The Proposer shall address any problems that they envision to be associated with the work, citing specific suggestions for avoiding these problems. Responses should be complete and concise. Excessively wordy or repetitive responses are not advantageous. The responses should be in the same order in which the information is requested below. Provide the following information:

1. Project Overview: Provide a 2-3 page overview of how the Proposer proposes to accomplish the tasks described in the Technical Specifications / Scope of Work sections. How does the Proposer propose to manage the responsibilities and requirements outlined in the Scope?
2. Scope of Work: Provide a description of how the Proposer proposes to accomplish the tasks described within the Technical Specifications / Scope of Work sections.
3. Transition Plan: Describe and identify the steps the Proposer will take to transition to the new contract. Describe how Proposer will ensure transition will be seamless and well organized. Provide a detailed timeline from award of contract to the beginning of new service including milestones, key personnel, movement of goods and materials, piloting of system, training of staff, etc.
4. Flexibility and Capacity: Describe the Proposer's ability to perform efficiently and within short time constraints while maintaining service quality. Describe how the Proposer will manage daily fluctuations and seasonal adjustments. Describe the flexibility and capacity of Proposer to respond to unforeseen needs or events. Provide examples from other similar contracts the Proposer has held as necessary.

5. Service Improvements: Describe the Proposer's ability to identify, analyze and implement service improvements, costs efficiencies and creative solutions to problems within the program. Provide examples from other similar contracts.
6. Drug and Alcohol: Describe the Proposer's current drug and alcohol program procedures. If the current drug and alcohol program is not compliant with the requirements of 49 CFR Part 653, 654 and 40, a description of how the program would be brought into compliance prior to service start date is required.
7. Record Keeping: Describe record keeping procedures and processes meet COIC requirements for accurate records.

### **2.3.3 Technical Proposal Section 3 – Financial Viability (5 Points)**

- 2.3.3.1. Financial Information: Proposer's are required to submit income statement, balance sheet and statement of cash flow documents from the Proposer's previous two (2) fiscal years to give the evaluation team a clear picture of the company's financial condition. COIC retains the sole right to judge the financial qualifications and overall financial condition of the proposer based on the documents submitted. Any dispute involving the disagreement of a proposer with the judgment of COIC shall not be grounds for a protest. It is important that proposers present an adequate funding plan (excluding revenue service vehicles provided by COIC) that clearly indicates secure sources of working capital to fund the operations under this contract. Failure to document a steady and reliable funding plan will render the proposal "non-responsive".

### **2.3.4 Technical Proposal Section 4 – References (10 Points)**

- 2.3.4.1. References: This section shall include a description of the history and experience directly pertinent to COIC's needs. The Proposer shall provide a listing of all service contracts of similar size and nature the company has entered into over the past three (3) years. The list shall include at a minimum the name of the contracting agency, a contact person within the agency knowledgeable about the quality of service, dates, location(s), annual contract dollar amount and address and telephone information. A brief description of the project can also be included. References in a broad base of transportation services will be accepted as "similar types of work" for this RFP. It is completely within the Proposer's discretion as to whom and how many references are provided to COIC as part of the proposal.
- 2.3.4.2. Proposer shall also provide a listing of the agencies that the Proposer sent the reference questionnaire shown in Exhibit D to. Completed reference questionnaires received directly by COIC by December 21, 2016 2:00 pm PT will be considered.
- 2.3.4.3. COIC reserves the right to check the references provided above and any other firms COIC believes the Proposer has provided similar service work to in the last three years.

### **2.3.5 Technical Proposal Section 5 - Exceptions or Deviations (NO POINTS):**

This section shall contain any exceptions or deviations from the requirements set forth in the RFP. Technical exceptions or deviations shall be segregated from exceptions or deviations to the contractual terms and conditions. Where the Proposer wishes to propose alternative technical approaches, these alternatives shall be listed and thoroughly explained.

### **2.3.6 Price Proposal/Cost (40 Points):**

Points will be mathematically calculated based upon the reasonableness of the proposed total cost for years 1-3 on Exhibit A (hereinafter referred to as “price”) for the work to be performed and the competitiveness of the price with other proposals received. The Proposal pricing shall be submitted in a sealed envelope, separate and apart from the proposal document, and must be clearly marked "PRICE PROPOSAL – CET 16-3". Please include an original and four (4) copies in the sealed envelope. Include Proposer name on the price proposal envelope

## **2.4 EVALUATION PROCEDURE**

- 2.4.1 An Evaluation Committee will be appointed by the Transportation Manager to evaluate proposals.
- 2.4.2 An initial screening of proposals for responsiveness, and to verify that minimum COIC requirements are met will be undertaken, and COIC will reject as non-responsive any proposal which does not include all the required documents or meet the minimum requirements, and no further evaluation of non-responsive proposals will be performed.
- 2.4.3 Only those proposals determined by the committee to be within the competitive range will be considered for award. The committee will determine which proposals are within the competitive range in accordance with the evaluation criteria and points set forth under the “PROPOSAL EVALUATION CRITERIA” section.
- 2.4.4 To determine the competitive range, the committee shall evaluate and score technical proposals, and select those Proposers technically qualified to perform the work irrespective of price. COIC shall then open the price proposals of only those Proposers technically qualified to perform the work, and each price proposal shall be evaluated and scored on the basis of a 15 point maximum for the price structure most advantageous to COIC. The sum total points scored on both the technical and price will be considered in determining the competitive range. After determination of the competitive range, the committee shall determine whether acceptance of the most favorable initial proposal(s) without discussion is appropriate, or whether discussion should be conducted with all Proposers submitting proposals within the competitive range.
- 2.4.5 The Evaluation Committee shall recommend contract award to the responsive, responsible Proposer submitting the Proposal, meeting the minimum requirements, deemed the best value to COIC by the Evaluation Committee.
- 2.4.6 The successful Proposer must equal or exceed the FTA specified General Standards of Bidder Responsibility criteria set forth in Exhibit P and be able to show evidence of background of such. COIC, in its sole discretion, shall determine whether Contractor is a “Responsible Bidder” and meets the standards set forth in ORS 279B.110 and ORS 279B.130. COIC reserves the right to investigate the qualifications of all Proposers under consideration and to confirm any part of the information furnished by a Proposer, or to require other evidence of managerial, financial or technical capabilities which are considered necessary for the successful performance of the work. The committee shall evaluate and score responsive proposals on the basis of the evaluation criteria and points set forth under the “PROPOSAL EVALUATION CRITERIA” section. The committee shall then determine whether acceptance of the most favorable initial proposal without discussion is appropriate, or whether discussion should be conducted with all responsive Proposers

- 2.4.7 COIC reserves the right to make changes to the RFP during discussions/negotiations. Any changes to the RFP shall be distributed to all Proposers remaining within the competitive range at the time the change is made.
- 2.4.8 If the committee elects to enter into discussions with responsive Proposers, each responsive Proposer remaining within the competitive range at the close of discussions/negotiations will be allowed to submit a final supplement denominated the "Best and Final Offer (BAFO)." Any changes to the Proposer's initial technical or price proposals, including any issues addressed in discussions, must be submitted in writing in the BAFO in order to be considered by the committee. The committee will evaluate the BAFOs utilizing the evaluation criteria set forth under the "PROPOSAL EVALUATION CRITERIA" section and make a recommendation for award.
- 2.4.9 COIC reserves the right to investigate the qualifications of all Proposers under consideration and to confirm any part of the information furnished by a Proposer, or to require other evidence of managerial, financial or technical capabilities which are considered necessary for the successful performance of the work. COIC reserves the right to visit sites where work of a similar nature has been performed by the Proposer and/or visit the Proposer's work facility during the evaluation period.
- 2.4.10 COIC will not enter into a contract where compensation is based upon cost plus a percentage of cost. Compensation will be at the prices set forth in the successful Proposer's initial proposal and/or best and final offer.
- 2.4.11 If award determination is made based upon the most favorable initial proposal(s), the committee reserves the right to perform or have performed a cost analysis of the apparent successful proposal(s) before determining to proceed with a recommendation for award. Allowable costs will be determined in accordance with Federal Acquisition Regulations.
- 2.4.12 If only one proposal is received in response to this RFP and it is found by the COIC to be acceptable, a detailed price/cost proposal may be requested of the single Proposer. A price or cost analysis, or both, possibly including an audit, may be performed by or for the COIC of the detailed price/cost proposal in order to determine if the price is fair and reasonable. The Proposer has agreed to such analysis by submitting a proposal in response to this RFP. A price analysis is an evaluation of a proposed price that does not involve an in-depth evaluation of all the separate cost elements and the profit factors that comprise a Proposer's price proposal. It should be recognized that a price analysis through comparison to other similar procurements must be based on an established or competitive price of the elements used in the comparison. The comparison must be made to a purchase of similar services, involving similar specifications and in a similar time frame. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto. Where it is impossible to obtain a valid price analysis, it may be necessary to conduct a cost analysis of the proposed price. A cost analysis is a more detailed evaluation of the cost elements in the Proposer's Offer to perform. It is conducted to form an opinion as to the degree to which the proposed costs represent what the Proposer's performance should cost. A cost analysis is generally conducted to determine whether the Proposer is applying sound management in proposing the application of resources to the contracted effort and whether costs are allowable, allocable and reasonable. Any such analyses and the results there from shall not obligate the COIC to accept such a single proposal; and the COIC may reject such proposal at its sole discretion.
- 2.4.13 COIC's Transportation Manager shall have full authority over COIC's source selection and decision to award, subject to applicable COIC Board of Directors policy and approval.
- 2.4.14 COIC shall provide successful CONTRACTOR a written notice of award or acceptance of a proposal within the time for acceptance specified in the proposal. Any work performed or

expenses incurred by the CONTRACTOR prior to the CONTRACTOR'S receipt of Notice of Award shall be entirely at the CONTRACTOR'S risk.

- 2.4.15 If the successful Proposer refuses or fails to execute the Agreement, COIC may award the Agreement to the second most successful Proposer. Such award will normally be made within sixty (60) days after opening of proposals. If the second most responsible proposer refuse or fails to execute the Agreement, COIC may award the Agreement to the third most successful Proposer. Such award will normally be made within seventy-five (75) days after the opening of proposals. The above time period may be changed by Agreement between COIC and the proposer concerned.
- 2.4.16 COIC reserves the right to withdraw the RFP altogether if it is the best interest of COIC to do so.
- 2.4.17 COIC reserves the right, pursuant to ORS 279B.110 and OAR 137-047-0640(1)(c)(F), to investigate and evaluate, at any time prior to award and execution of the Agreement, the apparent successful Proposer's responsibility to perform the Agreement. Proposer's submission of a signed Offer shall constitute Proposer's authorization for COIC to obtain, and Proposer's agreement to produce for COIC's review and copying, any information COIC deems necessary to conduct the evaluation. COIC shall notify the apparent successful Proposer, in writing, of any other documentation required, which may include, but is not limited to, recent profit-and-loss history; current balance statements; assets-to-liabilities ratio, including number and amount of secured versus unsecured creditor claims; availability of short and long-term financing; bonding capacity; credit information; materials/equipment/inventory; facility and personnel information; record of contract performance; etc. COIC may reject a Proposal, if Proposer fails to promptly provide this information. COIC may postpone the award of the Price Agreement after announcement of the apparent successful Proposer in order to complete its investigation and evaluation. Failure of the apparent successful Proposer to demonstrate Responsibility, as required under ORS 279B.110 and OAR 137-047-0640(1)(c)(F), shall render the Proposer non-responsible and shall constitute grounds for Proposal Rejection.
- 2.4.18 Following contract award, COIC will inform unsuccessful Proposers of number of proposals received and total contract price. COIC will attempt to give the notice under this paragraph promptly after contract award. COIC's failure to give such notice shall not be deemed to affect the validity of the contract.

### **Section 3 - GENERAL PROVISIONS**

- 3.1 Unless terminated sooner under the provisions of this contract, the base term of the contract shall be three (3) years. Type of Contract: Compensation for this contract will be based upon a combination of a fixed monthly fee and a variable revenue service hour rate.
- 3.2 COIC will pay CONTRACTOR the unit prices set forth in this contract. The units are defined as Revenue Service Hours. The quantities of the services specified are estimates only and are not purchased by this contract. COIC is not obligated to purchase services of the type covered by this contract exclusively from CONTRACTOR. Except as this contract may otherwise provide, quantity variance between "estimated Revenue Service Hours" and actual Revenue Service Hours shall not constitute the basis for an equitable price adjustment.
- 3.3 Indirect costs provided under this contract shall be reimbursed at cost. No reimbursement of costs shall be made beyond that set forth in the Offer Forms. All costs beyond those set forth in the Offer forms shall require the prior approval of COIC's Transportation Manager.
- 3.4 COIC shall pay the CONTRACTOR as described in Attachment 9, Payment Schedule. Notwithstanding any other additional requirements of this contract, invoices shall contain the

contract number; the date(s) goods or services furnished, and an itemized breakdown showing hourly rates and hours worked. All invoices shall be submitted to the following address:

Central Oregon Intergovernmental Council  
Attn: Accounts Payable  
334 NE Hawthorne Ave.  
Bend, OR 97504  
payables@coic.org

Failure to strictly comply with this provision may result in a delay of payment.

- 3.5 The CONTRACTOR shall maintain and COIC, or an authorized representative of COIC, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times and places engaged in performing the contract.
- 3.6 If the CONTRACTOR has been required to submit cost or pricing data in connection with any pricing action relating to this contract, COIC, or an authorized representative of COIC, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the CONTRACTOR'S records, including computations and projections, related to –
1. The proposal for the contract, subcontract, or modification;
  2. The discussions conducted on the proposal(s), including those related to negotiating;
  3. Pricing of the contract, subcontract, or modification; or
  4. Performance of the contract, subcontract or modification.
- 3.7 The CONTRACTOR shall make available at its office at all reasonable times the records, materials, and other evidence described in section 11 within Exhibit E, or for any longer period required by statute or by other clauses of this contract. In addition:
1. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for three (3) years after any resulting final termination settlement; and
  2. Records relating to disputes, litigation or the settlement of claims arising under or relating to this contract shall be made available until such disputes, litigation, or claims are finally resolved.
  3. The CONTRACTOR shall insert a clause containing all the terms of this clause, in all subcontracts under this contract that exceed \$100,000.
- 3.8 The CONTRACTOR shall perform no services pursuant to the contract, nor be entitled to compensation therefore, unless and until CONTRACTOR submits a bond, or other acceptable security to COIC, such bond executed by CONTRACTOR and a surety company licensed to do business as such in the State of Oregon, shall be in the amount of \$200,000, and which shall at all times be kept in full force and effect. The condition of such bond shall be that CONTRACTOR shall fully and faithfully perform all conditions and covenants of contract or that the face amount of such bond shall be forfeited to COIC.

The bond may be a renewable one-year bond, and shall be renewed annually before its expiration date, provided, however, that such bond must remain in full force and effect from and after the date COIC makes any demands for payment on the bond until COIC releases such claim. Provision of

such bond or its equivalent, approved by COIC, is a material covenant of contract. COIC shall not approve any security that is not unconditionally payable to COIC upon COIC demand.

CONTRACTOR shall be permitted to substitute COIC designated securities for any money withheld by COIC to insure performance under the contract. The right of substitution shall be exercised in the manner, and subject to the conditions specified herein.

3.9 To the fullest extent permitted by law, CONTRACTOR agrees to fully indemnify, hold harmless and defend COIC, its directors, officers, and employees from and against all claims, damages, losses, attorney fees and expenses incidental to the investigation and defense thereof, based upon or arising out of or incidental to damages or injuries to persons or property, caused by the fault or negligence in whole or in part of CONTRACTOR, its agents, CONTRACTOR'S, Sub-CONTRACTOR'S, or employees from the performance of the work.

3.9.1 This indemnity shall survive the termination of this Contract or final payment hereunder. This indemnity is in addition to any other rights or remedies which COIC and the other parties to be indemnified may have under the law or under this Contract. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, COIC may in its sole discretion reserve, retain or apply any monies due to the CONTRACTOR under the contract for the purpose of resolving such claims; provided, however, that COIC may release such funds if the CONTRACTOR provides COIC with adequate assurance of the protection of COIC's interests. COIC shall be the sole judge of whether such assurances are adequate.

3.9.2 The CONTRACTOR shall hold the sole source of liability and physical damage coverage for the Cascades East Transit Bend fleet. CONTRACTOR agrees to indemnify, hold harmless and defend COIC for any losses or claims arising out their operations and use by a CONTRACTOR employee. The CONTRACTOR also waives any subrogation against COIC and COIC's agents, representatives, officers and employees.

3.10 It is understood and acknowledged that Agreement is not a contract of employment between COIC and CONTRACTOR, or any agents, officers, or employees of CONTRACTOR. CONTRACTOR is, and shall at all times be, deemed to be an independent contractor. CONTRACTOR is not authorized to bind the COIC to any contracts or other obligations. CONTRACTOR is not an agent or employee of the COIC, and shall at no time represent itself to be such agent or employee. Neither CONTRACTOR nor any of its employees or subcontractors shall be entitled to any benefits accorded to COIC employees including but not limited to Workers Compensation, disability insurance, unemployment compensation, retirement benefits, vacation, or sick leave. CONTRACTOR is an independent CONTRACTOR for all purposes and is not entitled to compensation from COIC other than that provided by this contract. CONTRACTOR shall inform COIC of CONTRACTOR'S Federal Internal Revenue Service Employer Identification Number, or, if CONTRACTOR is an individual with no employer identification number, CONTRACTOR'S Social Security Number. The CONTRACTOR and its officers, employees, and agents are not officers, employees or agents of COIC as those terms are used in ORS 30.265. The CONTRACTOR, its employees or officers shall not hold themselves out either explicitly or implicitly as officers, employees or agents of COIC for any purpose whatsoever, nor are they authorized to do so.

3.10.1 CONTRACTOR shall provide and pay for all labor, materials, equipment, utilities, and other goods or services necessary for full contract performance unless this contract specifically provides otherwise. CONTRACTOR shall supervise and direct contract performance using its best skill, and shall be responsible for selecting the means of contract

performance. If, during or after the term of this contract, CONTRACTOR learns of any actual or potential defect in the goods provided under this contract, of any problem associated with the results of contract performance, or of any nonconformance with a provision of this contract or of Federal, state, or local law, CONTRACTOR shall inform COIC immediately in writing with a full description of the defect, problem, or nonconformance.

- 3.11 COIC must adhere to and be in conformance with the State Statutes (primarily section ORS 279), the Attorney General Model Rules and the COIC adopted Procurement Policy. In this regard all protests/disputes will be subject to these rules and policy. Termination or other disputes which may result in judicial review are subject to Sections ORS 279B.400, 279A.065 as applicable, and Attorney General Model Rules Section 137-047-700 (Legal remedies) "Protests and Judicial Review of Special Procurement". These rules state that before seeking judicial review of termination action, or other action, that the affected CONTRACTOR must file a written protest directed to COIC and must exhaust all administrative remedies. Should any dispute arise between the parties concerning this contract which is not resolved by mutual agreement, it is agreed that it will be submitted to mediated negotiation prior to any party commencing litigation. In such an event, the parties to this contract agree to participate in good faith in a non-binding mediation process. The mediator shall be selected by mutual agreement of the parties, but in the absence of such agreement each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. All costs of mediation shall be borne equally by the parties.
- 3.12 In performing its obligations under this contract, the CONTRACTOR agrees to comply with all applicable state laws including, without limitation, ORS 279B.020, 279B.220 -279B.240, each of which is incorporated herein by reference. In addition, the CONTRACTOR agrees to comply with the FTA contract clauses attached hereto and incorporated by reference herein. In the event of any conflict between the provisions of this contract and the foregoing state statutes, the state statutes shall control. In the event of any conflict between this contract and the FTA contract clauses, the FTA contract clauses shall control. Not every requirement of the foregoing state statutes or the FTA contract clauses will apply in each instance to the performance of each party under this particular contract. The nature of the obligations of a party under this contract will determine which requirements of state law and FTA contract clauses will apply. Requirements that do not apply will not be enforced.
- 3.12.1 CONTRACTOR acknowledges that the Oregon Government Standards and Practices laws ("Ethics Laws"), as set forth in ORS 244.010 et seq. are applicable to CONTRACTOR'S when performing certain work on behalf of COIC under contract and that the individual employees and agents of CONTRACTOR may be treated as public officials under ORS 244.020 (15). CONTRACTOR agrees to determine whether and under what circumstances it or its agents are subject to the Ethics Laws, as referenced herein and incorporated by reference, and shall comply and ensure compliance by those subject to CONTRACTOR'S control when performing work under this Contract.
- 3.13 CONTRACTOR shall not permit any lien or claim to be filed or prosecuted against COIC, its property or its right-of-way on account of any labor or material furnished or any other reason for work arising out of this Contract. If any lien shall be filed, CONTRACTOR shall satisfy and discharge or cause such lien to be satisfied and discharged immediately at CONTRACTOR'S sole expense
- 3.14 Notwithstanding any safety provisions elsewhere in this contract, and in addition to CONTRACTOR'S own safety procedures, CONTRACTOR shall implement and enforce all safety requirements that are known standards in the industry and/or that are required by COIC.

- 3.15 This Agreement and all exhibits, addenda, and documents incorporated by reference herein, constitute the full and complete understanding of the parties, and supersedes any previous agreements or understandings, oral or written, with respect to the subject matter hereto. The Agreement may only be modified by a written instrument signed by both parties hereto. COIC reserves the right to make administrative changes to the contract unilaterally. An administrative change means a written contract change that does not affect the substantive rights of the parties.
- 3.16 No COIC Board member, officer, employee or agent shall have any direct or indirect interest in this contract or its proceeds during that person's tenure with COIC, except to the extent such interest is permitted and disclosed as may be required under applicable law and COIC policy.
- 3.16.1 No COIC Board member, officer, employee, or agent shall solicit or accept, and CONTRACTOR shall not offer or give to any COIC Board member, officer, employee or agent, any gratuities, favors, or anything of monetary value in connection with the administration of this contract, except to the extent permitted by applicable law and COIC policy.
- 3.17 Termination for Convenience: COIC, by written notice, may terminate this contract, in whole or in part, when it is in COIC's best interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- 3.18 Termination for Default [Breach or Cause]: If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, COIC may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. COIC may, by written notice of default to the CONTRACTOR, terminate this contract in whole or in part if the CONTRACTOR fails to (i) Deliver the supplies or to perform the services within the time specified in this contract or any extension; (ii) Make progress, so as to endanger performance of this contract; or (iii) Perform any of the other provisions of this contract. If it is later determined by COIC that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, COIC, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.
- 3.19 Opportunity to Cure: COIC in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to COIC's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from COIC setting forth the nature of said breach or default, COIC shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude COIC from also pursuing all available remedies against Contractor and its sureties for said breach or default.
- 3.20 Waiver of Remedies for any Breach: In the event that COIC elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by COIC

shall not limit COIC's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

- 3.21 All work product of CONTRACTOR that results from this contract (the "Work Product") is the exclusive property of COIC. Work Product shall include but not be limited to all data, information in any form, documents, research, analysis and other any work subject to intellectual property laws and doctrines. COIC and CONTRACTOR intend that such Work Product be deemed "work for hire" of which COIC shall be deemed the author. If for any reason the Work Product is not deemed "work for hire," CONTRACTOR hereby irrevocably assigns to COIC all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. CONTRACTOR shall execute such further documents and instruments as COIC may reasonably request in order to fully document such vested rights in COIC. CONTRACTOR forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC Section 106A or any other rights of identification or authorship or rights of approval, restriction or limitation on use or subsequent modifications.
- 3.22 CONTRACTOR shall maintain a complete set of records relating to this Contract in accordance with generally accepted accounting procedures. CONTRACTOR shall permit the authorized representatives of COIC, the U.S. Department of Transportation, the Oregon Secretary of State and the Comptroller General of the United States to inspect and audit all work, materials, payrolls, books, accounts, and other data and records of CONTRACTOR relating to its performance under this contract until the expiration of three (3) years after final payment under this contract.
- 3.22.1 CONTRACTOR further agrees to include in all of its subcontracts under this Contract a provision to the effect that the sub-CONTRACTOR agrees that COIC, 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 (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and other records of the sub-CONTRACTOR. The term "subcontract" as used in this Section excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.
- 3.22.2 The periods of access and examination described under section 3.21 and 3.21.1 are for records that relate to (1) disputes between COIC and CONTRACTOR, (2) litigation or settlement of claims arising out of the performance of this Contract, or (3) costs and expenses of this Contract as to which exception has been taken by the Comptroller General or any of his or her duly authorized representatives, shall continue until all disputes, claims, litigation, appeals, and exceptions have been resolved.
- 3.22.3 Where COIC has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment, or termination of CONTRACTOR's business, COIC may, by written request by any of the above-named officers, require that custody of such records and documents shall be maintained by COIC. Access to such records and documents shall be granted to any party authorized by CONTRACTOR, CONTRACTOR's representatives, or CONTRACTOR's successor-in-interest during regular business hours.
- 3.23 Agreement shall be construed and enforced pursuant to the laws of the State of Oregon. Venue for any suits brought under Agreement shall be exclusively vested in the State Courts of the

County of Deschutes, or where otherwise appropriate, exclusively in the United States District Court, Eugene, Oregon.

The federal statutes, ORS 279 statutes, and the Oregon State Attorney General's Model Public Contract Rules are applicable to this work. If there are any conflicts between federal and state regulations, federal laws, rules and regulations shall govern/prevail on this project (ORS 279A.030).

- 3.24 During the term of this contract, CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, disability or national origin.
- 3.25 The validity, legality, or enforceability, in whole, or in part of any provision of Agreement, shall not affect or impair the validity, legality, or enforceability, of other provisions. If any of the provisions contained in this contract are held by a court of law or arbitrator to be illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired, and the parties shall negotiate an equitable adjustment of this contract so that the purposes of this contract are affected. All provisions concerning indemnity survive the termination or expiration of this contract for any cause.
- 3.26 [this section was intentionally left blank].
- 3.27 This contract is funded in part by a financial assistance agreement between COIC and the U.S. Department of Transportation, Federal Transit Administration (FTA). This procurement and contract is subject to all applicable federal laws and regulations relating to, and third party contract provisions prescribed by that financial assistance agreement, including, but not necessarily limited to, the provisions in **Exhibit E**, which is attached to and made a part of this contract.
- 3.28 The CONTRACTOR shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on COIC owned or leased property. If the CONTRACTOR'S failure to use reasonable care causes damage to any of this property, the CONTRACTOR shall replace or repair the damage at no expense to COIC as the Contracting Officer directs. If the CONTRACTOR fails or refuses to make such repair or replacement, the CONTRACTOR shall be liable for the cost, which may be deducted from the contract price.
- 3.29 Continuity of Services
1. The CONTRACTOR recognizes that the services under this contract are vital to COIC and must be continued without interruption and that, upon contract expiration, a successor, either COIC or another CONTRACTOR, may continue them. The CONTRACTOR agrees to (1) furnish phase-in training and (2) exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.
  2. The CONTRACTOR shall, upon the Contracting Officer's written notice, (1) furnish phase-in, phase-out services for up to 90 days after this contract expires and (2) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the Contracting Officer's approval. The CONTRACTOR shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this contract are maintained at the required level of proficiency.
  3. The CONTRACTOR shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the service required by this contract. The CONTRACTOR also shall disclose necessary personnel records and allow the successor

- to conduct on-site interviews with these employees. If selected employees are agreeable to the change, the CONTRACTOR shall release them at a mutually agreeable date and negotiate transfer of the earned fringe benefits to the successor.
4. The CONTRACTOR shall not be reimbursed for any phase-in, phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations and a fee (profit) not to exceed a pro rata portion of the fee (profit) under this contract.
- 3.30 If the project funding drops, COIC retains the right to terminate this contract at the end of the then-current fiscal year and all obligations of the parties under this contract arising thereafter shall terminate. Nothing in this contract shall be deemed in any way to obligate COIC beyond the current fiscal year.
  - 3.31 Definition: "Services", as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.
    - 3.31.1 The CONTRACTOR shall provide and maintain an inspection system acceptable to COIC covering the services under this contract. Complete records of all inspection work performed by the CONTRACTOR shall be maintained and made available to COIC during contract performance and for as long afterwards as the contract requires.
    - 3.31.2 COIC has the right to inspect and test all supplies/services called for under the contract, to the extent practicable, at all times and places during the term of the contract. COIC shall perform inspections and tests in a manner that will not unduly delay the work.
    - 3.31.3 If any of the supplies or services does not conform to contract requirements, COIC may require the CONTRACTOR to replace the supplies or perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in supplies or services cannot be corrected by re-performance, COIC may (1) require the CONTRACTOR to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the supplies/services performed.
    - 3.31.4 If the CONTRACTOR fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, COIC may (1) by contract or otherwise, perform the services and charge to the CONTRACTOR any cost incurred by COIC or (2) terminate the contract for default.
  - 3.32 [this section was intentionally left blank].
  - 3.33 CONTRACTOR will obtain and maintain insurance policies that provide for adequate coverage as detailed in Exhibit K. Coverage amounts may be modified on an annual basis to comply with State or Federal requirements. Contractor will have workers' compensation insurance in form and amount sufficient to satisfy the requirements of applicable Oregon law. CONTRACTOR shall indemnify and hold harmless COIC, its directors, officers, officials, employees and volunteers from and against all actions, causes of actions, damages, costs, liabilities, claims, losses, judgments, penalties and expenses of every type and description, including without limitation any fees and/or costs reasonably incurred by COIC 's staff attorneys or contract attorneys and any and all costs, fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "liabilities"), arising out of or in connection with any negligent act or omission, misconduct or other legal fault of CONTRACTOR, its officers, employees, sub-consultants, subcontractors or agents in connection with the performance or nonperformance of this contract, whether or not COIC accepted or approved any service or work product performed or provided by CONTRACTOR hereunder, and whether or not such liabilities

are litigated, settled or reduced to judgment. In the event that a final decision or judgment allocates liability by determining that any portion of damages awarded is attributable to COIC 's negligence or willful misconduct, COIC shall pay the portion of damages which is allocated to COIC's negligence or willful misconduct, provided that COIC shall not be liable for any passive negligence of COIC, its officers or employees in reviewing, accepting or approving any service or work product performed or provided by CONTRACTOR.

- 3.34 CONTRACTOR shall, upon COIC's request, defend with counsel approved by COIC (which approval shall not be unreasonably withheld), at CONTRACTOR's sole cost and expense, any action, claim, suit, cause of action or portion thereof which asserts or alleges liabilities resulting from any allegedly negligent act, omission, misconduct or other legal fault of CONTRACTOR, its officers, employees, subconsultants, subcontractors or agents in connection with the performance or nonperformance of this contract, whether or not such action, claim, suit, cause of action or portion thereof is well founded.
- 3.35 All notices and other communications concerning this contract shall be written in English and shall bear the contract number assigned by COIC. Notices and other communications may be delivered personally, by telegram, facsimile, or by regular, certified or registered mail.
- 3.35.1 A notice to COIC will be effective only if it is delivered to that person designated in writing in either a) the Notice of Award of this contract, b) the Notice to Proceed under this contract, or c) to another individual specifically designated by this contract. A notice to the CONTRACTOR shall be effective if it is delivered to the individual who signed this contract on behalf of CONTRACTOR at the address shown with that signature, to a corporate officer if CONTRACTOR is a corporation, to a general partner if CONTRACTOR is a partnership, or to another individual designated in writing by the CONTRACTOR in the contract or in a written notice to COIC.
- 3.36 The quantities specified in the RFP document are estimates only, used as a basis to determine award of contract, and are not purchased hereby.
- 3.37 CONTRACTOR shall perform all services in the most highly professional manner and in accordance with industry standards. Unless the means or methods of performing a task are specified elsewhere in this contract, CONTRACTOR shall employ methods that are generally accepted and used by the industry.
- 3.37.1 Failure to meet the performance requirements of this contract shall constitute breach of contract.
- 3.38 CONTRACTOR shall not assign any of its rights or subcontract any of its responsibilities under this contract without the prior written consent of COIC. COIC shall have sole discretion to decide whether to give such consent. CONTRACTOR shall include in each subcontract any provisions necessary to make all of the provisions of this contract fully effective. CONTRACTOR shall provide all necessary plans, specifications, and instructions to its suppliers and Sub-CONTRACTOR'S to enable them to properly perform their work.
- 3.38.1 The prime CONTRACTOR agrees to pay each SUB-CONTRACTOR under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime CONTRACTOR receives from COIC. The prime CONTRACTOR agrees further to return retainage payments to each SUB-CONTRACTOR within 10 days after the SUB-CONTRACTOR'S work is satisfactorily

completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of COIC.

- 3.39 CONTRACTOR agrees that he/she shall not assign, sell, transfer, or sublet his/her rights, or delegate his/her responsibilities under this contract, in whole or in part, without the expressed written consent of COIC.
- 3.40 If this contract is for the supply of goods or equipment, then COIC shall be deemed to have accepted goods only after the goods have been delivered by CONTRACTOR, and COIC has had a reasonable opportunity after delivery to inspect the goods. Prior to acceptance, COIC may reject any goods that fail to conform to the requirements of this contract. COIC may revoke its acceptance of goods that fail to conform to this contract if the failure to conform was not reasonably discoverable by ordinary pre-acceptance inspection or evaluation. Acceptance may be revoked under this Paragraph even if COIC has started using the goods before discovering that they do not conform to the contract. Upon request by COIC, CONTRACTOR shall replace or repair to COIC's satisfaction any goods that have been rejected by COIC or the acceptance of which has been revoked by COIC under this Paragraph. Failure to replace or repair those goods within a reasonable time after COIC's request shall be a material breach of this contract.
- 3.41 Contractor will comply with all applicable federal, state, and local laws, regulations, and ordinances. Contractor will obtain and maintain any and all licenses, permits, registrations, and other governmental authorizations required to conduct its business and perform the services described in the Scope of Work.
- 3.42 The selected vendor must have a business license to operate prior to signing a contract with COIC/CET and must have the required insurance coverage in place and effective prior to the start of service delivery
- 3.43 Administration of Agreement: CONTRACTOR's compliance with Agreement shall be supervised and administered by COIC Transportation Manager or designee.
- 3.44 Permits to Operate: At its sole cost and expense, CONTRACTOR shall obtain any and all permits, licenses, certifications, or entitlements to operate as are now or hereafter required by any Federal, State or Local agency to enable CONTRACTOR to perform Agreement, and shall provide copies of all such documents or entitlements to COIC when received by CONTRACTOR.
- 3.45 Notice of Deficiencies: COIC's Transportation Manager or designee may issue a Notice of Deficiencies to CONTRACTOR, specifying areas of unsatisfactory performance, and specifying what improvements are necessary to correct the deficiency or deficiencies. Such notice shall specify the provision(s) of Agreement which address the issue. CONTRACTOR shall correct deficiency within reasonable time limits specified by COIC not to exceed 30 days unless agreed to in advance by COIC in writing.
- 3.46 Force Majeure: The Contractor will not be liable for any failure to perform if acceptable evidence has been submitted to COIC that failure to perform the Contract was due to causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include Acts of God, civil disturbances, fire, war, or floods, but do not include labor-related incidents, such as strikes or work stoppages.

#### 3.46.1 REPLACEMENT SERVICES

- a) In the event that the Contractor is unable, due to a strike, work stoppage, or other event not caused by COIC to provide services in full compliance with the requirements of the Contract, then COIC may obtain the services of a replacement operator or provide the services with its own resources (collectively referred to as “replacement services”). COIC may utilize such replacement service as a substitute for all or any part of the Contractor’s services and may maintain such replacement services in effect until the Contractor is able to resume performance in full compliance with the Contract. Prior to implementing replacement services, COIC shall notify the Contractor in writing.
- b) If COIC utilizes replacement services under this Section, the Contractor shall be liable to COIC for the actual amount by which the cost of such services exceeds the amount that would have been payable under this Contract for comparable services, including any expenses (including internal administrative costs) incurred by COIC in soliciting and obtaining those services. In addition, the only compensation payable to the Contractor by COIC during any period in which replacement services are being provided shall be for any hours of service actually provided by the Contractor.
- c) No term or provision of the Contract shall be deemed to be waived and no default excused unless such waiver or consent is in writing and signed by the party claimed to have waived or consented. No waiver shall be construed to waive any subsequent or different default under the Contract. CONTRACTOR shall not be charged, nor shall COIC demand from CONTRACTOR, damages because of failure in providing the services indicated in Agreement due to unforeseeable causes beyond the control and without the fault or negligence of CONTRACTOR. Such causes of excusable delay may include acts of public enemies, military attack and/or other actions, fires, floods, snow storms, earthquakes, epidemic, quarantine, restrictions, strikes, freight embargoes, public road closures, but in every case the delay is excusable only for so long as, and to the extent that, the excusable delay continues.

3.46.2 CONTRACTOR shall be entitled to no compensation for any service, the performance of which is excused pursuant to this paragraph.

3.46.3 Whenever CONTRACTOR has knowledge that any actual or potential force majeure may delay or prevent performance of Agreement, CONTRACTOR, on a timely basis, shall notify COIC of the facts and, thereafter, shall report to COIC all relevant information then known to CONTRACTOR, and shall continue to so report. In the event that the CONTRACTOR is unable to provide the services indicated due to any cause, CONTRACTOR shall coordinate with COIC before making any public notification, including, but not limited to, local newspapers, local radio or television stations.

3.47 Notice: All notices shall be made by one of the following methods:

- certified US mail, postage prepaid, return receipt requested,
- shipping carrier (e.g. UPS/FedEx) or
- hand-delivered,

to the following address:

COIC:                      Central Oregon Intergovernmental Council  
                                   Attn: Transportation Manager

1250 NE Bear Creek Road  
Bend, OR 97701

CONTRACTOR: TBD  
TBD  
TBD  
TBD

Service of such notices shall be deemed complete six (6) business days after deposit in the US Mail or on the date delivered by shipping carrier or hand-delivered.

- 3.48 Precedence of Agreement Document: In the event of a conflict or ambiguity arising between Agreement documents or any term therein, the document executed later in time shall prevail over the document executed earlier in time. The documents shall control in the following order unless otherwise specifically set forth in this Agreement: This Agreement, The RFP, the Proposal.
- 3.49 Continuity: Agreement is binding upon each of the parties and their respective heirs, shareholders, directors, partners, executors, and successors. Should the CONTRACTOR entity be purchased by another entity or otherwise change its corporate structure during the term of this Agreement, the COIC reserves the right to terminate this Agreement and to solicit new vendors for this service.
- 3.50 Assignment (COIC): COIC reserves the right to assign its responsibilities under Agreement to any existing or future governmental entity for the provision of public transportation services. The CONTRACTOR hereby approves the assignment and agrees such assignment shall constitute a complete novation between COIC and CONTRACTOR; and receipt by CONTRACTOR from COIC of sums then due and payable for services rendered pursuant to Agreement prior to assignment shall constitute a complete accord and satisfaction as between COIC and CONTRACTOR.
- 3.51 [this section was intentionally left blank].
- 3.52 Insurance Requirements: CONTRACTOR agrees to purchase and maintain the policies of insurance set forth in Exhibit K and the Scope of Work within this agreement. Insurance, and which is attached to and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by COIC's Transportation Business Administrator as to form and content. These requirements are subject to amendment or waiver if so approved by the COIC's Transportation Manager. CONTRACTOR agrees to provide COIC with a copy of said policies, endorsements, certificates and/or binders before work commences under this AGREEMENT.
- 3.53 SUCCESSORS: Agreement shall be binding upon, and shall inure to the parties hereto, and their respective shareholders, partners, directors, agents, personal representatives, successors-in-interest, and assigns. CONTRACTOR shall not assign, sublet, subcontract Agreement, or subcharter vehicle without prior written consent from COIC.
- 3.54 Counterparts: Agreement may be executed simultaneously or in counterparts, and each of the counterparts shall be deemed to be an original, but all such counterparts shall constitute one and the same Agreement.

3.55 As described in Exhibit O, Transit Employee Protective Agreements, CONTRACTOR agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. CONTRACTOR agrees to defend, indemnify and hold harmless COIC for any 5333(b) claims.

3.56 [this section was intentionally left blank].

#### **Section 4 – BACKGROUND AND OUTLINE OF TRANSIT OPERATIONS**

In 1972, the Central Oregon Intergovernmental Council (COIC) was designated a Council of Governments, organized under ORS 190. It provides services to the counties of Crook, Deschutes and Jefferson and the cities of Bend, Culver, La Pine, Madras, Metolius, Prineville, Redmond and Sisters. Offices are located throughout Central Oregon and in Klamath Falls and Lakeview. COIC employs more than 100 people and provides services in the following areas: employment and training, alternative high school education, business loans, transportation, and community and economic development. The majority of the COIC Board is comprised of elected officials appointed by each of these member governments. Other “appointed” members of the Board are from private business, Post Secondary Education, and Chambers of Commerce. For additional information about the Central Oregon Intergovernmental Council and its services, please refer to the COIC website at: [www.coic.org](http://www.coic.org) .

Cascades East Transit, operating within the Transportation Department of COIC, is the sole public transit provider in Deschutes, Jefferson and Crook Counties. COIC began operation of the rural system in January 2008. In September, 2010, COIC and the City of Bend completed an Intergovernmental Agreement, whereby COIC took over the Bend public transit system (formerly known as Bend Area Transit) and completed the creation of a coordinated regional system for Crook, Deschutes and Jefferson Counties.

With the City’s assistance, COIC became the designated recipient of funds for Bend services from the Federal Transit Administration (FTA), an agency of the United States Department of Transportation. COIC operates under the Rules and Regulations of the United States Department of Transportation through its Federal Transit Administration, applicable Oregon Codes, and local city and county ordinances and regulations.

The Bend Metropolitan Planning Organization completed a Bend Master Transit Plan on March 2013. It can be seen on-line at <http://www.bend.or.us/index.aspx?page=759>.

COIC currently contracts out the provision of fixed route and complimentary paratransit services for Bend. COIC employs staff and operates the rural system outside of the City of Bend. For Bend service, COIC Staff operates the call center, enters all dial-a-ride ride reservations, schedules and performs dispatch duties.

Cascades East Transit's Bend fixed route and Bend Dial A Ride services are provided to meet the general and specialized travel needs, respectively, of the community. The basic paratransit component (Bend Dial-a-Ride) serves the mobility impaired, as required in the Americans with Disabilities Act (ADA) enacted July 1990 and also serves low income seniors on a space available basis. The Bend Dial A Ride system also extends beyond the required ¾ mile when capacity allows. Additionally, a seasonal fixed route run service called Ride the River runs during the summer months. The total estimated annual number of revenue

service hours per year for Ride the River service is 500. The revenue service hours for fixed route and Dial A Ride services are shown in Attachment 5.

COIC expanded the Bend fixed route system in September 2015. For additional information about Cascades East Transit and its services, please refer to the CET website at: [www.cascadeseasttransit.org](http://www.cascadeseasttransit.org).

Transit Workers Representation: The drivers employed by the current contractor Paratransit Services Inc. are represented by Amalgamated Transit Union Division 757. ATTACHMENT 4 contains the collective bargaining agreement for represented employees.

## **Section 5 - TECHNICAL SPECIFICATIONS**

### **5.1 Service Area**

5.1.1 Within the City of Bend city limits. The present Bend fixed routes are shown in ATTACHMENT 1. Presently, funding allows Bend Dial A Ride service within the City of Bend city limits to extend to all eligible participants. This is more than the ADA mandated service of ¾ mile radius of existing fixed route stops. Service changes can occur with Board approval.

### **5.2 Fleet**

5.2.1 COIC presently has thirty one (31) vehicles, as shown in ATTACHMENT 2, and three (3) trailers available for use by the CONTRACTOR for the Cascade East Transit Bend service. COIC reserves the right to adjust the size of and specific vehicles within the Bend fleet as funding, service demands and the status of current vehicle repairs dictate.

### **5.3 Days and Hours of Service**

5.3.1 Monday – Saturday Cascade East Transit Bend Dial A Ride hours of service are governed by the hours of COIC’s fixed-route bus services. Presently COIC elects to run a Bend Dial A Ride service Sunday 8:15 A.M. – 3:15 P.M. COIC reserves the right to change the days and hours of service throughout the term of the contract at anytime. If COIC adds or removes any fixed route service during the contract period, COIC may adjust Dial A Ride hours of operation to accommodate those changes.

5.3.2 COIC reserves the right to modify and/or eliminate non-ADA Dial A Ride service.

### **5.4 Passenger Fares**

5.4.1 COIC sets fares and establishes fare policy for the Cascade East Transit services. The present fare schedule is shown in Attachment 3. CONTRACTOR is responsible for accurate collection of the fares according to this schedule. COIC reserves the right to modify the fares throughout the term of the contract.

### **5.5 Eligibility Policy**

5.5.1 COIC determines eligibility of all Bend Dial A Ride clients.

### **5.6 Service Policy**

5.6.1 COIC establishes service policy for the Cascade East Transit services. CONTRACTOR is responsible for ensuring its drivers and Staff follow CET service policy. COIC reserves the right to modify CET service policy throughout the term of the contract.

### 5.7 **Personal Care Attendants (PCA) Policy – Fixed Route only**

5.7.1 For Bend fixed route service, each eligible Cascade East Transit Client who has been certified through COIC's eligibility determination processes that require personal care levels of assistance in order to access or complete the purpose of their trip(s) is permitted to travel with one Personal Care Attendant (PCA).

5.7.2 A PCA is a person who assists the eligible passenger either in leaving their trip origin, boarding and alighting from the vehicle, while traveling to or upon arrival at the destination, or, whose assistance is required in completing the trip purpose.

5.7.3 A PCA must board and disembark the vehicle at the same times and locations of eligible client.

5.7.4 A PCA travels fare-free when serving in the capacity of a PCA.

5.7.5 Family members are eligible to serve as PCAs.

5.8 [this section was intentionally left blank].

### 5.9 **Dial A Ride Curb-to-Curb Service**

5.9.1 The current service is provided on a curb-to-curb basis.

5.9.2 Door-to-door service may be available based on the clients need for assistance. Door-to-Door service will be detailed in client data sent to CONTRACTOR from COIC.

5.10 [this section was intentionally left blank].

5.11 [this section was intentionally left blank].

5.12 [this section was intentionally left blank].

5.13 **One-way Trip Definition:** A trip is defined as authorized travel between two points. A trip is authorized by COIC when assigned to CONTRACTOR through an agreed method. Program participants must request the ride through COIC by making the request by phone. Stop-over, route deviation and/or additional trips requested by the rider are considered an additional trip and require prior authorization through COIC. COIC will not reimburse for unauthorized trips.

5.14 **Revenue Service Hour Definition:** The National Transit Database 2015 Policy Manual states A transit vehicle is in revenue service when it is providing public transportation and is available to carry passengers. Dial A Ride revenue service hours are the hours that the driver and vehicle are available to carry passengers, within the window of the vehicle arriving at the first stop of the day to the time the vehicle departs from the last stop of the day. Fixed route service hours are measured from the time the revenue service vehicle arrives at the first stop of the day to the time the vehicle departs from the last stop of the day.

- 5.15 COIC defines billable hours to be revenue service hours as defined above, and tabulated by COIC's ride/scheduling database (e.g. RouteMatch), minus any lunch or breaks. Time spent on pre-trip vehicle inspection, mapping, cleaning, paperwork, fueling and post-trip procedures are not included in billable revenue service hours. The revenue service hour reimbursement rate is set contractually by contract year. Since the salaries and benefits of the Manager, Operations/Field Supervisors and/or Trainers are to be covered within the fixed cost portion of the contract, the CONTRACTOR shall deduct any hours that this Staff drove revenue vehicles in providing Bend revenue service in a given month from the hours billed by the CONTRACTOR for that same month. In a similar manner, CONTRACTOR shall deduct any hours that COIC Staff, out of necessity, drove revenue vehicles in revenue service in a given month from the hours billed by the CONTRACTOR for that same month. CONTRACTOR shall provide a monthly log of the hours that the CONTRACTOR Manager, Operations/Field Supervisors and/or Trainers Staff, and COIC Staff drove revenue vehicles in providing Bend revenue service with its monthly invoice.
- 5.16 The Fixed Cost reimbursement rate is set contractually by contract year. This will include expenses other than those directly associated with drivers and indirect administrative staff. The Fixed Cost will also include corporate overhead allocation and profit. The annual Fixed Cost reimbursement will be reimbursed in twelve (12) equal amounts.
- 5.17 The CONTRACTOR can recover extraordinary costs incurred to fulfill the requirements of the service contract as long as they are pre-approved by the COIC Contract Administrator. These expenses will be reimbursed through the monthly invoice. COIC reserves the right to request any and all documentation necessary in determining justified expenses.
- 5.18 CONTRACTOR'S failure to deliver goods/services on time shall be a material breach of this contract. If CONTRACTOR fails to deliver goods/services on time, COIC, at its discretion, may procure those goods/services from another source. If the price paid by COIC for goods/services procured from another source under this paragraph is higher than the price under this contract, CONTRACTOR shall pay COIC the difference between those prices. COIC may deduct that difference from any amount COIC owes CONTRACTOR.

## **Section 6 - SCOPE OF WORK**

### *A. General*

- 6.1 Service Provided: CONTRACTOR shall provide an annual total of approximately 48,000 revenue service hours. CONTRACTOR shall provide management staffing to adequately supervise and train its drivers. COIC shall pay for all fuel consumed by CET revenue vehicles serving in Bend. CONTRACTOR employees shall be responsible for fueling all vehicles at the designated locations. CONTRACTOR shall provide 100 (one hundred) percent of COIC assigned Dial A Ride trip requests.
- 6.2 Fares: The fare schedule shall be as defined in Attachment 3. CONTRACTOR shall collect all farebox receipts and deliver to the cash room at the end of each vehicle shift. At no time will farebox receipts be left in a vehicle over night. COIC will handle all funds from fare boxes and other accounts. Fares will not deducted from Contractor monthly invoice. CONTRACTOR will collect other tickets, passes, and transfers for other partner agencies or companies as directed by COIC. CONTRACTOR shall use reasonable methods to protect CET fare products.

- 6.3 DBE/EEO: CONTRACTOR shall submit a signed affidavit certifying compliance with the Disadvantaged Business Enterprise (DBE) and Equal Employment Opportunity (EEO) requirements as specified in contract.
- 6.4 On-Site Management: The person serving as CONTRACTOR's Project Manager shall be approved by COIC. In addition, CONTRACTOR shall designate an agent authorized to bind the CONTRACTOR in all aspects of CONTRACTOR's performance of Agreement, who shall be available at all times, either by phone or in person, to make decisions or provide coordination as necessary. The above individuals shall be responsible for monitoring all aspects of the service, including, but not limited to, ridership, quality of service, fare collection, operations, attitudes, motivation, and performance of all personnel. CONTRACTOR shall provide a qualified full time Manager for this project. The CONTRACTOR'S General Manager shall possess a minimum of four (4) years of experience as a General Manager or an Operations Manager in a location similar in size and scope to that of this contract. CONTRACTOR shall provide adequate field service supervision and training coverage to meet its contract responsibilities during all Bend service hours, seven days a week. It is the CONTRACTOR's responsibility to take adequate steps to maintain this coverage when individuals are absent or unavailable. CONTRACTOR shall employ at least one individual that possess adequate experience to manage all aspects of the system in the absence of the Manager. Hours of coverage are subject to change throughout the course of the contract period.

If for any reason the General Manager, operations/field supervisor, or trainer position designated in the contract is left open or not permanently filled, with a qualified individual approved by COIC, for more than 60 days, a charge equal to the position's monthly salary and benefits as denoted in the contract may be immediately assessed by the COIC, and collected through a reduction in payment owed the CONTRACTOR in the next invoice cycle, or as otherwise agreed to at the COIC'S discretion. Such fee may continue to be collected for each subsequent month in which the open position is left vacant.

- 6.5 Training and Retraining: CONTRACTOR shall brief new drivers about the transportation routes and program, reporting forms, vehicle operation, and the geographic area in which they will operate their vehicles. Before passengers are carried, each driver shall be road-tested with each kind of vehicle he/she will drive. Drivers shall be trained to use any special equipment installed on their vehicles, such as wheelchair lifts, two-way radios, and/or mobile data computers. Drivers shall be trained in passenger assistance techniques and sensitivity training that will enable them to understand the special population they are serving. In addition to those requirements listed in section 6.54 herein, CONTRACTOR shall ensure that its new drivers have completed the following training within the first 90 days of revenue service: CTAA Passenger Service and Safety certification (PASS) or ADAPTS, an ODOT approved Defensive Driving course, and an ODOT approved First Aid and CPR course. CONTRACTOR shall ensure that all current drivers receive new training/certification before their individual certifications expire. The CONTRACTOR shall employ enough management/supervisor staff personnel to ensure driver compliance with driver conduct provisions of the contract and safe driving overall. CONTRACTOR may provide additional training to staff at no charge to COIC.
- 6.6 Drug and Alcohol Testing: CONTRACTOR shall provide pre-employment, post-accident, reasonable suspicion, and random drug and alcohol testing of its employees in "safety-sensitive" positions, pursuant to the requirements of the Federal Transit Administration (FTA).

- 6.7 Bend Facility Telephones, Radio and Copier: COIC shall provide the CONTRACTOR desk telephones, a desk radio to communicate with the drivers, its Staff and CET dispatch in Redmond, and the use of a shared copier. CONTRACTOR will be responsible for the cost of all long distance phone calls outside of Central Oregon and internet services for CONTRACTOR's computers.
- 6.8 COIC will create a daily driver's manifest for CONTRACTOR staff to perform. This may be delivered in paper or electronic form. COIC will email CONTRACTOR the next day's Bend Dial a Ride shift adjustments by 4:30 PM. CONTRACTOR will be responsible to contact the driver's with the adjustments to their shifts. CONTRACTOR will provide COIC a copy of the driver's daily recap report by the start of the next business day. COIC Staff operates the call center, enters all dial-a-ride ride reservations, schedules and performs dispatch duties.
- 6.9 Contact of COIC/CONTRACTOR Personnel: COIC will provide all customer service and dispatch services from the Cascades East Transit dispatch center in Redmond. COIC personnel shall have the right to make contact with CONTRACTOR personnel, other than management, as needed when CONTRACTOR personnel are in revenue service, or operating or in the possession of COIC provided equipment.
- 6.10 Information Technology (IT): COIC will provide through its Information Technology Department the responsibilities of the system administrator. CONTRACTOR will give at least 5 days notice for new password setups, hardware or software change outs, 1 month prior notification for major system upgrades, perform daily system backup protocol, and if unable to resolve technical issues will follow set procedures for emergency IT service requests. Absolutely no software will be loaded onto COIC equipment without prior authorization, including screen savers, wallpapers, and streamed music downloaded from the Web. The CONTRACTOR will supply, own, and support Contractor specific software, and the CONTRACTOR's Manager and Staff computer equipment.
- 6.11 Handling Complaints:
- 6.11.1 COIC documents all complaints or concerns brought to Cascade East Transit from Cascade East Transit clients, advocates, COIC, and the community at large. COIC utilizes a custom software system to record, route, and track all complaints, commendations, and service requests, and document findings and responses to clients. This system maintains a full array of information by client, employee, type of issue, and finding and is referred to as the Customer Service Information (CSI) system. CONTRACTOR shall promptly investigate all service complaints involving the conduct, actions, and performance of their employees in accordance with COIC standards. CONTRACTOR shall take appropriate and timely action to resolve issues and respond to findings. Complaints related to employee conduct are assigned a "finding" based on the known facts and the employee's responsibility. At the time of receipt, complaints are classified as "not urgent", or "priority/urgent." A priority/urgent complaint requires expedited follow-up and resolution. A priority/urgent complaint involves a serious allegation that, if true, violates the law or endangers public safety. The COIC staff shall immediately notify the CONTRACTOR of priority/urgent complaints. Priority/urgent complaints require immediate follow-up with an initial report provided to COIC Cascade East Transit management by end of day. A serious allegation of driver misconduct may require that the employee immediately be placed on administrative leave.

6.11.2 CONTRACTOR shall:

1. Designate one person with primary responsibility to coordinate with COIC personnel on the investigation, response, and resolution of complaints.
2. Investigate all complaints received from COIC to establish the facts and address specific issues identified in the complaint in accordance with COIC policy. Provide hard copies of all investigative reports as requested by COIC staff.
3. Respond to COIC in writing with the results of the investigation, the recommendation regarding the “finding”, and the follow-up action being taken and/or recommended by the CONTRACTOR to resolve the matter.
4. Input the written description of the resolution into COIC’s complaint database.

6.11.3 CONTRACTOR shall respond to consumer complaints according to the following timelines:

1. Not urgent: Within five (5) days of receipt.
2. Priority/Urgent: Immediate follow-up with an initial report provided to COIC Cascade East Transit management by end of day.

6.11.4 The CONTRACTOR shall monitor the employee’s performance using a variety of tools, including the CSI system, and take appropriate action whenever there is a pattern of complaints against an employee.

6.12 Accident Policy and Procedures:

6.12.1 CONTRACTOR drivers are disqualified from providing revenue service if they have any of the following:

1. More than three moving violations and/or accidents where the driver has been found to be more than 50% at fault within the last three years,
2. More than two moving violations within the last twelve months,
3. More than two accidents where the driver has been found to be more than 50% at fault within the last twelve months,
4. A combination of three or more moving violations and/or accidents where the driver has been found to be more than 50% at fault within the last twelve months.

6.12.2 The Cascade East Transit Program defines an accident as:

1. Damage to the vehicle or the object contacted requiring repair to return the vehicle or object to their pre-contact condition. (The cost associated with repairing the vehicle or object does not affect classification of the occurrence.)
2. An event associated with Cascade East Transit service in which injury is sustained by a Cascade East Transit passenger or driver, pedestrian, or driver or passenger in contacted vehicle. Any impact of sufficient force to cause bruising or any other mark is considered an injury and must be classified as an accident.

6.12.3 All program participants and vehicle related accidents involving any property damage or personal injury resulting from service provided under this contract must be verbally reported immediately; and, verified in writing to COIC, with a complete report on the incident, including any forms provided or approved by COIC for that purpose, within 24 hours of the occurrence. COIC shall notify CONTRACTOR of any accident reported

directly to COIC within 24 hours notice of the accident. At COIC's discretion; CONTRACTOR shall hold a quarterly claim review meeting with COIC at COIC offices located in Bend, Oregon.

6.12.4 CONTRACTOR shall complete and submit a detailed, written accident report to COIC within 24 hours of a Cascade East Transit-related accident or incident involving a vehicle, driver or Cascade East Transit client. CONTRACTOR shall complete a written investigation report that includes: a description of the supervisor's actions and discoveries, the supervisor's opinion of the driver's responsibility for the accident, and an opinion of whether the event is classified an accident or an incident. Property damage must also be documented with digital photographs, to be transmitted electronically to COIC. CONTRACTOR shall report all equipment malfunctions or vehicle damage, including any visible scrapes or dents, to COIC Maintenance within 24 hours of discovery.

#### 6.13 Services During Periods of Snow and Other Adverse Travel Conditions

CONTRACTOR'S shall provide transportation services during periods of snow and other adverse travel conditions following COIC procedures to ensure safe transportation for Cascade East Transit clients. CONTRACTOR will:

1. Ensure adequate driver staff.
2. Assure that sufficient transportation management and support staff are on-site to assist drivers.
3. Insure that vehicles needing tire chains applied for service leave the yard with them on.
4. Adjust vehicle-operating guidelines to accommodate hazardous road and weather conditions.

6.13.1 CONTRACTOR is responsible for installing and removing chains from the vehicle for safe operation when snow and/or ice makes traveling hazardous. CONTRACTOR may hire COIC to provide this service at COIC's current internal shop rate. COIC may revise this shop rate as it deems necessary throughout the life of the contract.

6.13.2 When weather and road conditions make traveling hazardous, COIC may choose to operate at a reduced level of service. The level of service, portion of service area affected and time frame for applying the service reduction will vary, depending on the severity of hazardous traveling conditions and other factors. The CONTRACTOR shall assure a high level of employee attendance during bad weather. The CONTRACTOR shall have a plan that assures adequate staff is available to make scheduled pullouts. Special procedures will be implemented to manage service during inclement weather.

6.13.3 COIC will provide updates to CONTRACTOR regarding service level changes and road conditions. COIC will coordinate with CONTRACTOR to determine when road conditions are considered safe. COIC management will make final decision regarding service levels.

6.14 COIC management may request that CONTRACTOR provide service apart and in addition to scheduled Cascade East Transit service including service to other populations and funding sources based on system capacity and COIC needs. CONTRACTOR may be asked to supply staff, including supervisors, and/or temporarily extend hours of operation. Payment for special service will be at the same rate in effect for provision of Cascade East Transit service.

6.15 Cascade East Transit Service Hour Management

- 6.15.1 Revenue service hours are the basic unit of Cascade East Transit schedules and the measure for service coverage and schedule productivity. Because revenue service hours represent the largest component of Cascade East Transit Bend service operating costs, effective revenue service hour utilization is the most important factor in determining efficiency of schedules and cost-effectiveness of service.
- 6.15.2 Demand for Cascade East Transit service is dynamic. The Cascade East Transit Program experiences daily, weekly, and seasonal fluctuations in service demand. Service hour adjustments address daily and weekly fluctuations in demand. CONTRACTOR should be prepared to accommodate such fluctuations in service in the most efficient and cost effective manner possible.
- 6.15.3 In order to match service hours more closely with demand, schedules must be modified each day during the daily scheduling process. This process creates pressure on Cascade East Transit transportation provider to develop staffing plans, which include split-shifts, for baseline schedules, and to have systems in place to manage staffing levels and periodic changes to baseline runs and service hour allocations. COIC places a high value on the flexibility of transportation operations in accommodating changes to service hour allocations.
- 6.16 Cascade East Transit Operations - Interface with COIC
  - 6.16.1 For the CONTRACTOR and transportation management, COIC is the primary point of contact on the day of service. Effective communication between COIC and CONTRACTOR is critical to Cascade East Transit service quality.
  - 6.16.2 Two-way text and voice communications between the CONTRACTOR and vehicle drivers needs to be accomplished preferably with radio equipment. Both dispatchers and vehicle drivers are expected to keep all communications concise, accurate and professional. On the day of service, effective communication is a shared responsibility between the CONTRACTOR and COIC.
  - 6.16.3 Vehicle drivers and dispatchers are expected to make decisions that support good customer service, exercise safe operating practices and efficiently utilize limited program resources.
  - 6.16.4 Vehicle drivers decide where to operate vehicles and make recommendations to COIC as to whether a Client can be transported safely. Dispatchers are to coordinate assistance to vehicle drivers.
  - 6.16.5 Vehicle drivers are expected to cooperate with the dispatcher's instructions, unless there is a safety issue. If there is a safety concern about instructions received from COIC, vehicle drivers will call their office and consult with a supervisor.
  - 6.16.6 For situations where there is disagreement between vehicle driver and dispatcher, and safety is not an issue, vehicle drivers are to provide the service as instructed by COIC.
- 6.17 Internal Participation
  - 6.17.1 The Transportation Management Team is the central point of coordinating the activities of the contract staff, CET operations staff and COIC Managers. The CONTRACTOR General Manager shall attend and participate in regularly scheduled coordination meetings with COIC staff and others as required. The meetings are for the purposes of monitoring the performance and delivery of service, resolving issues relating to Cascade East Transit operations and developing recommendations regarding policy or procedure changes for COIC management. The CONTRACTOR General Manager is responsible for ensuring that information from

these meetings is conveyed to their staff. Meetings will generally be held weekly at regularly scheduled times.

- 6.17.2 COIC has embraced a style of doing business that empowers employees to improve their work environment, builds trust through open communication. The Process Improvement Program is intended to create a way of working, thinking, teaming and managing that can maximize the best ideas for program improvement, to increase efficiencies and productivity, and to provide more and higher quality service to clients.
- 6.17.3 COIC is interested in involving operations staff in process development and review to increase service productivity and effectiveness. The CONTRACTOR General Manager is expected to participate in process improvement efforts and to make staff available for participation as needed.

### *B. Equipment Including Vehicles*

- 6.18 COIC Shall Provide Revenue Vehicles: COIC shall provide CONTRACTOR a fleet of suitable fixed route and paratransit revenue vehicles for the performance of contract. It shall be COIC's responsibility to have the vehicles registered with the Department of Motor Vehicles prior to delivery to CONTRACTOR. CONTRACTOR's responsibilities include, but are not limited to, routine daily upkeep of the vehicle interior (e.g. sweep and picking up the trash), vehicle inspections (e.g. fluid levels, tire pressure, etc.), and operating the vehicles in accordance with contract and this Scope of Work. To allow for adequate repairs and maintenance, and COIC to meet its bus advertising obligations, the CONTRACTOR shall rotate the vehicles in service as required by COIC. Mechanical and technical maintenance of COIC's vehicles shall be the obligation of COIC. However, CONTRACTOR shall inform COIC of any repairs or maintenance that is necessary.
- 6.19 Warranties: COIC shall be responsible for maintaining all COIC-provided vehicles and equipment including warranties. CONTRACTOR shall be liable for the cost of repairing or replacing any physical or mechanical damage not caused by COIC. The CONTRACTOR is not responsible for normal wear and tear on revenue vehicles. The CONTRACTOR will provide drivers to transport COIC vehicles to warranty shops in the Bend area. These hours will be added to the monthly invoice at the current variable rate. The CONTRACTOR should plan for up to 50 round trips during each contract year.
- 6.20 Availability: COIC shall store all equipment including vehicles at its facility at 1250 NE Bear Creek Rd, Bend OR and CONTRACTOR shall be allowed to access equipment for service as determined by COIC.
- 6.21 Use: No COIC provided vehicles shall be operated beyond the limits established in the applicable policies of insurance as hereinafter set forth, and may only be used for the transportation of passengers as provided in contract or other transit-type services pre-approved in writing by COIC. No COIC vehicle shall be used to shuttle CONTRACTOR employees or to perform other activities on behalf of the CONTRACTOR. CONTRACTOR agrees to use equipment including vehicles in a careful, proper, and safe manner and to comply with all Federal, State, local, or other governmental laws, regulations, requirements and rules with respect to the use, maintenance and operation of the equipment, including vehicles subject to contract. CONTRACTOR shall not use equipment in any unlawful trade, or for any unlawful purpose whatsoever, or in violation of contract. CONTRACTOR shall be liable for the cost of repairing or replacing any physical or

mechanical damage, beyond normal wear and tear, not caused by COIC. As required, COIC shall deduct these costs from invoices received from the CONTRACTOR.

- 6.22 Alterations: CONTRACTOR shall not have the right to install equipment, or make any minor or major alterations to any COIC owned equipment or vehicles without prior written consent of COIC.
- 6.23 Return of Equipment: CONTRACTOR shall return all equipment including vehicles to COIC at 1250 NE Bear Creek Rd, Bend, OR at the termination of contract or upon earlier termination in the same condition as accepted less any ordinary wear and tear. Ordinary wear and tear shall be interpreted according to the equipment's/vehicles use.
- 6.24 Liens: COIC shall not suffer, create or permit to be imposed upon the vehicles any lien or encumbrance which may interfere with CONTRACTOR's intended utilization of the vehicles.

CONTRACTOR nor any of his/her agents shall suffer, create or permit to be imposed upon the vehicles any lien or encumbrance whatsoever, and shall return equipment to COIC free of any liens, claims or encumbrances resulting from its use of equipment. CONTRACTOR agrees to notify any third party furnishing services, supplies, or other necessities to CONTRACTOR that neither CONTRACTOR nor any of his/her agents have the right to incur, create or permit to be imposed on the vehicles any lien whatsoever.

- 6.25 Permits, Charges, Taxes: COIC shall be responsible for securing and maintaining vehicle-related licenses, permits and authorizations necessary for the intended vehicle operation.
- 6.26 Repossession: In the event of termination of contract, COIC shall have the right to take immediate possession of all COIC-provided equipment including, but not limited to, vehicles and CONTRACTOR shall reimburse COIC all expenses, including attorney's fees, incurred by COIC in effecting such repossession.

In the event that a suit or an action is instituted by COIC, or those claiming by, through, or under it, to recover possession of the equipment, including vehicles, to collect damages or to enforce any right possessed by COIC under the terms of contract, CONTRACTOR agrees and promises to pay such additional sum as the court may adjudge reasonable as attorney's fees in said suit or action.

- 6.27 Other Equipment: The COIC will supply all office furniture. COIC will also supply a copier and monthly copier charges. COIC is responsible for providing all other office materials, office supplies, and/or office equipment needed at the Bend Operations Facility. CONTRACTOR is responsible for other miscellaneous items and refreshments to be used at the discretion of the CONTRACTOR's Manager.
- 6.28 Staff Vehicles: The CONTRACTOR will be responsible to provide vehicle transportation, at its expense, for the Manager, supervisors, CONTRACTOR staff and drivers. The CONTRACTOR will not be allowed to use any COIC owned vehicle for transporting employees. Use of COIC vehicles for such purposes is prohibited. All expenses, insurance and registration related to the operation of the CONTRACTOR's supplied non-revenue vehicles will be the responsibility of the CONTRACTOR.

### *C. Vehicle and Facilities Maintenance*

6.29 General: COIC shall be responsible for maintenance of the facilities and maintenance of all COIC provided equipment including vehicles, maintenance of which has not been expressly or specifically assigned to CONTRACTOR by the COIC. COIC will be responsible for the interior and exterior cleaning including vehicle washing of all fixed route and paratransit vehicles, support vehicles, and transit facilities.

CONTRACTOR shall use due diligence maintaining the cleanliness of all equipment and vehicles and is responsible for general housekeeping, and security of equipment when in CONTRACTOR'S possession. CONTRACTOR is responsible to correct any damage caused by CONTRACTOR other than normal wear and tear.

6.30 Right of Inspection by COIC: COIC shall have the right to inspect, at any time, all COIC provided equipment and vehicles. CONTRACTOR shall correct any problems, within twenty-four (24) hours of written notification by COIC, if problem is capable of correction within such time. If situation is not correctable within 24 hours, then arrangements for correction must be commenced within said period and concluded within a reasonable time period acceptable to COIC.

6.31 Corrections: If CONTRACTOR fails to correct any problem set forth immediately above which is under the control of the CONTRACTOR and not under the control of COIC, COIC may make, at its discretion, corrections and shall charge the actual cost to CONTRACTOR for the corrections. COIC may deduct these charges from any amount due, or that may become due to CONTRACTOR under contract.

6.32 Vehicle Cleanliness: CONTRACTOR shall maintain the interior cleanliness of all vehicles to the highest standards at all times. CONTRACTOR shall instruct staff to check vehicles throughout their shift and post shift for debris and spills. All drivers must completely sweep out their buses post shift and report to the supervisor any graffiti or damage not easily cleaned up.

6.33 Bodily Fluids: CONTRACTOR will clean up all bodily fluids immediately. If a vehicle is in service at the time of the discovery of any bodily fluids, that vehicle will be replaced and removed from service and cleaned immediately.

6.34 Records: CONTRACTOR shall submit proposed Daily Vehicle Reports, Checklists and Inspection Report, Vehicle Cleaning Report and any other applicable reports to COIC.

### *D. Meetings, Public Information and Marketing*

6.35 Public Information and Meeting Participation

6.35.1 Public Information: COIC develops and furnishes all public and client information related to the Cascade East Transit Bend service. Such information may include but is not limited to call center telephone recorded messages,, Cascade East Transit Riders' Guide., Agency Guides, Client bulletins, newsletters, and COIC web site content. No information about the COIC Cascade East Transit Bend service may be distributed without COIC's permission.

The CONTRACTOR may be asked to distribute and post COIC information to Cascade East Transit Clients on/in Cascade East Transit vehicles.

- 6.35.2 Contractors will ensure that copies of written material will be posted on Cascade East Transit vehicles no later than the day following its receipt and will be displayed for a minimum of seven (7) consecutive days.
  - 6.35.3 Contractor will convey COIC provided communications to clients as soon as possible in the manner requested.
  - 6.35.4 Participation at Meetings: The Contractor will attend meetings when requested at which issues related to Cascade East Transit and any other contracted service may be routinely discussed
  - 6.35.5 The Contractor will provide written response for COIC's use regarding issues raised in public meetings pertaining to services provided by the contractor and/or the actions of its employee.
- 6.36 Marketing Organization: During the term of the contract, CONTRACTOR will cooperate in marketing and advertising efforts.
- 6.37 Marketing Identity: COIC shall determine appearance, and approve all marketing material. CONTRACTOR shall not distribute any materials that can be directly or indirectly associated with COIC or the fixed route or dial a ride services identified in contract, without approval of COIC.
- All printed, audio, or visual materials dealing with fares, dial a ride schedule(s)/pickup policies, promotional activities, public relations or other marketing communications materials distributed on board any vehicle must be approved by COIC. From time to time, COIC will supply CONTRACTOR with marketing materials for distribution on the vehicles. CONTRACTOR shall distribute such materials on the vehicles when asked to do so by COIC.
- 6.38 Media Referrals: CONTRACTOR will refer all requests from print, broadcast or other media for information on the fixed route or dial a ride transit services identified in contract, to the COIC Transportation Manager or designee. Unless authorized by the Transportation Manager, the CONTRACTOR shall not make any contact with the media or offer comment regarding the services identified in contract.
- 6.39 On-Board Notices: CONTRACTOR shall post COIC provided and approved notices as directed by COIC.
- 6.40 Schedules, Brochures, Maps, Etc.: COIC shall be responsible for providing CONTRACTOR with any printed material (e.g. time schedules, brochures, maps, flyers, and similar printed material), for use or distribution to the public and CONTRACTOR shall be responsible for distributing them to passengers, on the vehicles, mail or other means as directed by COIC. Any expenses associated with the CONTRACTOR's distribution of any printed materials will be the responsibility of the CONTRACTOR.

- 6.41 Passenger Surveys: CONTRACTOR shall, when requested by COIC, distribute surveys to passengers, and/or otherwise provide reasonable assistance in COIC's monitoring and marketing activities.
- 6.42. On-Vehicle Advertising and Postings: CONTRACTOR shall not post or otherwise distribute any materials on the vehicles, unless specifically requested by COIC, and COIC shall approve in writing all materials prior to their distribution. Any revenue from posting or other distribution shall be COIC's. CONTRACTOR will accommodate the scheduling of vehicles for service when vehicles are needed for graphic or advertising installation.

*E. Administration, Reports, Accounting, Audits and Penalties*

- 6.43 Administration: CONTRACTOR shall employ an adequately trained and sized management and administration staff to provide adequate driver supervision, training and in the field oversight and ensure smooth Bend system operations and, overall system management. CONTRACTOR shall ensure adequate staffing to cover these responsibilities when individuals are absent or unavailable.
- 6.44 Reports: CONTRACTOR shall provide COIC the following reports, based upon the identified schedule and in a form and format prescribed by COIC:
- 6.44.1 Daily Driver Log Summary: Daily summary of all fixed route and paratransit activity by program based upon daily driver passenger count logs. CONTRACTOR shall provide reports no more than three working weekdays following the date of service, upon request.
- 6.44.2 There is an expectation that drivers will collect and report a variety of operational data and that the method and manner may change over time. The CONTRACTOR will ensure proper collection procedures and reporting steps are followed.
- 6.44.3 Other Reports: CONTRACTOR shall provide other reports (i.e. daily departure logs, unusual incident summaries, vehicle mileage, etc.) as defined by COIC and mutually agreed to by CONTRACTOR. CONTRACTOR shall provide reports as often as daily.
- 6.44.4 Dissemination of Data: CONTRACTOR shall not disseminate ridership, fare box, or other data or information to any party without first receiving approval for such from COIC or as required by law.
- 6.45 Operational Information Coordination: COIC Staff operates the call center, enters all dial-a-ride ride reservations, schedules and performs dispatch duties. By 4:30 PM each weekday, COIC Staff will provide the CONTRACTOR with the shift hours for the next day. The CONTRACTOR then assigns its drivers to the next days shift and before 6:00 PM each day provides COIC Staff with a written list of the driver assigned to each particular vehicle. If changes in number of shifts, or shift hours in response to ride demand are necessary during the day, these will be relayed from the Dispatch Supervisor, or designee to the CONTRACTOR's General Manager, or designee for additional driver assignment.
- 6.46 Accounting Practices: During the period of contract, CONTRACTOR shall maintain its books of account as they relate to the programs identified in contract consistent with Generally Accepted Accounting Principles, and in COIC-approved format.

- 6.47 Compliance with Regulatory Agency Requirements: All services provided under contract shall conform to all requirements of all Federal, State, and/or local regulatory agencies.
- 6.48 CONTRACTOR/COIC Meetings: COIC shall meet with CONTRACTOR as needed.
- 6.49 COIC will provide CONTRACTOR with operational data report access to COIC's ride/scheduling database (e.g. RouteMatch) for the purpose of monthly invoice preparation and self monitoring of CONTRACTOR's performance. COIC will supply CONTRACTOR with requested supporting documentation for routine auditing procedures on a monthly basis.

#### *F. Insurance and Indemnity*

- 6.50 In addition to insurance responsibilities itemized in EXHIBIT K the following provisions apply:

The CONTRACTOR will be required to insure every vehicle in the Cascades East Transit Bend fleet for business auto coverage, hired & non-owned auto; and shall provide comprehensive & collision for such vehicles. Coverage shall be on an occurrence basis with a limit of not less than \$5,000,000 for each occurrence. The CONTRACTOR will not expect reimbursement for any deductible charges incurred on its policy. The CONTRACTOR will supply the COIC a Certificate of Insurance which includes the Lessor-Additional Insured and Loss Payee Endorsement language.

The CONTRACTOR shall hold the sole source of liability and physical damage coverage for the vehicle in the Cascades East Transit Bend fleet and agrees to indemnify, hold harmless and defend the COIC for any losses or claims arising out of their operations and use by a CONTRACTOR employee. The CONTRACTOR also waives any subrogation against COIC and the COIC's agent, representatives, officers, and employees.

COIC agrees to indemnify, hold harmless and defend the CONTRACTOR for any losses or claims arising out of COIC's operations and vehicle use by a non-CONTRACTOR employee, and, COIC also waives any subrogation against CONTRACTOR and the CONTRACTOR's agent, representatives, officers, and employees resulting from the same.

#### *G. Changes to Level of Service*

- 6.51 Basic Level of Service: The "basic level of service" is the amount of service, approximately 48,000 of revenue service hours annually. COIC may increase, decrease, or otherwise change the service to be provided.
- 6.52 Changes in Subsidiary Duties: COIC may request changes in CONTRACTOR's reporting requirements, training and safety programs, inventory requirements, testing procedures, personnel practices, and/or other operating details that do not result in changes to the service level. If CONTRACTOR declines such requests, or such request would result in a material increase in CONTRACTOR's costs or in the time required for performance, CONTRACTOR shall notify COIC within seven (7) days after receipt of such request and shall submit a claim detailing such objections and/or increases. The parties shall negotiate an equitable settlement of CONTRACTOR's claim, which reflects actual increases or decreases in CONTRACTOR's total costs to perform contract caused by the change in question.

## *H. Driver Qualifications, Training & Work Rules*

6.53 Employee Qualifications. The following minimum qualifications will be required of those persons employed as drivers in the fixed route and paratransit services:

### Vehicle Drivers:

- i. A valid Oregon Class "C" CDL with passenger endorsement, and Class B CDL with passenger endorsement and with air brake restriction removed as determined by the vehicle required for the work assigned.
- ii. A safe driving record.
- iii. A valid Medical Certificate and passage of pre-employment drug test.
- iv. A minimum of three year's recent experience safely driving a motor vehicle with a valid license.
- v. Completion of CONTRACTOR's driver training program.
- vi. A criminal records check

6.54 Driver Training: Driver Training and Retraining for vehicle operation and system information as described in section 6.5 herein and below is the responsibility of the CONTRACTOR. The CONTRACTOR shall ensure drivers are adequately trained in vehicle operations and professional techniques including but not limited to: radio protocol, fare collection, passenger counting, tablet usage, stop announcements, ADA requirements, customer service, handling of difficult people and professional interactions with COIC employees, local businesses and passengers.

6.55 Driver Evaluations and Upkeep of Required Driver Documents: Each driver employed shall be evaluated, including an in-service evaluation, by a qualified instructor at least annually. The CONTRACTOR shall provide a list of annual driver evaluations performed on current drivers to the contract administrator quarterly. The CONTRACTOR shall maintain a system that performs on-going checks to ensure the drivers' license is valid and medical certificates are kept current.

6.56 Driver Evaluation/Training After Accidents:

6.56.1 For collisions determined preventable by CONTRACTOR:

- i. CONTRACTOR Supervisor shall ride with that driver and perform an evaluation,
- ii. CONTRACTOR Supervisor shall provide that driver with a minimum of 4 hours of documented retraining

6.56.2. For drivers with two or more collisions determined non-preventable by CONTRACTOR within the last twelve months:

- i. CONTRACTOR Supervisor shall ride with that driver and perform an evaluation,
- ii. CONTRACTOR Supervisor shall provide that driver with a minimum of 2 hours of documented retraining.

6.57 Driver Uniforms, Dress Code and Appearance: CONTRACTOR shall enforce COIC's appearance code. Uniforms are not required at this time. COIC will provide CET nametags for each driver who must wear it at all times when on duty. Drivers will not be allowed to wear uniforms provided by the CONTRACTOR other than standard safety vests without lettering. No uniform allowance will be provided to the CONTRACTOR.

6.58 Driver Courtesy: CONTRACTOR shall supervise all drivers to ensure that they are courteous *to all patrons at all times*, and accurately respond to patrons' questions regarding use of the transit system or connecting systems.

6.59 Driver's assistance to Cascade East Transit clients

6.59.1 Drivers shall assist clients:

1. By escorting between the entry door at the origin or destination and the vehicle (dial-a-ride service only).
2. To safely board and de-board the vehicle using steps or the vehicle lift.
3. In applying and removing securement for mobility devices and personal securement belts including seat belts.
4. With manual mobility devices in going up/down a maximum of one step or one curb when driver determines they can safely do so.

6.59.2 Drivers are responsible for the comfort and safety of Cascade East Transit passengers. Drivers shall properly secure passengers as follows:

1. All clients seated in fixed seats on the vehicle shall be secured by seat belts (when available) for the duration of their ride. COIC retains the right to suspend the seat belt requirement when special service is provided.
2. All clients riding in mobility devices shall have their mobility device secured by four straps (a four-point securement).

6.59.3 Drivers shall document and report observations related to service delivery and client safety according to standard operating procedures. Examples of reportable issues:

1. Insufficient passenger transport time.
2. Unsafe condition of client's mobility device.
3. Weather conditions that present an unsafe operating environment.
4. Road construction or unusual traffic flow disruption.
5. Concerns about client health or safety.

6.60 CONTRACTOR employees shall maintain the confidentiality of all information regarding Cascade East Transit Program participants and employees. This information shall be divulged only as necessary for purposes directly related to performing service for the Cascade East Transit Bend service unless expressed written permission by the participant or employee allows otherwise. Consent in some instances may also come from COIC.

6.60.1 CONTRACTOR employees will be responsible for compliance with all applicable State and Federal guidelines relating to confidentiality of Cascade East Transit participant information.

6.61 Employee Work Rules: The following employee rules, subject to modification by COIC, shall be enforced by CONTRACTOR:

a. Dress

- i. CET name badge and close toed non-slip shoes.
  - ii. Shall be clean and presentable at all times.
- b. Gratuities/Fares
  - i. Gratuities shall not be accepted.
  - ii. All cash shall go into farebox without being handled by the driver. Driver shall collect fares consistent with the most recent fare structure adopted by COIC.
- c. Knowledge of Services/Fare Structure
  - i. Drivers shall have a thorough knowledge of the service and fare structure prior to driving for that service unsupervised.
  - ii. Drivers shall also have a basic knowledge of routes, stops and transfer locations with connecting systems, and knowledge of connecting systems and the CET regional system.
- d. General Rules:
  - i. No employee will be permitted to smoke, eat, drink, or employ any device that plays music or amplifies sound aboard buses at any time. These activities, with the exception of smoking, are permitted by drivers on board service vehicles and shift relief vehicles when they are on breaks.
  - ii. Boisterous language, profanity, or incivility to anyone shall not be permitted, on duty or wearing anytime wearing a CET name badge.
  - iii. No employee shall purchase, consume, or be under the influence of any narcotic, intoxicant, or harmful drug while wearing a CET name badge.
  - iv. Drivers shall be responsible for keeping all vehicles clean and sanitary during their shift.
  - v. All employees are responsible for reporting any defects a vehicle may have immediately. Drivers shall conduct a pre-trip inspection of their vehicle, and sign a "Daily PreTrip Inspection" sheet. Drivers shall have CONTRACTOR supervisor personnel resolve any doubt about the safety of a vehicle prior to operating the vehicle in service.
  - vi. Employees may use vehicles only in accordance with their assigned duties.
  - vii. Employees must conduct themselves and operate vehicles in a safe and courteous manner at all times.
  - viii. No one shall be permitted to solicit on the vehicle with the exception of personnel specifically authorized to do so by COIC.
  - ix. [this section was intentionally left blank].
  - x. No animals, except service animals or animals in carriers designed for transporting pets, shall be permitted on the vehicle, unless otherwise authorized in writing by COIC.
  - xi. All information regarding accidents shall be confidential. Employees shall refrain from speaking to anyone concerning any accident unless it is to Police, supervisory personnel, or other person(s) involved in the accident, as required by law.

xii. Anyone under the influence of any intoxicant, narcotic, or harmful drug, who endangers the safety of the driver, other passengers or vehicle equipment, shall not be permitted on the vehicle.

xiii. No vehicle shall stop at an unsafe location. Whenever practical, paratransit stops shall be made at a curb.

xiv. Backing a revenue vehicle in service is discouraged for safety reasons. Drivers should notify Dispatch both before and after completing the procedure.

xv. No vehicle shall be operated when its condition is unsafe.

xvi. No driver shall operate a wheelchair lift without proper training or the lift is unsafe.

The safety of the passenger is paramount in these situations

xvii. Drivers shall utilize the farebox system properly, recording ridership data in the format required by COIC.

xviii. Drivers shall not leave a vehicle unattended unless:

1. The transmission is placed in park.

2. The parking brake is set.

3. The engine is turned off.

xix. Doors on unattended vehicles shall be kept locked at all times.

xx. Drivers shall provide "hands-on" assistance, when requested, for boarding and unloading purposes.

xxi. No vehicle shall be fueled while passengers are on-board.

xxii. Driver shall always behave in a courteous and professional manner towards riders.

xxiii. Driver shall not destroy, disassemble or in some other manner take actions to override/defeat equipment installed in COIC revenue vehicles.

xxiv. Driver shall call out all stops,

xxv. When stopped at the Intermodal Center and all transfer locations, driver shall stand at the curb and announce the route that the bus is currently serving.

6.62 COIC reserves the right to determine the suitability of any CONTRACTOR employee to continue performing work for the program. Such a determination may be related to performance of service, client complaints, on-time performance, accidents, unprofessional behavior, reporting, communication, or other work related performance issues. CONTRACTOR will be notified in writing of any such determination.

6.63 COIC may direct the CONTRACTOR to remove an employee from the delivery of Cascade East Transit revenue service(s). CONTRACTOR employee exclusion can be for any reason COIC deems appropriate. Depending on the circumstances, this exclusion from providing CET revenue service may be permanent. Any compensation, for any CONTRACTOR employee excluded from active revenue service, for any length of time, shall be the CONTRACTOR'S sole financial responsibility.

6.64 Service Performance Incentives and Penalties: COIC provides for financial incentive to the CONTRACTOR in the event that certain administrative and operational goals are met. COIC may assess disincentive charges in the event that the CONTRACTOR fails to perform. The performance incentives and disincentive charges are set forth the following chart.

<b>Performance Measure</b>	<b>Incentive</b>	<b>Disincentive Charges</b>
CONTRACTOR shall report any vehicle damage to the COIC within 24 hours.	None	\$500 for any occurrence of damage that is not reported to the COIC within 24 hours, per 24 hour period.
CONTRACTOR shall report any vehicle accident or passenger/employee injuries within 2 hours of occurrence.	None	\$500 for any occurrence of injury to passenger or employee that is not reported within 2 hours, per 2 hour period.
CONTRACTOR shall remove all fareboxes from revenue vehicles daily and place them into the secure	None	\$50 for any occurrence of fareboxes not being put into the secure cash room overnight.
COIC requires full time, on-site management of the transit operation.	None	Monthly Manager's salary and benefits for each month position is vacant more than 60 days.
COIC vehicles are to be used for revenue service only.	None	\$50 for any occurrence of CONTRACTOR using COIC vehicles
CONTRACTOR shall immediately remove one of its employees from providing CET revenue service upon notification from COIC that the individual has been excluded from doing so (6.62/6.63)	None	\$100 for every day that the CONTRACTOR has the excluded driver providing CET revenue service after proper notification from COIC.
COIC places great value on reliable fixed route service.	\$500 per quarter in which 95% or more of scheduled departures from Hawthorne Station or Route Endpoint are "on time" (0-5 minutes late).	\$500 per quarter in which 90% or fewer of scheduled departures from Hawthorne Station or Route Endpoint are "on time" (0-5 minutes late)
COIC places great value on reliable Ride the River Service.	\$500 per season in which more than 95% of pickups are within a range on the passenger schedule.	\$500 per season in which fewer than 90% of pickups are within the 20 minute window given to the passenger.

**Exhibit A  
PRICE PROPOSAL FORM  
Cascades East Transit Bend Service, RFP CET 16-3**

PROPOSER: \_\_\_\_\_

Base Vehicle Revenue Hours is 48,000 annually

**Year One: May 1, 2017 through April 30, 2018**

Total Fixed Costs: \$ \_\_\_\_\_

Total Cost Per Vehicle Revenue Hour \$ \_\_\_\_\_ x 48,000 = \$ \_\_\_\_\_

Total Cost for Year One: \$ \_\_\_\_\_

**Year Two: May 1, 2018 through April 30, 2019**

Total Fixed Costs: \$ \_\_\_\_\_

Total Cost Per Vehicle Revenue Hour \$ \_\_\_\_\_ x 48,000 = \$ \_\_\_\_\_

Total Cost for Year Two: \$ \_\_\_\_\_

**Year Three: May 1, 2019 through April 30, 2020**

Total Fixed Costs: \$ \_\_\_\_\_

Total Cost Per Vehicle Revenue Hour \$ \_\_\_\_\_ x 48,000 = \$ \_\_\_\_\_

Total Cost for Year Three: \$ \_\_\_\_\_

**Total Cost for Years 1-3:** \$ \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE : \_\_\_\_\_

TITLE: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_

Fixed Costs: Provide the cost for fixed costs. Fixed costs are management/supervisor/office assistant staff labor and benefits (including w/c insurance), materials, supplies, utilities, rent, general liability insurance and any other costs not normally described as variable transit service cost. Show itemized costs using the spreadsheet attached.

Variable Costs: Provide the cost per revenue service hour for the Cascade East Transit Bend service. This would include driver labor and benefits (including w/c insurance) and vehicle insurance. COIC defines revenue service hours for dial a ride service are the hours that the driver and vehicle are available to carry passengers, within the window of the vehicle

arriving at the first stop of the day to the time the vehicle departs from the last stop of the day. Fixed route revenue service hours are measured from the time the revenue service vehicles arrive at the first stop of the day to the time the vehicle departs from the last stop of the day. This excludes travel to and from storage facilities, fueling, driver breaks, training and road tests. Explain the calculations used to arrive at this figure and provide them on separate sheet.

**Exhibit B**  
**LINE ITEM OPERATING BUDGET**  
**Cascades East Transit Bend Service, RFP CET 16-3**

<b>Proposer:</b> _____	<b>Year 1</b>		<b>Year 2</b>		<b>Year 3</b>	
	May 1, 2017 – April 30, 2018		May 1, 2018 – April 30, 2019		May 1, 2019 – April 30, 2020	
	Fixed Cost	Variable Cost	Fixed Cost	Variable Cost	Fixed Cost	Variable Cost
<b>Salaries and Wages</b>						
Management						
Supervisor(s)						
Trainer(s)						
Drivers						
<b>Benefits</b>						
Management						
Supervisors						
Trainer(s)						
Drivers						
<b>Insurance Expense</b>						
General liability (including deductibles)						
Vehicle liability (including deductibles)						
Workers Compensation						
<b>Profit and Overhead</b>						
Overhead						
Profit						
Other (please detail)						
Other (please detail)						
Other (please detail)						
<b>Total Fixed Cost</b>						
<b>Total Variable Cost</b>						
<b>TOTAL PROJECT COST</b>						

SIGNATURE: \_\_\_\_\_ DATE : \_\_\_\_\_

TITLE: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_

**Exhibit C**

**STAFFING LEVELS & WAGES/SALARIES  
Cascades East Transit Bend Service, RFP CET 16-3**

<b>Proposer:</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>
_____	May 1, 2017 – April 30, 2018	May 1, 2018 – April 30, 2019	May 1, 2019 – April 30, 2020
	Number of FTE's	Number of FTE's	Number of FTE's
Job Class			
Management			
Supervisor(s)			
Trainer(s)			
Drivers *			
Off-Site Staff			
<b>TOTAL ANNUAL</b>			
FTE's proposed:			

\* See Attachment 4 for current wage scales of represented workers

**Definitions:**

“Number of FTE’s” means the number of full-time equivalent positions needed to operate the proposed services. Full-time equivalents equal 2,080 hours.

“Wage/Salary” should either be the average hourly wage, or monthly salary. In the case of drivers, please indicate the number of drivers (FTE’s) and the average hourly wage rate used to calculate driver wages for this contract.

SIGNATURE: \_\_\_\_\_ DATE : \_\_\_\_\_

TITLE: \_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_

**Exhibit D**  
**REFERENCE QUESTIONNAIRE**

PLEASE MAIL OR FAX FOR RECEIPT NO LATER THAN December 21, 2016 @ 2:00 PT.

To Whom It May Concern:

Your company has been listed as a reference for \_\_\_\_\_ (CONTRACTOR name). This company is proposing or is part of a proposal for providing public transit service (both fixed route and ADA paratransit dial a ride) for the Central Oregon Intergovernmental Council (COIC).

Provide the following information on the first page or cover sheet

- Respondent Name
- Signature of Respondent
- Respondents Title
- Company Name
- Company Address
- Contact Phone Number
- Contact Email Address

On a separate page, please respond to the following questions listed below. Responses will be utilized to determine past performance on similar work and could impact the final award of the contract. Attach additional pages as necessary. Please number your responses to correspond with the appropriate question:

1. What type of work does your firm perform?
2. How long have you worked with the CONTRACTOR?
3. Were you satisfied with the CONTRACTOR'S performance? Was the CONTRACTOR responsive in meeting timelines?
4. How would you describe your relationship with the CONTRACTOR and their Transportation Manager?
5. Were there any problems and if so, how were they solved?
6. Do you find the CONTRACTOR'S pricing to be competitive with similar CONTRACTOR proposals?
7. What is the CONTRACTOR'S greatest strength? Describe the CONTRACTOR'S greatest weaknesses and ways they worked to overcome these weaknesses.
8. Would you use this CONTRACTOR again? Briefly explain...
9. Other Comments...

\*\*\*Please mail, email, or fax this survey directly to Drew Orr, COIC, 334 NE Hawthorne Ave., Bend, OR 97701. [dorr@coic.org](mailto:dorr@coic.org) Fax Number (541) 389-7367. Questionnaires must be signed (scanned copies may be faxed or emailed) Response must be received by COIC no later than December, 2016 @ 2:00 PT. Information gathered from responses received will be utilized to evaluate past performance of CONTRACTOR. If you have questions regarding this questionnaire or its use, please contact Drew Orr at (541) 548-9525 or via email at [dorr@coic.org](mailto:dorr@coic.org).

**Exhibit E**  
**FEDERAL REGULATIONS**

**ALL OR PART OF THIS CONTRACT IS FEDERALLY FUNDED.** CONTRACTOR shall comply with the following applicable federal regulations in addition to all other specifications, terms and conditions of this Invitation for Bid or Request for Proposal. As used in these regulations,

**6. ENERGY CONSERVATION REQUIREMENTS**

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

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

**7. CLEAN WATER REQUIREMENTS**

**33 U.S.C. 1251**

**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.

**10. LOBBYING**

**31 U.S.C. 1352**  
**49 CFR Part 19**  
**49 CFR Part 20**

**Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]** - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

**11. ACCESS TO RECORDS AND REPORTS**

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

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

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA

Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311

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

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

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

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

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

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

## **12. FEDERAL CHANGES**

### **49 CFR Part 18**

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

## **14. CLEAN AIR**

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

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

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

**19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

**No Obligation by the Federal Government.**

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

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

**20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS  
AND RELATED ACTS**

**31 U.S.C. 3801 et seq.**  
**49 CFR Part 31 18 U.S.C. 1001**  
**49 U.S.C. 5307**

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

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

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

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

## **21. TERMINATION**

### **49 U.S.C. Part 18**

#### **FTA Circular 4220.1F**

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

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

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

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

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

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

**e. Termination for Convenience (Professional or Transit Service Contracts)** COIC, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

**f. Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, COIC may terminate this contract for default. COIC shall terminate by

delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

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

**g. Termination for Default (Transportation Services)** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, COIC may terminate this contract for default. COIC shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of COIC, protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and COIC shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

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

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

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

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies COIC in writing of the causes of delay. If in the judgment of COIC, the delay is excusable, the time for completing the work shall be extended. The judgment of COIC shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

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

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

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

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

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

**j. Termination for Convenience or Default (Cost-Type Contracts)** COIC may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of COIC or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from COIC, or property supplied to the Contractor by COIC. If the termination is for default, COIC may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to COIC and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of COIC, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, COIC determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, COIC, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

## **22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)**

### **Suspension and Debarment**

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

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

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

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

### **23. PRIVACY ACT**

#### **5 U.S.C. 552**

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

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

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

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

### **24. CIVIL RIGHTS REQUIREMENTS**

**29 U.S.C. § 623, 42 U.S.C. § 2000**

**42 U.S.C. § 6102, 42 U.S.C. § 12112**

**42 U.S.C. § 12132, 49 U.S.C. § 5332**

**29 CFR Part 1630, 41 CFR Parts 60 et seq.**

**Civil Rights** - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

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

## **25. BREACHES AND DISPUTE RESOLUTION**

### **49 CFR Part 18**

#### **FTA Circular 4220.1F**

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

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

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

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

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

## **28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

### **49 CFR Part 26**

#### **Disadvantaged Business Enterprises**

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is .5 %. A separate contract goal has not been established for this procurement.

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

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

### **FTA Circular 4220.1F**

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

## **31. DRUG AND ALCOHOL TESTING**

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Oregon, or COIC, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before July 1st and to submit the Management Information System (MIS) reports before October 1<sup>st</sup> of each year to the Transportation Business Administrator, 1250 NE Bear Creek Rd., Bend , OR 97701. (To certify

compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

**Exhibit F**  
**NON-COLLUSION AFFIDAVIT FOR PROPOSER**  
**STATE OF OREGON, COUNTY OF DESCHUTES**

\_\_\_\_\_ declares and says:

1. That he/she is the (owner, partner, representative, or agent)  
of \_\_\_\_\_, hereinafter referred to as (contractor) or  
(subcontractor).
2. That he/she is fully informed regarding the preparation and contents of this proposal for certain work for  
COIC.
3. That his/her proposal is genuine, and is not collusive or a sham proposal.
4. That any of its officers, owners, agents, representatives, employees, or parties in interest, including this  
affiliate, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other  
proposer, firm, or person to submit a collusive or sham proposal in connection with such contract, or to  
refrain to submitting a proposal in connection with such contract, or has in any manner, directly or  
indirectly, sought by unlawful agreement or connivance with any other proposer, firm, or person to fix  
the price or prices in said proposal, or to secure through collusion, conspiracy, connivance, or unlawful  
agreement any advantage against COIC, or any person interested in the proposed contract; and,
5. That the price or prices quoted in the proposal are fair and proper, and are not tainted by any collusion,  
conspiracy, connivance, or unlawful agreement on the part of the proposer, or any of its agents, owners,  
representatives, employees, or parties in interest, including this affiliate.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_

Signed: \_\_\_\_\_

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

**Exhibit G**  
**Certification of Primary Participant Regarding Debarment,  
Suspension, and Other Responsibility Matters**

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential CONTRACTOR for a major third party contract) certifies to the best of its knowledge and belief, that it and its principals:

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

(If the primary participant (applicant for an FTA grant, or cooperative agreement, or potential third party CONTRACTOR) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT (APPLICANT FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT) 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 and Title of Authorized Official

CHECK APPROPRIATE BOX:

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

**Exhibit H**  
**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_, hereby certify on behalf of \_\_\_\_\_, that:

- a. No Federal appropriated funds have been paid or will be paid, by on or behalf of the undersigned, to any person for influencing, or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL "Disclosure Form to Report Lobbying", in accordance with its instructions.
- c. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, loans, and cooperative agreements) which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made, or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, USC. 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 \_\_\_\_\_, of 20\_\_\_\_

Signature of Authorized Official \_\_\_\_\_

Title of Authorized Official \_\_\_\_\_

**Exhibit I**  
**CERTIFICATION OF COMPLIANCE WITH FTA DISADVANTAGED**  
**BUSINESS ENTERPRISE AND EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS**

PROPOSER: \_\_\_\_\_

As a recipient of Federal funds, the Central Oregon Intergovernmental Council (COIC) is required to follow Title 49, Code of Federal Regulation, Part 26, and other applicable Disadvantaged Business Enterprise (“DBE”) regulations. It will soon be required to follow applicable Equal Employment Opportunity (“EEO”) rules and regulations as well.

Signing this proposal, on the signature portion thereof, constitutes agreement to follow Title 49, Code of Federal Regulation, Part 26, and other applicable Disadvantaged Business Enterprise (“DBE”) and Equal Employment Opportunity (“EEO”) rules and.

Note: The above DBE/EEO Affidavit is part of Contractor’s Proposal. Signing this Proposal, on the signature portion thereof, shall also constitute signature of this DBE/EEO Affidavit.

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

**Exhibit J**  
**FORM OF BUSINESS**

*Name of Proposer* \_\_\_\_\_

Principle Business Address \_\_\_\_\_

Phone \_\_\_\_\_

1. What form of business is your organization? (Check one)

Sole Proprietorship

Partnership (  Limited  General)

Corporation

2. If a corporation, when and where was your organization incorporated?

3. If a limited partnership, when and where is your organization certified?

4. If not certified or incorporated in Oregon, is your organization authorized to do business in Oregon?

## **Exhibit K INSURANCE**

CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONTRACTOR, his/her agents, representatives, employees or subcontractors that is specific to the CONTRACTOR'S operating facilities, employees, CONTRACTOR owned or leased vehicles used pursuant to this contract.

The CONTRACTOR shall insure all of the CET revenue vehicles and trailers within the Bend service fleet (fixed, dial-a-ride and Ride the River) for business auto coverage, hired & non-owned auto; and shall provide comprehensive & collision for such vehicles. The CONTRACTOR shall provide COIC with a list of the CET Bend fleet vehicles insured each quarter and update it as required between quarters. Since the vehicle insurances cost is a variable cost per revenue service hour, rather than a fixed cost, changes in the overall vehicle insurance cost born by the contractor as a result of a change in the number of vehicles insured by the CONTRACTOR would not be the basis of revisiting the agreed upon contract pricing during the first three years of the contract.

CONTRACTOR shall be solely responsible for payment of all insurance coverage deductibles, for general and automobile liability and for automobile physical damage coverage, per occurrence, for all losses, damages, costs incurred as a result of the CONTRACTOR'S action or inaction.

### **Minimum Scope of Insurance:**

Coverage shall be at least as broad as:

1. Commercial General Liability coverage
2. Business Auto Insurance Coverage; with Symbol 1 (any auto) or Symbol 8 and 9 if non-owned autos.  
Note: Contractor will provide liability and auto physical damage coverage for every vehicle in the in the Cascades East Transit Bend fleet and contractor operated vehicles.
3. Workers' Compensation insurance as required by the Labor Code of the State of Oregon and Employer's Liability insurance.

### **Minimum Limits of Insurance:**

CONTRACTOR shall maintain limits no less than:

1. General Liability: \$5,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this location or the general aggregate limit shall be \$10,000,000.
2. Automobile Liability: \$5,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of Oregon.

## **Other Insurance Provisions:**

1. The general liability and auto liability policies are to contain, or be endorsed to contain, the following provisions:
  - a. The COIC, its directors, officers, officials, employees and volunteers are to be additional insureds with respect to liability for operations.
  - b. For any claims related to this contract, the CONTRACTOR's insurance coverage shall be primary insurance as respects COIC, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by COIC, its officers, officials, employees and volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
  - c. The CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - d. Contractor will supply COIC with a "Certificate of Insurance" which includes the Lessor – Additional Insured and Loss Endorsement".
2. Workers' Compensation and Employers Liability Coverage

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of COIC for all work performed by the contractors, its employees, agents and subcontractors.

### **3. All Coverages**

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to COIC.

## **Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

## **Verification of Coverage**

Coverage shall be in effect at all times and on file with COIC with original certificates and endorsements effecting coverage required by this clause. All certificates and endorsements are required to be received and approved by COIC before work commences. COIC reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting coverage required by these specifications at any time.

All insurance documents are to be sent to:

Central Oregon Intergovernmental Council  
Attn: Drew Orr  
1250 NE Bear Creek Road.  
Bend, OR 97701

## **Subcontractors**

All coverage for subcontractors shall be subject to all of the provisions stated herein.

**Exhibit L**  
**RECEIPT OF ADDENDA**

ADDENDA RECEIVED (If none received, write "None Received"):

Addendum No. \_\_\_\_\_ Date Received \_\_\_\_\_

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

Signature: \_\_\_\_\_

Name (Print): \_\_\_\_\_

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

**Exhibit M**  
**QUESTIONNAIRE & PROPOSAL SUBMISSION CHECKLIST**

The following items must be included in each proposal to be considered complete and responsive. Proposers should respond to these items in the order below.

Included:

- Exhibit A - Price Proposals: Price proposals shall be based upon Contractor's fixed monthly fee, plus the price per revenue vehicle hour, and the proposed annual total operating cost for the entire service.
- Exhibit B – Budget: Proposer shall provide operating budget identifying estimated operating costs. Items shall include personnel and administrative and other costs. COIC shall provide all vehicles, fuel, and maintenance. Proposer shall provide comprehensive, general liability and property damage insurance for all vehicles in the Cascades East Transit Bend fleet. COIC shall provide property and general liability insurance for facilities.
- Exhibit C - Completed and Signed Proposed Staffing Levels and Wages/Salaries Forms
- Exhibit F - Completed and Signed Non-Collusion Affidavit for Proposer
- Exhibit G - Completed and Signed Certification Regarding Debarment
- Exhibit H - Completed and Signed Lobby Restrictions Certification
- Exhibit I - Completed and Signed DBE/EEO Certification. Also provide narrative description of your firm's DBE/EEO program.
- Exhibit J – Completed and Signed Form of Business.
- Exhibit K - Documentation of Contractor-Provided Insurance
- Exhibit L – Completed and Signed Receipt of Addenda Form
- Exhibit N – Formal Offer Signature Sheet
- Exhibit O – Certification of Transit Employee Protective Agreements
- Exhibit P – Form for Proposal Deviation
- Documentation of Firm Background and Experience (a brief narrative description of your firm's experience. Please limit to no more than three (3) pages): Proposer shall have a minimum of three (3) years recent experience operating both fixed route and paratransit transit services in an operating environment similar to the Bend area.
- Organizational Chart and brief job descriptions of key personnel including number of years with Proposer's firm, related experience, qualifications, and education.

Concise but Complete Narrative Description, of the background and experience of members of your proposed management team, for the following positions. Include a resume for each member of the Bend management staff.

Audited Financial and Cash Flow Statement: The successful Proposer shall have a current net worth of not less than five hundred thousand dollars (\$500,000). Proposer must submit an audited financial Statement substantiating a minimum net worth of five hundred thousand (\$500,000) and an audited cash flow Statement for the two (2) most recent years of operation.

This item will be kept confidential.

The On-Site Staffing Plan

Project Overview

Scope of Work Description

Flexibility and Capacity Description

Examples of Service Improvements

Current Drugs and Alcohol Procedures

Description of Record Keeping Procedures

Employee Work Rules and Benefits Package: Each Proposer shall submit a copy of their specific employee work rules and the benefit package provided. Specify any differences in benefits applicable to different job classifications. Include any incentive, motivational or awards program.

Proposed Job Classifications and Wage Scales: Each Proposer shall submit a detailed breakdown of staffing, including job classifications and wage scales. Please include any narrative but not exceeding three (3) pages. The responsibilities and function of any Proposer's off-site personnel must be outlined in your proposal. Attach a narrative description of the assumptions and justifications made for each off-site position in as much detail as necessary.

Proposed Driver Training Plan: Each Proposer shall outline a comprehensive Driver Training Plan that meets State and Federal requirements and is suitable for fixed route and paratransit transit services. All drivers shall possess an Oregon "Class C" or greater Commercial Drivers License endorsed for operation of fixed route and paratransit-type vehicles.

Description of Hiring and Formal Training Programs for drivers and other employees. This description should satisfy fully the minimum requirements described in Scope of Work, Minimum Driver Requirements. Identify training personnel and their experience relevant to contract.

Proposed Safety, Security and Risk Management Plan: Proposer must submit a description of the formal safety programs that will be implemented which will encourage safety in the operation of Bend Fixed Route and dial a ride Service. Describe any driver training for medical emergencies.

- Proposed Performance Monitoring and Quality Control Program: Proposers shall describe your quality control program and submit a list of proposed performance monitoring measures and programs, including operations and quality control.
- Proposed Road Supervision/Emergency Handling Program: Proposers shall submit a description of the formal procedures and plan for deployment of road supervision personnel.
- Address of Proposer's Regional or Corporate support facility and description in detail of the nature and level of support that will be provided by that office or other corporate offices.

Note: The above list is provided only as an aid to Proposers. Any inadvertent omission of required items does not relieve Proposers from their responsibility to provide a complete proposal by the required deadline.

**EXHIBIT N**  
**OFFER for PUBLIC TRANSIT SERVICES IN BEND**

The undersigned proposer submits this proposal in response to COIC's Request for Proposal # CET 16-3 for the contract named above.

The proposer warrants that it has carefully reviewed the RFP and that this proposal includes a statement of all of the proposer's objections to any provisions of the RFP or contract. The proposer agrees that, if this proposal is accepted by COIC, the proposer will enter into a contract with COIC in substantially the form of the contract language included in this RFP to provide all necessary labor, materials, supervision and other means required to complete the work in accordance with the requirements of this RFP and contract.

Except as otherwise expressly provided in this proposal, this proposal incorporates by reference, as if fully set forth in the proposal, the full content of the RFP and contract.

All documents required by the RFP are attached to this Proposal Form.

The person signing this proposal form for the proposer certifies that he or she is authorized by the proposer to sign this proposal on the proposer's behalf.

Name of Proposer: \_\_\_\_\_

Business Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Firm's Federal Tax ID#: \_\_\_\_\_

Phone: \_\_\_\_\_

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

Authorized Signer's Name (print): \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Signer's Title: \_\_\_\_\_

**EXHIBIT O**  
**TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS**

The Proposer agrees to comply with all applicable transit employee protective requirements.

49 U.S.C. 5333, 5310 and 5311

**(a) General Transit Employee Protective Requirements** - To the extent that FTA determines that transit operations are involved, the Proposer agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Proposer agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

**(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities** - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body sub recipient for which work is performed on the underlying contract, the Proposer agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Proposer agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

**(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Non-Urbanized Areas** - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Proposer agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

The Proposer also agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by the FTA.

**THE PROPOSER, \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 49 U.S.C. 5333, 5310 and 5311 APPLY TO THIS CERTIFICATION.**

\_\_\_\_\_ Signature of the PROPOSER’S Authorized Official

\_\_\_\_\_ Name and Title of the PROPOSER’S Authorized Official

\_\_\_\_\_ Date

**EXHIBIT P**

**FORM FOR PROPOSAL DEVIATION**

The following form shall be completed for each condition, exception, reservation or understanding (i.e., deviation) in the proposal according to Section 2.2 of the PROPOSAL EVALUATION CRITERIA.

Deviation #: \_\_\_\_\_

PROPOSER: \_\_\_\_\_

Solicitation Ref: \_\_\_\_\_

Page: \_\_\_\_\_

Section: \_\_\_\_\_

Complete Description of Deviation \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Rationale (Pros & Cons):

\_\_\_\_\_

\_\_\_\_\_

**EXHIBIT Q**  
**CASCADES EAST TRANSIT**  
**PROCUREMENT PROTEST PROCEDURES**

Under certain circumstances, an interested party to a procurement may protest to CET the award of a contract which may or may not involve the direct application of public funds. CET will make protest procedures accessible to bidding parties. These procedures are intended to ensure that valid complaints are properly handled and responded to. These procedures apply to all types of procurement actions, including sealed bids, requests for proposals, etc.

The term protest is utilized to describe the controversies that arise usually during the contract information process as an objection to a contract award or to a decision on a specific bid. The protests are challenges to actual or proposed actions of the contracting officers on specific procurements. These objections are brought by offerors, prospective offerors, or other interested parties who contend that they have been improperly treated in the procurement process. All protests must be submitted in writing.

CET Level One Protest Procedures – General Conditions

COIC's review of any protest will be limited to violations of state or local laws or regulations, violations of COIC's purchasing procedures, violations of COIC's protest procedures, or failure to review a complaint or protest. Protests based on restrictive or severely defective specifications, or improprieties in any type of solicitations that are apparent prior to bid opening or closing date for proposals, must be received by CET within a reasonable time in advance of scheduled bid opening but no later than 5 days after receipt of the RFP/IFB by the proposer/bidder. All other protests must be received by CET within 5 days of the action on which the protest is based.

The initial protest filed with CET shall be in writing and shall:

- a) Include the name, address, and telephone number of the protestor and the name of a contact person
- b) Identify the number, date, and description of the solicitation
- c) Contain a statement of the grounds for protest and any supporting documentation. The grounds for the protest must be supported to the fullest extent feasible. Additional materials in support of an initial protest will be considered only if filed within the time limits specified
- d) Indicate the ruling or relief desired from COIC

A protest may be considered, even if the initial filing is late, under the following circumstances:

- a) Good cause based on compelling reasons beyond the protestor's control, whereby the tardiness is due to the fault of CET in the handling of his/her protest submission
- b) CET determines the protest raised issues significant to a procurement practice or procedure
- c) CET is directed by a relevant grantee to either consider or reconsider a protest
- d) A court of competent jurisdiction expresses interest in COIC's decision

No formal briefs or other technical forms of pleading or motion are required, but a protest and other submissions should be concise, logically arranged, clear, and legible. Any additional information requested or required by CET from the protestor, or interested parties shall be submitted as expeditiously as possible, but in no case later than five (5) days after the receipt of such request unless specifically stated by COIC.

### Confidentiality

Materials submitted by a protestor will not be withheld from any interested party outside of CET or from any government agency that may be involved in the protest, except to the extent that the withholding of information is permitted or required by law or regulation. If the protestor considers that the protest contains proprietary materials that should be withheld, a statement advising of this fact may be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears.

### Furnishing of Information on Protests

CET shall, upon request, make available to any interested party, information bearing on the substance of the protest, including:

- a) Any other documents that pertain to the protest, including correspondence with the bidders
- b) A statement by CET explaining its actions and the reasons for them

A conference on the merits of the protests with members of CET protest review panel (defined below) may be held at the request of the protestor. The request for a conference should be made in a timely manner so as not to interfere with the resolution of the protest and not later than twenty (20) days after the initial protest was filed.

### Withholding of Award

When a protest has been filed before the opening of bids, CET will not open bids prior to the resolution of the protest. When a protest has been filed after the opening of bids but before the contract award, CET will not make an award for five days following its decision on the protest. When a protest has been filed after the award but prior to the execution of a contract, CET will not proceed with the execution of the contract prior to the resolution of the protest. Exceptions to the above may occur if CET determines that:

- a) The items to be procured are urgently required
- b) Delivery or performance will be unduly delayed by failure to either make the award promptly or to continue with the procurement
- c) Failure to make prompt award or to continue with the procurement will otherwise cause undue hardship to CET or other local, state, or federal governments

If government agency funds are involved, CET will notify the appropriate agency in a timely manner and keep the agency apprised of the status of the protest.

### Protest Review – Level One

Upon receipt of a protest, the Executive Director will appoint an ad hoc CET protest review panel to review all relevant materials associated with the protest. The panel shall be comprised of at least two representatives of CET appointed by the Executive Director. The panel shall determine the validity of the protest and what actions will be taken.

The panel will be directed to prepare a report within fifteen (15) days. The panel will notify the protestor and any interested parties of their findings and actions and of the procedures for requesting reconsideration. The report shall include the following:

- a) Copies of all relevant documents
- b) A copy of the invitation for bid or request for proposal, including pertinent provisions of the specifications
- c) A copy of the abstract of bids.

### Protest Review – Level Two

Reconsideration of a decision by CET may be requested by the protestor or any interested party. The request for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification is deemed warranted, specifying any errors of law made or information not previously considered.

The request for reconsideration of COIC's protest review panel decision shall be filed no later than ten (10) days after the panel issues its written report, and shall be filed with the Executive Director. Upon receipt of the request for reconsideration, the Executive Director shall schedule an informal administrative hearing with protestor and the CET protest review panel. The hearing shall be held not later than fifteen (15) days after the receipt of the request for reconsideration.

The Executive Director has the authority to make the final decision on all protests. The Executive Director shall issue in writing, COIC's final determination of the reconsidered protest within five (5) days of the administrative hearing. The appellant process ends with the Executive Director's decision; however, the aggrieved party has those remedies afforded by the state courts.

### Effect of Judicial Proceedings

CET may refuse to decide any protest where the matter involved is the subject of litigation before a court of competent jurisdiction, or has been decided on the merits by such a court.

### Federal Transit Administration (FTA) Protest Procedures

A protestor wishing to file a protest with FTA should consult FTA Circular 4220.1F for details on FTA's bid protest procedures. Circular 4220.1F reinforces FTA's policy of limiting involvement in the affairs and activities of grantees.

Each authority is responsible for the settlement of all contractual and administrative issues arising out of procurements entered into in support of a grant, and only in certain specific situations is it appropriate for FTA officials to become involved in those situations or to substitute their judgment for that of the grantee in the controversies.

The FTA will only review protests regarding the alleged failure of the grantee to have written protest procedures or alleged failure to follow such procedures. Alleged violations of a specific federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that federal regulation. Alleged violations on other grounds are under the jurisdiction of the appropriate state or local administrative or judicial authorities.

Protests must be filed with the FTA, with a concurrent copy to COIC, within five (5) days after CET renders a final decision or five (5) days after the protestor knows or has reason to know that CET failed to render a final decision. After five (5) days, CET will confirm with the FTA that the FTA has not received a protest on the contract in question.

Circular 4220.1F is available for review at CET offices. A copy can be obtained from FTA at the following address:

Federal Transit Administration, Region 10  
915 Second Ave., Ste. 3142  
Seattle, WA. 98174

CET shall not be responsible for any protests not filed in a timely manner with the FTA.

## **EXHIBIT R**

### **General Standards of Proposer Responsibility**

To be determined responsible, a prospective contractor must meet all of the following requirements:

- Neither the firm, nor its principles show up on the Federal government's debarment and suspension website, [www.sam.gov](http://www.sam.gov). This site denotes those individuals and firms that currently are prohibited from participating in Federally funded contracts.
- Financial resources adequate to perform the contract, or the ability to obtain them;
- Ability to meet the required delivery or performance schedule, taking into consideration of all existing commercial and governmental business commitments;
- A satisfactory performance record;
- A satisfactory record of integrity and business ethics;
- The necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them;
- Compliance with applicable licensing and tax laws and regulations;
- The necessary production, construction and technical equipment and facilities, or the ability to obtain them;
- Compliance with Affirmative Action and Disadvantaged Business Program requirements; and
- Other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations.