



***REQUEST FOR PROPOSALS (RFP)***  
***Cardlock Fuel Services***

**Release Date: Monday, March 12, 2012**

**Deadline for Submission: Friday, April 13, 2012**

**Contact Person: John Andoh, Transit Director**

# **YUMA COUNTY INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY REQUEST FOR PROPOSALS**

## **CARDLOCK FUEL SERVICES**

**RELEASE DATE:** Monday, March 5, 2012

**CLOSING DATE:** Proposals must be received by **Friday, April 13, 2012 by 4:00 P.M. Arizona Time** at the address listed below:

**CONTACT PERSON:** John Andoh, Transit Director  
Yuma County Intergovernmental Public Transportation  
Authority  
***Mailing:*** 2715 East 14<sup>th</sup> Street, Yuma, AZ 85365  
Phone: (928) 539-7076, ext 237, Fax (928) 783-0309

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## **INTRODUCTION**

The Yuma County Intergovernmental Public Transportation Authority (YCIPTA) formed on December 13, 2010 by the Yuma County Board of Supervisors to administer, plan, operate and maintain public transit services throughout Yuma County, including within the political jurisdictional boundaries of the Cities of Yuma, San Luis, Somerton, Town on Wellton and the unincorporated Yuma County areas.

Yuma County Area Transit (YCAT) is the marketing name for the YCIPTA and the fixed route transit system. Greater Yuma Area Dial-A-Ride is the marketing name for the demand responsive transit system. YCAT began in 2002 as a rebranded effort from what was previously known as Valley Transit. Greater Yuma Area Dial-A-Ride began in 1999 and was the county's first public transportation service. The Yuma Metropolitan Planning Organization (YMPO) has been the administrator of public transit service in Yuma County since 1999 utilizing Federal Transit Administration (FTA) funding that has been available to the Yuma Urbanized Area since 1980 when the urbanized area exceeded 50,000 in population.

YCAT operates eight fixed routes and a demand responsive service throughout the southwestern quadrant of Yuma County. YCAT operates Monday-Saturday from 6:00 am to approximately 6:00 pm with headways every 65 minutes. There is no service on Sundays or major holidays at this time. These services are provided under a contractual arrangement with First Transit of Cincinnati, Ohio. First Transit is part of First Group, a United Kingdom based corporation that also consists of Greyhound, First Student and First Group operations in the United Kingdom.

YCAT operates 30 buses. 17 buses are powered by diesel and used on YCAT fixed routes. 9 buses and 4 vans are powered by gasoline and used on Greater Yuma Area Dial-a-Ride. All buses and vans are owned by YMPO and were purchased with Federal Transit Administration funding.

## **ABOUT YUMA COUNTY**

Yuma County has a colorful history, which lives on today in a fast-growing, vibrant community. In 1540, just 48 years after Columbus discovered the New World, 18 years after the conquest of Mexico by Cortez, and 67 years before the settlement of Jamestown, Hernando de Alarcon visited the site of what is now the current YCIPTA of Yuma. He was the first European to visit the area and to recognize the best natural crossing of the Colorado River. Much of Yuma County's later development occurred because of this strategic location.

From the 1850's through the 1870's, steamboats on the Colorado River transported passengers and goods to various mines, military outposts in the area, and served the ports of Yuma, Laguna, Castle Dome, Norton's Landing, Ehrenberg, Aubry, Ft. Mohave and Hardyville. During this time stagecoaches also carried the mail and passengers on bone-jarring rides through the area.

For many years, Yuma served as the gateway to the new western territory of California, which brought thousands from around the world in search of gold, or those who had it. In 1870, the Southern Pacific Railroad bridged the river. Yuma became a hub for the railroad and was selected as the county seat in 1864.

Yuma County is one of four original counties designated by the first Territorial Legislature. It maintained its original boundaries until 1983 when voters decided to split Yuma County into La Paz County in the north and a new "Yuma County" in the south.

The Ocean-to-Ocean Bridge (or Old Highway 80 Bridge) was the first vehicle bridge across the Colorado River. Prior to the construction of the bridge, cars were ferried across.

Yuma County is larger than the state of Connecticut. Much of Yuma County's 5,522 square miles is desert land accented by rugged mountains. Several river valley regions, however, contain an abundance of arable land which is irrigated with water from the Colorado River.

These valley areas have some of the most fertile soils in the world, having received silt and mineral deposits from Colorado and Gila River floods until the rivers were tamed by an intricate series of dams and canals.

Farming, cattle raising, tourism, and two military bases, US Marine Corp Air Station (MCAS) and US Army Yuma Proving Ground (YPG) are Yuma County's principal industries.

Some of the major attractions in Yuma County are the historical Territorial Prison, the Yuma Crossing Historic Park. Other great places to visit are the Kofa Mountain Range and Wildlife Refuge, and Martinez and Mittry Lakes.

Hunting is a popular sport, as the county offers a variety of different types of game. Major rivers in Yuma County are the Gila and the Colorado, the two most historic rivers in the Southwest.

The Marine Corps Air Station (MCAS), shares one of the longest runways in the country with the Yuma International Airport. Yuma has some of the cleanest skies and best flying weather in the United States.

Yuma County is bordered by California on the West and Mexico on the South. Living close to the Mexican border offers a great opportunity to experience multi-cultural and international business opportunities.

Arizona Western College (AWC) is located in Yuma County. This is a two-year community college, which offers higher education to full-time and part-time on-campus and off-campus students. AWC shares its campus with a satellite campus of Northern Arizona University (NAU), offering a variety of two year, four year and post graduate programs.

Yuma County has a year-round population of 195,751 residents. During the winter, the population increases by about 90,000 due to the sun-seeking Winter Visitors affectionately known as "Snowbirds".

### **BACKGROUND OF RFP**

YCIPTA is releasing a Request for Proposal (RFP) for the purposes of purchasing c for purchasing fuel and fueling services from a card lock fueling station in the YCIPTA of Yuma, Arizona. The fueling station shall be within 10 mile of the Yuma County Area Transit Bus Facility, located at 2715 East 14<sup>th</sup> Street, Yuma, AZ 85365.

Estimated annual purchases are 65,000 gallons of diesel and 32,500 gallons of unleaded regular gasoline. The primary users of the fuel service will be public transportation vehicles. Because YCIPTA is a public transportation operator, YCIPTA is exempt from state and federal taxes in relation to the use of the fuel for public transportation purposes. The total estimated number of vehicles requiring use of the automated fuel services in the downtown area is 33.

The term of Agreement is for a three year period with two one year options, commencing on Monday, May 7, 2012 continuing until June 30, 2015, with two one year options ending June 29, 2016 and June 30, 2017.

Pre-Proposal Conference. No pre-proposal meeting will be held for this solicitation.

Questions & Comments. Any questions, requests for an interpretation or comments regarding the RFP must be submitted by facsimile, mail or email to John Andoh, Transit Director, YCIPTA, 2715 East 14<sup>th</sup> Street, Yuma, AZ 85365, fax: (928) 783-0309, email: [jandoh@ycipta.org](mailto:jandoh@ycipta.org) no later than 5:00 p.m., Monday, March 19, 2012. **QUESTIONS OR COMMENTS WILL NOT BE RESPONDED TO OVER THE TELEPHONE.** A response to questions and comments will be posted online at [www.yciptaz.gov](http://www.yciptaz.gov) click on News on Wednesday, March 21, 2012 after receipt of said questions or request for an interpretation or comments by YCIPTA. PROPOSER shall rely only on written addenda provided by YCIPTA in submitting or revising proposals.

## **OBJECTIVE OF THIS RFP & SCOPE OF WORK**

YCIPTA is seeking a PROPOSER providing cardlock fuel services to YCIPTA in a manner acceptable to YCIPTA and in strict compliance with the Agreement. Specific tasks are listed below:

**GENERAL:** Fuel to be purchased should be dispensed from a point of sale located within an approximate ten (10) mile radius of Yuma County Area Transit Bus Facility, located at 2715 East 14<sup>th</sup> Street, Yuma, AZ 85365.

Fuel shall be available twenty-four (24) hours per day, seven (7) days per week, weekends and holidays included.

**METHODS OF COMMUNICATIONS:** YCIPTA prefers that the successful PROPOSER have the capability to be reached via Internet e-mail or telephone.

## **FACILITIES**

The main facility must have a minimum of two (2) gasoline pumps and two (2) ultra low sulfur diesel fuel pumps to accommodate users. The facility should provide suitable all-weather access to YCIPTA's entire fleet, including buses, heavy trucks and construction equipment.

## **TANK TESTING**

If any underground tank tests and any shut downs are required of the PROPOSER, the YCIPTA is to be notified three (3) days in advance so that all equipment can be fueled prior to the required down time.

## **CARD ADMINISTRATION**

The successful proposer shall be responsible for providing, at no cost to the YCIPTA, fuel cards to be issued in a quantity required by YCIPTA that will be used to activate the fuel pumps at the contractor's place of business, and record the necessary information for YCIPTA fleet billing records. Records will be sent electronically daily, importable format such a Microsoft Excel spreadsheet and provided to YCIPTA as requested. Currently YCIPTA has approximately 34 cards. It is expected that the successful proposer will provide all initial cards and any lost or stolen cards at no cost to YCIPTA during the life of the Agreement. The cards shall be the same size and strength as a normal credit card and resistant to modification or tampering.

## **REPORTS**

The successful proposer must have the ability to provide reports upon request by YCIPTA. Minimum information to be provided by the PROPOSER will be:

- a) Identity of vehicle
- b) Type of fuel
- c) Quantity of fuel
- d) Vehicle odometer MPG reading
- e) Date of Transaction
- f) Time of Transaction

g) Identity of card user (YCIPTA's general ledger number)

### **BILLING STATEMENT**

The contractor must be able to provide YCIPTA fleet report and a billing statement electronically, importable format such as Microsoft Excel spreadsheet that can be imported into our billing CMMS system. This shall include the accumulative fuel mileage of all vehicles.

The PROPOSER shall supply to YCIPTA upgraded electronic file of all fuel card numbers, pin numbers, and employee names on a quarterly basis.

### **FUEL USAGE**

For information purposes, the amount of ULTRA LOW SULFUR DIESEL fuel used in the most recent twelve (12) month period was 65,000 gallons; the amount UNLEADED fuel was 32,500 gallons. There are currently:

8 buses using gasoline unleaded  
4 vans using gasoline unleaded  
17 buses using diesel

### **PRIMARY LOCAL POINT OF SALE**

All products and services which are provided under this Agreement should be made available from at least one (1) facility located within an approximate ten (10) miles of the YCAT Bus Facility. These facilities shall be known as the Primary Local Point of Sale and shall be identified by the proposer on Attachment A.

### **ADDITIONAL LOCAL POINT OF SALES (IF APPLICABLE)**

Other fuel dispensing sites in the local area under the control of the PROPOSER may be designated by the proposer on Exhibit C as Additional Local Point of Sale. These designated Additional Local Point of Sales shall be subject to all of the provisions of this Agreement including pricing.

### **NON-LOCAL POINT OF SALES (IF APPLICABLE)**

If available, the purchase of fuel at non-local points of sale is provided as a convenience to YCIPTA. Fuel purchased from non-local points of sales may be priced at the normal retail price at the place and time of purchase, including all local, state, and federal taxes. If offering a discount for these types of sales, please indicate.

### **GENERAL CONTRACT REQUIREMENTS**

**YCIPTA Responsibilities** – The following services shall be furnished by YCIPTA:

- List of all vehicle unit identification numbers requiring fuel cards.
- List of all authorized employees requiring fuel cards.
- Payment of properly documented and formatted invoices within 30 days of receipt by YCIPTA.

- YCIPTA employees shall pump fuel into YCIPTA vehicles (if successful contractor is a card-lock facility).

**PROPOSER Responsibilities** – YCIPTA desires to receive the following services from the PROPOSER:

- Provide vehicle and driver cards within 72 hours of receipt of request.
- Provide modern fueling facilities with adequate ingress, egress, and a sufficient number of dispensers to minimize customer queues.
- Provide tank/dispenser systems that meet current E.P.A. and D.E.Q. regulations governing underground fuel storage tank systems.
- Provide unleaded gasoline on a 24-hour/7-day schedule. YCIPTA estimates annual requirement as 65,000 gallons of diesel and 32,500 gallons of unleaded gasoline.
- Invoice YCIPTA twice monthly for fuel used. Invoice shall include State fuel tax but not Federal fuel tax.
- Invoice shall include the following information for each fuel transaction. Invoice shall list all transactions for each vehicle separately in a date/time/unit number sequential order.
  - Vehicle Number (unit number)
  - Driver Name
  - Date/Time
  - Fuel Type
  - Odometer
  - Miles per Gallon (MPG)
  - Gallons Pumped
  - Price per Gallon
  - **Total Sale**
- Invoice shall include a summary for each vehicle showing total fuel pumped during month and average MPG.
- Fuel transactions shall be submitted either as an e-mail attachment, or on a 3.5" disk along with a hard copy of the monthly invoice. E-mail attachment or disk will include information described above for each transaction. E-mail attachment or disk shall be formatted in ASCII and be compatible with County data process system.

**PRICING**

Bidders are to quote an adjustable above (+) or below (-) the weekly average price published in the OPIS PAD 4/5 Report for the type of fuel requested for the Yuma, AZ market area. The quoted adjustment is to include all delivery, handling or other related charges, but is NOT to include government surcharges or taxes. The adjustment (differential) quoted is to be firm for the term of the Agreement.

## COMPUTATION OF INVOICE PRICE-WEEKLY ADJUSTMENT

Invoiced prices are to be recomputed each week, based on the weekly average price published for the Yuma, AZ market area in the OPIS PAD 4/5 Report. Invoiced prices shall be computed as the published OPIS weekly average price for the Yuma, AZ market area, plus (+) or minus (-) the OPIS differential price, plus the specified federal, state, and local taxes, and shall be valid for seven (7) day period coinciding with the OPIS reporting period.

PROPOSER will be required to supply YCIPTA, at the PROPOSER's expense, a copy of the OPIS PAD 4/5 report for the Yuma, AZ area by e-mail or fax on each Monday during the term of the Agreement for pricing verification purposes.

If OPIS does not report a weekly average market area price for a single week, the most recent published weekly average market price shall be used in computing the invoice price. If two (2) or more weeks pass without the publishing of prices, it shall be the PROPOSER's responsibility to notify YCIPTA. YCIPTA will then negotiate an interim price to be used until a current OPIS weekly average price is again published for the Yuma, AZ market area.

If the marketing publication is substantially modified or discontinued, YCIPTA reserves the right to reestablish the price mechanism of the bid, or to cancel all or part of the Agreement without prejudice against any party to the Agreement.

PROPOSER shall pass along to YCIPTA any and all rebates, allowances or other pricing reduction incentives being offered to customers of the PROPOSER, including any pass through incentives from refineries.

## SALES TAX

All applicable taxes must be **itemized** on the invoice. Invoices for fuel purchased at local points of sale shall include or exclude federal, state, and local taxes as follows:

- Federal Excise Tax-Shall be **excluded** from the invoice
- State Excise Tax- Shall be **excluded** from the invoice
- State Sales (Use) Tax- Shall be **included** from the invoice
- State Gas Tax- Shall be **included** from the invoice

The PROPOSER shall provide YCIPTA with written notice of changes in tax rates.

YCIPTA uses Federal Transit Administration (FTA) funds allocated to YCIPTA. As such, the entire Agreement shall be subject to applicable rules and regulations of Federal, State and Local laws.



## **DESIRED QUALIFICATIONS**

### **General Requirements**

PROPOSER shall have a minimum of five (5) years recent experience providing cardlock fueling services to a municipality or public agency in an operating environment similar to the Yuma area.

### **Contract Terms**

Terms of Agreement to be those deemed acceptable by the YCIPTA Legal Counsel and shall adhere as closely as possible to the Professional Services Agreement attached.

## **RFP RESPONSE FORMAT**

The RFP respondent shall submit two (2) originals of the proposal with all of the information requested. In order to simplify the proposal evaluation process, the proposals shall be submitted on 8 ½ by 11 inch paper and organized in the following format and order:

***\*Important - Please submit your RFP response with topical discussions corresponding to the numbers in the outline below. Numbered and lettered items will assist the review committee in evaluating your firm's qualifications.***

The following items must be included in each proposal to be considered complete and responsive. PROPOSER should respond to these items in the order below. As part of the proposal, a cover letter shall be attached discussing a summary of the proposal, with contact information regarding the proposal and signed by the Chief Executive Officer, Owner or Chair of the PROPOSER.

1. Completed Price Proposal.
2. If the Proposal is made by an individual, it shall be signed with his/her full name and his/her address shall be given; if it is made by a partnership, it shall state the partnership name and be signed by a member of the partnership, who shall also list the name and address of each member; and if it is made by a corporation, it shall be signed by two officers or by one officer with the corporate name attested by the corporate seal.
3. Profile of the PROPOSER including the PROPOSER's name, business address, and telephone number as well as a brief description of the PROPOSER's size (nationally and locally), date of establishment, type of organization, and local organizational structure. Include a discussion of the firm's capabilities and resources.
4. A resume/portfolio describing the PROPOSER's history and experience with providing cardlock fuel services.

5. Five or more references, including at least one with whom the PROPOSER does business with (Exhibit C).
6. Any exceptions to the sample Agreement requested by the PROPOSER.
7. Completed Non-Collusion Affidavit for PROPOSER; Certification of Eligibility (Labor Standards); Certification Regarding Debarment; Lobby Restrictions Certification; and DBE/EEO Certification Forms: PROPOSER shall complete and sign the listed Certifications.
8. PROPOSER must provide documentation of insurance as a part of their proposal submission.
9. Completed Exhibit forms.

### **EVALUATION CRITERIA**

Proposals will be evaluated according to the most qualified in the opinion of the review committee. The review committee reserves the right to contact and evaluate the proposer's references; contact any proposer to clarify any response; contact any current clients of a proposer; solicit information from any available source deemed pertinent to the evaluation process. The review committee shall not be obligated to accept the lowest priced proposal, but shall make an award in the best interests of YCIPTA.

All proposals will be rated by a panel of evaluators. The total points given to a proposal by the individual evaluators will be averaged to determine the proposals overall score. All proposals will be evaluated on the following basis:

#### Project Understanding/Approach (Proposed System) 20%

- A. The qualifications of the PROPOSER to perform the services required, as evidenced by the following information (20 points possible).
  1. Financial resources (5 points)
  2. Experience record (5 points)
  3. Operations and management personnel (5 points)
  4. Current client relationships (5 points)

#### Proposed Operating Plan 30%

- B. The proposed operating plan for fuel facilities management (30 points possible).
  1. Days and hours of operation (3 points)
  2. Location of fuel facility (3 points)
  3. Fuel card generation and delivery – promptness (3 points)

4. Quality of facilities (3 points)
5. Number of dispensers/hoses (3 points)
6. Ease of ingress/egress (3 points)
7. Tank system design and compliance with regulation (3 points)
8. Billing criteria – frequency of billing, when payment is due, etc. (3 points)
9. Invoice format (3 points)

Cost proposal 50%

- C. Price of unleaded gasoline proposed to YCIPTA as of **12:01 p.m.**, Friday, March 23, 2012. The method of determination: state **xx** cents above or below Yuma, AZ OPIS unbranded rack price **– attach copy of OPIS to submitted bid.** If selected, the Proposer shall apply this add-on or discount (**xx** cents) to the rack price during the duration of the Agreement. (50 points)

YCIPTA also reserves the right to select a PROPOSER directly after review of the proposals, or it may determine it advisable to conduct interviews prior to the awarding of the Agreement.

YCIPTA also reserves the right to accept the PROPOSER fees or to enter into competitive negotiations with two or more qualified PROPOSER. If negotiations are conducted, all affected firms or individuals will be notified in writing when to submit their best and final offer.

#### **PRICING EVALUATION CRITERIA**

YCIPTA reserves the right to establish the method used for calculating the total cost to YCIPTA, including the price of fuel, but also considering factors such as the fully burdened cost of getting YCIPTA fleet vehicles/equipment to and from the PROPOSER's fueling stations/point of sale.

#### **SELECTION PROCESS**

If YCIPTA deems that the acceptance of the most responsible bid, it may accept that proposal. If proposal is not in the best interest of YCIPTA, YCIPTA may reject all proposal. If the Agreement is awarded, it shall be to the most responsible proposer whose proposal complies with all the requirements prescribed. Such award shall normally be made within thirty (30) days after proposal opening.

If the most responsible proposer refuses or fails to execute the Agreement, YCIPTA may award the Agreement to the second most responsible 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, YCIPTA may award the Agreement to the third most responsible 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 YCIPTA and the proposer concerned.

## **Award of Agreement**

It is anticipated that proposals will be reviewed by YCIPTA staff, in conjunction with the review committee. Interviews with selected proposers may be held. Notifications of acceptance or rejection by YCIPTA will be made in writing to all proposers.

The review committee shall score each proposal and shall make a recommendation to the YCIPTA Board of Directors based on the criteria set forth above. The YCIPTA Board of Directors shall make the ultimate selection of the PROPOSER. YCIPTA Board of Directors will make the award consistent with Federal guidelines in order to better assure funding, and may take into account both objective and subjective impressions gained from the evidence and arguments presented at the public hearing, and on the product of such individual investigation as Board Members may make prior to the final decision.

1. General: YCIPTA has published this Request for Proposals. It is the intent to award the Agreement to the PROPOSER that most closely meets the specific needs of YCIPTA, not solely on the basis of price.
2. Best Value: Proposals will be evaluated as “Best Value” per the FTA Best Practices Manual, defined as follows: "Best Value" is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.”
3. Initial Screening: YCIPTA’s Review Committee will make an initial evaluation of all proposals. Upon that initial evaluation, the Committee will rank the proposals received in general order of quality, and by how closely the proposals meet YCIPTA’s needs. YCIPTA reserves the right to award Agreement to other than the lowest cost proposal allowing for a more responsive proposal that addresses all of the above criteria and best satisfies YCIPTA’s needs. YCIPTA also reserves the right to reject all proposals. The Review Committee may consider criteria other than those listed below, as necessary, in the selection process.
4. Interviews, Inspections, Best and Final Offer (BAFO): PROPOSERS may be required, and shall be prepared to attend an interview with the Review Committee. The Project Manager must be available to answer questions at the interview. YCIPTA may choose, at its sole option, not to interview all PROPOSERS or conduct any interviews. YCIPTA may reject any or all proposals submitted, or at its sole discretion, award Agreement to the best PROPOSER without any interviews. YCIPTA may ask all PROPOSERS or only those determined to be within the competitive range to submit a Best and Final Offer

(BAFO). If this step is to be included, detailed instructions will be provided at the time of the request.

5. Selection Criteria: An initial screening of proposals for completeness, and to verify that minimum YCIPTA requirements are met will be undertaken, and YCIPTA 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. YCIPTA may request additional information while reviewing proposals.

## **GENERAL TERMS AND CONDITIONS**

RFP does not commit YCIPTA to award an Agreement, to pay any cost incurred in the preparation of the firm's RFP response or to procure or Agreement for services or supplies. YCIPTA reserves the right to accept or reject any or all RFP responses received as a result of this request, to negotiate with all qualified sources or to cancel all or part of this RFP.

Submission of a proposal means that the PROPOSER hereby agrees to all terms and conditions set forth in all the pages of this solicitation. The proposer must contain within the proposal, a description of those terms and/or conditions to which the proposer does not agree.

1. Award: The firms/entities chosen to provide transit operations and maintenance services may be required to participate in negotiations and to submit such revisions of their proposals as may result from negotiations. Agreements for services will be awarded to firms on this list based upon the availability of staff and cost of services. YCIPTA reserves the right to award a Agreement/select a service provider without discussion based upon the initial proposals received, without interviews.

YCIPTA reserves the right to introduce additional terms and conditions at the time the final Agreement is negotiated. Any additional terms or conditions would be limited to ones having the effect of clarifying the RFP language and or correcting defects, such as omissions or misstatements, which are discovered after the RFP, is issued.

2. Insurance: The PROPOSER is required to furnish evidence of insurance coverage including professional liability, and workers' compensation. The form of the insurance policy is subject to approval by YCIPTA and must be provided by insurers to transact insurance business in Arizona with a rating of "A" or better in the Best's Key Rating Guide, Property-Casualty, United States, 2000 Edition.

YCIPTA shall be furnished a copy of the policy **and** an endorsement that the "YCIPTA, its officers, employees, and agents are named as additional insureds" prior to PROPOSER commencing duties under this Agreement. Said policy of

liability insurance shall state, "coverage thereunder as applied to YCIPTA, its officers, employees, and agents shall be primary and non-contributing as to any other insurance and self-insurance as may be maintained by YCIPTA." The policy shall contain severability of interest, specifying that the coverage afforded by the policy applies separately to each insured thereunder. The policy shall be endorsed to expressly provide YCIPTA with thirty (30) calendar days advance written notice of cancellation, non-renewal, or material change in coverage.

4. Business License: A PROPOSER shall be required to obtain and maintain a current business license from the place of operation.
5. Professional Licensing: The PROPOSER, and any subproposers, shall possess any necessary license(s) relative to the work to be performed required by an appropriate licensing authority of the State of Arizona, and shall provide evidence of such to YCIPTA with their proposal or prior to commencement of the work in such form as YCIPTA shall require.
6. Assignment/Subcontracting: The selected PROPOSER shall not assign or subcontract services or responsibilities without the prior written consent of YCIPTA. YCIPTA acknowledges that subcontracting can be in YCIPTA's best interest, but reserves the right of final approval.

#### **ADDITIONAL TERMS AND CONDITIONS**

The following conditions apply to this RFP:

1. Solicitation & Withdrawal: YCIPTA reserves the right to withdraw this solicitation for a proposal at any time without prior notice. Further, YCIPTA makes no representations that any agreement will be awarded to any firm submitting a proposal.
2. Right of Rejection: YCIPTA reserves the right to reject any and all proposals submitted in response to this request and to reject any subproposers specified in any proposal pursuant to this RFP.
3. Pre-Contract Expenses: YCIPTA shall not be liable or responsible for any pre-agreement expenses incurred by any proposed or selected PROPOSER. PROPOSERS shall not include any such expenses as part of the price proposed set forth in its proposal. Pre-agreement expenses are defined as expenses incurred by PROPOSER in:
  - a. Preparing the proposal;
  - b. Submitting proposal to YCIPTA;
  - c. Negotiating with YCIPTA on any matter related to proposal; or
  - d. Any other expenses incurred by PROPOSER or PROPOSER prior to date of award.

4. Verbal Agreements: No prior, current or post-award verbal agreement(s) with any officer, agent or employee of YCIPTA shall affect, modify or supersede any terms or modifications of this request for proposals or any written agreement or option resulting from this process.
5. Addenda: Any changes to the proposal requirements will be made by written addendum. All parts of the Request for Proposals, including any and all Addenda and any other supporting documents that may be included as part of this solicitation, shall be considered part of the Agreement between YCIPTA and selected PROPOSER, and shall be incorporated therein.
6. Irregularities: YCIPTA reserves the right to waive any minor irregularities, informalities or oversights in the RFP documents, or any corresponding proposals at its sole discretion. The term "minor" as used herein means any PROPOSER or YCIPTA irregularity, or oversight that does not materially affect or alter the intent and purpose of this RFP, and which is not in violation of any State of Arizona or Federal Government rules, laws and regulations that may apply to this procurement.

### **THIRD PARTY AGREEMENT REQUIREMENTS**

1. Audits and Inspections of Records: Selected PROPOSER agrees that YCIPTA, the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, be permitted to inspect all work materials, payrolls and other data and records with regard to the project, and to audit the books, records and accounts with regard to the project. Further, PROPOSER agrees to maintain all required records for at least three (3) years after YCIPTA makes final payments, and all other matters pending between PROPOSER and YCIPTA are closed.
2. Equal Employment Opportunity: In connection with the execution of Agreement, PROPOSER shall not discriminate against any employee or applicant for employment because of race, religious creed, pregnancy, sexual orientation, religion, color, gender, or national origin. Selected PROPOSER shall take affirmative action to ensure that applicants are employed, and that employees are tested during their employment, without regard to their race, religious creed, pregnancy, sexual orientation, religion, color, gender, or national origin. Such actions shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay, or other forms of compensation, and selection for training, including apprenticeship. PROPOSER further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.
3. Title VI - Civil Rights Act of 1964: During the performance of Agreement, PROPOSER, for itself, its assignees and successors in interest, agrees as follows:

PROPOSER shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time.

4. Fair Employment Practices: In connection with the performance of the work under Agreement, if the work is executed in the State of Arizona, PROPOSER shall certify compliance with the provisions of the State Fair Employment and Housing Act.
5. Interest of YCIPTA Personnel: By submitting a proposal, the PROPOSER represents and warrants that no Board Member, officer or employee of YCIPTA is in any manner interested directly or indirectly in the proposal or in Agreement which may be made under it, or in any expected profits to arise therefrom.
6. Disadvantaged Business Enterprise (DBE) Policy: YCIPTA receives financial assistance from the US Department of Transportation through the Federal Transit Administration (FTA). PROPOSERS are advised that, as required by federal law, the Arizona Department of Transportation (Department) has established a statewide overall DBE Program goal. The Department is required to report to the Federal Transit Administration (FTA) on DBE participation for all FTA-assisted contracts each year so that attainment efforts may be evaluated. In order to ascertain whether the statewide overall DBE goal is being achieved, the Department is tracking DBE participation on all federally assisted contracts.

This project is subject to Title 49, Part 26 of the Code of Federal Regulations (49 CFR 26) entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." In order to ensure the Department achieves its federally mandated statewide overall DBE goal, the Department encourages the participation of DBEs, as defined in 49 CFR 26, in the performance of contracts financed in whole or in part with federal funds. The PROPOSER shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

PROPOSER or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. PROPOSER shall carry out the applicable requirements of 49 CFR, Part 26 in the award and administration of U.S. Department of Transportation assisted contracts.

Failure by PROPSER to carry out these requirements is a material breach of Agreement, which may result in the termination of Agreement or other such remedy as YCIPTA may deem appropriate.

7. Debarment and Suspension: Each PROPOSER must certify and submit documentation (such as a notarized affidavit) showing that neither the PROPOSER nor its principals are presently debarred, suspended, proposed for debarment,



declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

8. Drug Free Workplace: PROPOSER must include with its proposal properly completed and executed certification of compliance with applicable state and federal Drug-Free Workplace Acts.
9. Restrictions on Lobbying: Each PROPOSER must include in its proposal a properly completed and executed certification regarding Restrictions on Lobbying in the form set forth as an exhibit hereto.
10. Interests of Members of, or Delegates to Congress: No members of, or delegates to, the Congress of the United States shall be admitted to any share or part of Agreement or to any benefit arising therefrom.
11. Laws to Be Observed: PROPOSER shall keep itself fully informed of all existing and future State and Federal laws, all municipal regulations of YCIPTA, and all such orders, decrees, ordinances and laws of bodies, or tribunals, including other municipalities or counties whether in the State of Arizona, or another State, having any jurisdiction or authority over which, in any manner, affect those engaged or employed in the work, or the materials used in the work, or in any way affect the conduct of the work.

Failure by PROPOSER to carry out these requirements is a material breach of Agreement, which may result in the termination of this Agreement or other such remedy as YCIPTA may deem appropriate.

12. Public Records Act: The Proposals received shall become the property of YCIPTA and are subject to public disclosure. Those parts of a Proposal which are defined by the PROPOSER as business or trade secrets and are reasonably marked "Trade Secrets", "Confidential", or "Proprietary" and placed in a separate envelope shall only be disclosed to the public if such disclosure is required or permitted under the Arizona Revised Statutes or otherwise by law. Proposers who indiscriminately and without justification identify most or their entire Proposal as exempt from disclosure may be deemed non-responsive. Proposals, excluding confidential information, will be available for review after posting of staff recommendation. Until YCIPTA's review committee announces its recommendation, no Proposals will be made available for public inspection.

## **PROTEST PROCEDURES**

Protests Prior to Proposal Opening: Protests regarding any aspect of the attached materials and YCIPTA selection procedures must be submitted in writing (via mail, email or fax only) to John Andoh, Transit Director, YCIPTA, 2715 East 14<sup>th</sup> Street, Yuma, AZ 85365, fax: (928) 783-0309, email: [jandoh@ycipta.org](mailto:jandoh@ycipta.org), by 5:00 p.m., Arizona Time, Wednesday, April 11, 2012. The YCIPTA Transit Director will respond to these

protests by Thursday, April 12, 2012 with an addendum to this RFP, by email and on YCIPTA's website. This action completes the pre-opening administrative protest remedy at the YCIPTA level.

Protests After Proposal Opening/Announcement of Award: Protests regarding YCIPTA's proposed selection of PROPOSER after proposal opening and award announcement must be submitted in writing (via mail, email or FAX) to John Andoh, Transit Director, YCIPTA, 2715 East 14<sup>th</sup> Street, Yuma, AZ 85365, fax: (928) 783-0309, email: [jandoh@ycipta.org](mailto:jandoh@ycipta.org), by 5:00 p.m., Arizona Time, Wednesday, April 18, 2012. The YCIPTA Transit Director will respond to these protests by Thursday, April 19, 2012 by email and/or FAX. This action completes the proposal opening/award announcement administrative protest remedy at the YCIPTA level.

Under certain limited circumstances, and after the protester has exhausted all administrative protest remedies made available to him at the YCIPTA level, an interested party may protest to the Federal Transit Administration (FTA) regarding the award of a Agreement pursuant to an FTA grant. The deadline for submitting protests to FTA prior to proposal opening is 5:00 p.m. Arizona Time, Thursday, April 12, 2012. The deadline for submitting protests to FTA after opening/announcement of award is 5:00 p.m. Arizona Time, Friday, April 20, 2012.

FTA review of any protest will be limited to:

- (1) Violations of Federal Law or Regulations: Violations of State or local law shall be under the jurisdiction of State or local authorities.
- (2) Violation of YCIPTA's protest procedures or YCIPTA's failure to review a complaint or protest.

The protest filed with FTA shall:

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

Such protests should be sent to:

Federal Transit Administration Region IX, 201 Mission Street, Suite 1650  
San Francisco, CA 94105

A copy of such protests should also be sent to the YCIPTA Transit Director.

### **PROPOSAL SUBMISSION**

Two (2) original copies of the proposal must be sealed in an envelope and received, not postmarked, no later than **4:00 P.M. Arizona Time, Friday, April 13, 2012** at the YCIPTA administrative offices.

Mailed proposals should be sent to:

John Andoh, Transit Director  
Yuma County Intergovernmental Public Transportation  
Authority  
**Mailing:** 2715 East 14<sup>th</sup> Street, Yuma, AZ 85365

Proposals should be marked: **CARDLOCK FUEL SERVICES**

### **LATE PROPOSALS WILL NOT BE ACCEPTED.**

### **ESTIMATED TIME FRAME (*Subject to change without notice*)**

Monday, March 12, 2012	Release date of RFP
Monday, March 19, 2012	Questions for RFP due to YCIPTA by 5:00 p.m., Arizona Time.
Wednesday, March 21, 2012	Responses to Questions posted at <a href="http://www.ycat.org">www.ycat.org</a> .
Friday, April 13, 2012	RFP responses due no later than 4 P.M., Arizona Time.
Monday, April 16, 2012	RFP responses distributed to review committee.
Wednesday, April 18, 2012	Letters to firm selected and to firms not selected are faxed and mailed out.
Monday, April 23, 2012	Item goes before YCIPTA Board of Directors requesting approval of the RFP PROPOSER selected.
Monday, May 7, 2012	PROPOSER begins service.

## **FEDERAL REQUIREMENTS**

CONTRACTOR warrants and covenants that it shall fully and completely comply with all applicable Federal, State and local laws and ordinances, and all lawful orders, rules and regulations issued by YCIPTA with jurisdiction in all aspects of its performance of this Agreement.

This Agreement is subject to a financial assistance contract between YCIPTA and the United States of America (hereinafter "Federal Government"), acting through the Department of Transportation (hereinafter "U.S. DOT"), and Federal Transit Administration (hereinafter "FTA"). 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 procedures and directives including without limitation those listed directly or by reference in the FTA Master Agreement between YCIPTA and FTA, as amended, and are incorporated herein by this reference.

The PROPOSER shall comply with these FTA requirements and as they may be amended or promulgated from time to time during the term of this Agreement. The PROPOSER shall not perform any act, fail to perform any act, or refuse to comply with any YCIPTA directives, which would cause YCIPTA to be in violation of the FTA terms and conditions. PROPOSER'S failure to comply with these FTA requirements and YCIPTA directives shall constitute a material breach of this Agreement.

a) **Fly America.** (Transportation of persons or property by air)

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

b) **Charter Bus Requirements.** The CONTRACTOR agrees to comply with 49 USC 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

- c) **School Bus Requirements.** Pursuant to 69 USC 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.
- d) **Cargo Preference (use of U. S. flag vessel).** The CONTRACTOR agrees: (a) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (b) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to YCIPTA (through the CONTRACTOR in the case of a subcontractor's bill-of-lading.) (c) to include these requirements in all subcontracts issued pursuant to this Agreement when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.
- e) **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.
- f) **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 USC 1251 et seq. The CONTRACTOR agrees to report each violation to YCIPTA and understands and agrees that YCIPTA 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.
- g) **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 USC §§ 7401 et seq. The CONTRACTOR agrees to report each violation to YCIPTA and understands and agrees that YCIPTA 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.

- h) **Recycled Products.** The CONTRACTOR agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 USC 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.
- i) **Lobbying.** (1) 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 USC 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 USC 1352. Such disclosures are forwarded from tier to tier up to YCIPTA.
- (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.
- j) **Access to Records and Reports.** (1) Where YCIPTA is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a) (1) through other than competitive bidding, the CONTRACTOR shall make available records related to the contract to YCIPTA, 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.
- (2) 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.
- (3) The CONTRACTOR agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the

performance of this Agreement, in which case Contractor agrees to maintain same until YCIPTA, 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).

(4) FTA does not require the inclusion of these requirements in subcontracts

- k) **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 YCIPTA and FTA, as they may be amended or promulgated from time to time during the term of this Agreement. Contractor's failure to so comply shall constitute a material breach of this Agreement.
- l) **No Obligation by the Federal Government.** (1) YCIPTA 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 Agreement and shall not be subject to any obligations or liabilities to YCIPTA, 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.
- m) **Program Fraud and False or Fraudulent Statements or Related.**(1) The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §§ 3801 et seq and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR 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 Agreement 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 USC § 5307, the Government reserves the right to impose the penalties of 18 USC § 1001 and 49 USC § 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.

- n) **Government-Wide Debarment and Suspension.** This Agreement 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 YCIPTA. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to YCIPTA, 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.

- o) **Privacy Act.** 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 USC § 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.

p) **Civil Rights.** The following requirements apply to the underlying Agreement

(1) **Nondiscrimination:** In accordance with Title VI of the Civil Rights Act, as amended, 42 USC § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 USC § 12132, and Federal transit law at 49 USC § 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 USC § 2000e, and Federal transit laws at 49 USC § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq (which 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 USC § 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 USC § 623 and Federal transit law at 49 USC § 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 USC § 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment

Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with 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.

q) **Transit Employee Protective Agreements.** (1) The CONTRACTOR agrees to comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements: To the extent that FTA determines that transit operations are involved, the 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 Agreement and to meet the employee protective requirements of 49 USC A 5333(b), and U.S. DOL guidelines at 29 CFR 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 YCIPTA's project from which Federal assistance is provided to support work on the underlying contract. The CONTRACTOR 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 USC § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 USC § 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 USC: § 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 USC § 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 USC § 5333(b) are necessary or appropriate for the state and YCIPTA for which work is performed on the underlying contract, the CONTRACTOR 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 USC § 5333(b), U.S. DOL guidelines at 29 CFR 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 CONTRACTOR 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 USC: § 5311 in Nonurbanized Areas: If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 USC § 5311, the CONTRACTOR agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized 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.

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

r) **Disadvantaged Business Enterprise (DBE)**

(1) **Policy:** It is YCIPTA's policy and objective to promote and maintain a level playing field for DBE's in YCIPTA and Federal-aid contracts. It is YCIPTA's policy to ensure nondiscrimination in the award and administration of U.S. DOT assisted contracts based on the requirements of 49 CFR Parts 21 and 26.

(2) **DBE Obligation:** The CONTRACTOR agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. CONTRACTOR shall not discriminate on the basis of race, creed, color, national origin, age, or sex in the award of and performance of DOT assisted contracts.

s) **State and Local Law Disclaimer.** CONTRACTOR shall keep itself informed of, comply with, and shall cause all of its agents, employees, suppliers and subcontractors of any tier to observe and comply with all applicable State and local laws, regulations, and policies, including, but not limited to, all applicable terms and conditions prescribed for third party contracts by the U. S. Department of Transportation (DOT) and the Federal Transit Administration (FTA). It is the CONTRACTOR's responsibility to know and to comply with all state laws and regulations and local ordinances relating to public works projects which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work. If Contractor discovers any discrepancy or inconsistency between the plans, drawings, specifications, or contract for the work and any law, ordinance, regulation,

order or decree; the CONTRACTOR shall immediately provide written notice to YCIPTA.

- t) **Incorporation of Federal Transit Administration (FTA) Terms.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, dated June 19, 2003, as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any YCIPTA requests, which would cause YCIPTA to be in violation of the FTA terms and conditions.
- u) **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 Arizona, or YCIPTA 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 February 15<sup>th</sup> of each year and to submit the Management Information System (MIS) reports before February 15<sup>th</sup> to YCIPTA's Transit Director. 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.
- v) **Equal Employment Opportunity/Basic Requirements.** In connection with the execution of this Agreement, the CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin. 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. Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

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

(2) **Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5, the CONTRACTOR and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5 in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of eight hours or in excess of the standard of work week of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5.

(3) **Withholding for Unpaid Wages and Liquidated Damages.** DOT or YCIPTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b) (2) of 29 CFR Section 5.5.

(4) **Nonconstruction Grants.** The CONTRACTOR or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of

hours worked, deductions made, and actual wages paid. Further, YCIPTA shall require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the CONTRACTOR or subcontractor for inspection, copying, or transcription by authorized representatives of DOT and the Department of Labor, and the CONTRACTOR or subcontractor will permit representatives to interview employees during working hours on the job.

(5) Subcontracts. The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (5) of this paragraph and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraph (1) through (5) of this paragraph.

- x) **Conflict of Interest**. No employee, officer, or agent of YCIPTA shall participate in selection or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his immediate family, an organization which employs, or is about to employ, has a financial or other interest in the firm selected for award.

YCIPTA's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties of subagreements.

- y) **Breaches and Dispute Resolution**. All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Disputes arising in the performance of this Agreement which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of YCIPTA. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the CONTRACTOR mails or otherwise furnishes a written appeal to the YCIPTA Transit Director. 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 YCIPTA Transit Director shall be binding upon the CONTRACTOR and the CONTRACTOR shall abide by the decision.

Unless otherwise directed by YCIPTA, CONTRACTOR shall continue performance under this Agreement while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Agreement 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 of damage.

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

**Rights and Remedies** - The duties and obligations imposed by YCIPTA 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 YCIPTA, or CONTRACTOR shall constitute a waiver of any right or duty afforded any of them under the Agreement, 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.

# EXHIBIT A

## “GASOLINE AND DIESEL FUEL CARD-LOCK FUELING SERVICES” PROPOSALS PRICING SHEET

(COMPLETE AND RETURN WITH PROPOSAL)

We, \_\_\_\_\_ Company, declare that we have carefully examined this Request For Proposals and proposed to furnish products and/or services in full accordance with the terms and conditions specified herein. We hereby offer to provide YCIPTA with the specified fuel at the following differential cost above the weekly average of prices quoted for the Yuma, AZ market by the Oil Price Information Service (taxes excluded).

FOR FUEL PURCHASED LOCALLY

OPIS PRICE DIFFERENTIAL  
(\$0.000 per gallon)

### *First Year May 5, 2012 to June 30, 2012*

Type of Fuel	Opis	Freight	Markup	Total
Unleaded Fuel _____ (not less than 87 octane)				\$ _____
Ultra Low Sulfur Diesel _____				\$ _____

### *Second Year July 1, 2012 to June 30, 2013*

Type of Fuel	Opis	Freight	Markup	Total
Unleaded Fuel _____ (not less than 87 octane)				\$ _____
Ultra Low Sulfur Diesel _____				\$ _____

### *Third Year July 1, 2013 to June 30, 2014*

Type of Fuel	Opis	Freight	Markup	Total
Unleaded Fuel _____ (not less than 87 octane)				\$ _____
Ultra Low Sulfur Diesel _____				\$ _____



# EXHIBIT A

## "GASOLINE AND DIESEL FUEL CARD-LOCK FUELING SERVICES" PROPOSALS PRICING SHEET

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Signature

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Printed Signature

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Title

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Date

**EXHIBIT 'B'**

**“GASOLINE AND DIESEL FUEL CARD-LOCK FUELING SERVICES”**

**SIGNATURE PAGE**

**(COMPLETE AND RETURN WITH PROPOSAL)**

The undersigned hereby proposes and agrees to furnish and deliver the goods or services as quoted in accordance with the terms, conditions, specifications, and prices herein quoted.

Proposal is subject to a payment discount of \_\_\_\_\_ % \_\_\_\_\_ days.  
(Less than 15 days will be considered net.)

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

**Firm Name:** \_\_\_\_\_

**Signed By:** \_\_\_\_\_

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

**Address:** \_\_\_\_\_

**Phone No.** \_\_\_\_\_

**Fax No.** \_\_\_\_\_

**Federal Tax ID No.** \_\_\_\_\_

**E-Mail Addresses:** \_\_\_\_\_

# EXHIBIT C

## "GASOLINE AND DIESEL FUEL CARD-LOCK FUELING SERVICES"

### DESIGNATION OF LOCAL POINT OF SALES

(COMPLETE AND RETURN WITH PROPOSAL)

#### **Primary Local Point of Sales**

All products and service to be supplied should be made available from at least one (1) facility located within a ten (10) mile radius of YCAT Bus Facility. The location of the primary local point of sale as follows:

Primary Location: \_\_\_\_\_  
Street Address

Distance from 2715 East 14<sup>th</sup> Street (one way) \_\_\_\_\_

#### **Additional Local Point of Sales**

Other fuel dispensing sites in the local area eligible for use under this contract may be designed below. Designation of additional local points of sale is optional. If no additional local points of sales are available, please specify "NONE"

Additional Location

1 \_\_\_\_\_  
Street Address, City, State

Additional Location

2 \_\_\_\_\_  
Street Address, City, State

Additional Location

3 \_\_\_\_\_  
Street Address, City, State

Please attach a separate sheet if more than three (3) additional locations are to be designated as Additional Local Points of Sale.

***Non-Local Points of Sale***

If the PROPOSER is a member of a sales network utilizing the card lock system cards issued to YCIPTA under this Agreement, additional fuel may be made from non-local points of sale.

Please designate one of the following options:

\_\_\_\_\_ Fuel purchase from non-local points of sales are available utilizing card-lock system cards through the following network (optional):

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Network Names, Description of Area Served by Network

\_\_\_\_\_ Fuel purchased from non-local points of sales are not available to YCIPTA (optional - designating this alternative will not detract from possibility of contract award).

“GASOLINE AND DIESEL FUEL CARD-LOCK FUELING SERVICES”

**PERFORMANCE REFERENCES  
(COMPLETE AND RETURN WITH PROPOSAL)**

Indicate below, or on a separate sheet, at least five (5) references from accounts similar in size. Be sure to include for each reference: an account name, contract person, telephone number, and how long you have had the account.

1. Account Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Person/Title: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Number of years servicing this account: \_\_\_\_\_
  
2. Account Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Person/Title: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Number of years servicing this account: \_\_\_\_\_
  
3. Account Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Person/Title: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Number of years servicing this account: \_\_\_\_\_
  
4. Account Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Person/Title: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Number of years servicing this account: \_\_\_\_\_
  
5. Account Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contract Person/Title: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Number of years servicing this account: \_\_\_\_\_

# EXHIBIT 'E'

## QUESTIONNAIRE AND REQUESTED INFORMATION

(YOUR RESPONSE MAY BE ON SEPARATE ATTACHMENT)

(COMPLETE AND RETURN WITH PROPOSAL)

1. Please describe the process for which initial fuel cards and replacement cards will be provided:

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2. Please list the types of standard reports your company has to offer pertaining to card lock usage and attach a sample of each report.

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3. Please provide a detailed description of the services available at each site; including the number of islands and the number of nozzles for each type currently at each island.

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4. Please provide a sample invoice.

5. Indicate below the name of the person that will be responsible for administrating the contract, if awarded. Also include the person's title, telephone number, address and Internet E-Mail address.

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\* Attach additional pages if needed

# EXHIBIT „F’

## Insurance Requirements Certification

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 conjunction with the performance of the work hereunder by the Contractor, his agents, representatives, or employees.

### Minimum Scope of Insurance

Coverage shall be at least as broad as:

- Insurance Services Office Commercial General Liability Coverage (occurrence Form CG0001).
- Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
- Workers’ Compensation insurance as required by the State of Arizona (A.R.S. 23-901) and Employer’s Liability Insurance.
- Errors and Omissions Liability insurance appropriate to the contractor’s profession. Architects’ and engineers’ coverage is to be endorsed to include contractual liability.

### Minimum Limits of Insurance

Contractor shall maintain limits no less than:

General Liability \$1,000,000 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 project/location or the general aggregate limit shall be twice the required occurrence limit.

Automobile Liability \$1,000,000 per accident for bodily injury and property damage.

Employer’s Liability \$1,000,000 per accident for bodily injury or disease.

Errors and Omissions Liability \$1,000,000 per occurrence.

### Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by YCIPTA, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects YCIPTA, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to YCIPTA guaranteeing payment of losses and related investigations, claim administration and defense expenses.

### **Other Insurance Provisions**

The commercial general liability and automobile liability policies are to contain or be endorsed to contain, the following provisions:

1. YCIPTA, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects YCIPTA, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by YCIPTA, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to YCIPTA.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under the Arizona Revised Statutes.

### **Acceptability of Insurers**

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

### **Verification of Coverage**

Contractor shall furnish YCIPTA with the original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by YCIPTA or on other than YCIPTA's forms provided those endorsements conform to YCIPTA requirements. All certificates and endorsements are to be received and approved by YCIPTA before work commences. YCIPTA reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

### **Indemnification**

Contractor shall indemnify and hold harmless YCIPTA and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of YCIPTA.



*I hereby certify that I have received, reviewed, and agreed to abide by the insurance requirements herein.*

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

Contractor: \_\_\_\_\_

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

**COLLUSION AFFIDAVIT FOR CONTRACTOR**

STATE OF ARIZONA

COUNTY OF YUMA

\_\_\_\_\_ 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 in Yuma County, State of Arizona.
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 CONTRACTOR, 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 CONTRACTOR, 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 YCIPTA, 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 CONTRACTOR, 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 \_\_\_\_\_, Arizona.

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

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

**CERTIFICATION OF ELIGIBILITY (LABOR STANDARDS)**

The \_\_\_\_\_ (Name of CONTRACTOR) hereby certifies that it is not included on the United States Comptroller General's Consolidated List of Persons or Firms currently Debarred for Violations of Various Public Agreements Incorporating Labor Standard Provisions.

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

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

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

**CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT,  
SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Primary Participant \_\_\_\_\_ (Name of CONTRACTOR) certified to the best of its knowledge and belief, that it and its principals:

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

If the primary participant is unable to certify to any of the Statements in this certification, the participant shall attach an explanation to this certification.

**THE PRIMARY PARTICIPANT, \_\_\_\_\_ (Name of CONTRACTOR) 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 USC SECTIONS 3801 ET SEQUA ARE APPLICABLE THERETO.**

Signature of Authorized Official: \_\_\_\_\_ Title: \_\_\_\_\_

The undersigned chief legal counsel (or corporate secretary) for the \_\_\_\_\_ hereby certifies that the \_\_\_\_\_ has authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Attorney/Secretary: \_\_\_\_\_  
\_\_\_\_\_ Date: \_\_\_\_\_

**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: \_\_\_\_\_

**CERTIFICATION DISADVANTAGED BUSINESS ENTERPRISE PROGRAM/  
EQUAL EMPLOYMENT OPPORTUNITY**

CONTRACTOR: \_\_\_\_\_

1. CONTRACTOR overall DBE participation rate: \_\_\_\_\_

2. Names/Locations of DBEs contacted by CONTRACTOR:

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

3. Names/Locations of DBEs selected by CONTRACTOR:

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

4. CONTRACTOR work force breakdown by race and gender:

TOTAL EMPLOYEES (as of \_\_\_\_\_): \_\_\_\_\_

**JOB CATEGORIES**

**EMPLOYEES**

**Male**

**Female**

Wht Blk Hsp Asn Nat

Wht Blk Hsp Asn Nat

Officials & Managers:

Professional:

Technical:

Sales:

Office/Clerical:

Craftsmen:

Laborers:

Service:

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

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

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

**YUMA COUNTY INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY  
INDEPENDENT CONTRACTOR AGREEMENT  
FOR \_\_\_\_\_**

This Independent Contractor Agreement (“Agreement”) entered into this \_\_\_th day of \_\_\_\_\_, 2012, between YUMA COUNTY INTERGOVERNMENTAL PUBLIC TRANSPORTATION AUTHORITY (“YCIPTA”), with its principal office located at 2715 East 14<sup>th</sup> Street, Yuma, Arizona, 85365, and \_\_\_\_\_ (“Contractor”). YCIPTA and Contractor shall collectively be referred to throughout this Agreement as the “parties.”)

**WITNESSETH:**

WHEREAS YCIPTA is in need of the services of an independent contractor to perform administrative services related to \_\_\_\_\_;

WHEREAS Contractor is willing and able to provide administrative services related to \_\_\_\_\_ to YCIPTA as an independent contractor;

WHEREAS the parties desire to enter into an Independent Contractor Agreement for said services;

NOW, THEREFORE, YCIPTA and Contractor hereby agree to the following terms and conditions:

**SECTION ONE - DESCRIPTION OF WORK**

The work to be performed by Contractor includes all administrative services generally performed by Contractor in Contractor’s usual line of business, including, but not limited to, those services specified in Schedule A.

**SECTION TWO - PRICE AND PAYMENT**

YCIPTA agrees to pay Contractor in accordance with the price and payment terms set forth in Schedule B, attached to this Agreement, and Contractor agrees to accept such amounts as full payment for its work and to sign such waivers of lien, affidavits and receipts as YCIPTA shall request in order to acknowledge payment. The not to exceed amount for this Agreement is \$\_\_\_\_\_.

**SECTION THREE - EXPENSES**

YCIPTA shall reimburse Contractor for travel and other expenses paid or incurred by Contractor in the performance of services provided under this Agreement.

## **SECTION FOUR - INDEPENDENT CONTRACTOR RELATIONSHIP**

Contractor is an independent contractor and is not an employee, servant, agent, partner or joint venturer of YCIPTA. YCIPTA shall determine the work to be done by Contractor, but Contractor shall determine the legal means by which it accomplishes the work specified by YCIPTA. YCIPTA is not responsible for withholding, and shall not withhold, FICA or taxes of any kind from any payments which it owes Contractor. Neither Contractor nor its employees shall be entitled to receive any benefits which employees of YCIPTA are entitled to receive and shall not be entitled to workers' compensation, unemployment compensation, medical insurance, life insurance, paid vacations, paid holidays, pension, profit sharing, or Social Security on account of their work for YCIPTA.

## **SECTION FIVE - TERM**

The Term of this Agreement shall begin \_\_\_\_\_, and end \_\_\_\_\_. YCIPTA and Contractor may jointly agree to extend the Agreement up to two (2) one (1) year extensions through \_\_\_\_\_ and \_\_\_\_\_.

## **SECTION SIX - EMPLOYEES OF CONTRACTOR**

Contractor shall be solely responsible for paying its employees. Contractor shall be solely responsible for paying all FICA and other taxes, workers' compensation, unemployment compensation, medical insurance, life insurance, paid vacations, paid holidays, pension, profit sharing and other benefits for Contractor and its employees, servants and agents.

## **SECTION SEVEN - INSURANCE**

Contractor shall furnish YCIPTA with current certificates of insurance coverage for general liability insurance, motor vehicle insurance and such other insurance as YCIPTA may require from time to time. Contractor shall maintain all such insurance coverage and shall furnish YCIPTA with certificates of renewal coverage and proofs of premium payments.

## **SECTION EIGHT - RISK; INDEMNIFICATION**

Contractor shall perform the work at its own risk. Contractor assumes all responsibility for the condition of tools, equipment, and material. Contractor shall indemnify and hold harmless YCIPTA from any claim, demand, loss, liability, damage or expense arising in any way from Contractor's work.

## **SECTION NINE - ASSIGNMENT**

YCIPTA may assign any or all of its rights and duties under this Agreement at any time and from time to time to a successor in interest or related entity without the consent of Contractor. Contractor may not assign any of its rights or duties under this Agreement without the prior written consent of YCIPTA.



**SECTION TEN - TERMINATION OF CONTRACT  
BY EITHER PARTY WITH OR WITHOUT CAUSE**

Either party to this Agreement may terminate this Agreement on thirty (30) days prior written notice to the other, with cause (as defined below), without cause or for convenience; provided, however, that if this Agreement is terminated without cause by YCIPTA, Contractor shall be entitled to the continuation of compensation for the period leading up to the date of termination. Termination for cause shall be effective immediately when given. For purposes of this Agreement, "cause" shall mean: (i) conviction of any crime (whether or not involving YCIPTA) constituting a felony in the jurisdiction involved; (ii) engaging in any substantiated act involving moral turpitude; (iii) engaging in any act which, in each case, subjects, or if generally known would subject, YCIPTA to public ridicule or embarrassment; (iv) gross neglect or misconduct in the performance of Contractor's duties under this Agreement; (v) willful failure or refusal to perform such duties as may reasonably be assigned to Contractor; or (vi) material breach of any provisions of this Agreement by Contractor.

**SECTION ELEVEN – PROJECT MANAGER**

The Transit Director shall be representative of YCIPTA for all purposes under this Agreement. John Andoh, Transit Director for YCIPTA, hereby is designated as the Project Manager. The Project Manager shall supervise the progress and execution of this Agreement.

The Contractor shall assign a single Project Manager to have overall responsibility for the progress and execution of this Agreement for Contractor. \_\_\_\_\_ hereby is designated as the Project Manager for Contractor. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute Project Manager for any reason, the Project Manager designee shall be subject to the prior written acceptance and approval of the YCIPTA Project Manager.

**SECTION TWELVE - NON-WAIVER**

The failure of either party to this Agreement to exercise any of its rights under this Agreement at any time does not constitute a breach of this Agreement and shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.

**SECTION THIRTEEN - NO AUTHORITY TO BIND CLIENT**

Contractor has no authority to enter into contracts on behalf of YCIPTA. This Agreement does not create a partnership between the parties.

**SECTION FOURTEEN - COMPLIANCE WITH LAWS**

Contractor represents that she has complied with all federal, state and local laws and obtained any necessary business permits and licenses that may be required to carry out the work to be performed under this Agreement. The required Federal Transit Administration (FTA) third party contract clauses are made a schedule to this Agreement (**Schedule "C"**). This Agreement

is financed in part with funding received under Section 5307 of the Federal Transit Act. All services performed by Contractor shall be performed in accordance and full compliance with all applicable federal laws and requirements as amended from time to time. Contractor shall also comply with requirements in the FTA Master Agreement, as amended which is available at <http://www.fta.dot.gov/documents/17-Master.pdf>

## **SECTION FIFTEEN - NOTICES**

Any notice given in connection with this Agreement shall be given in writing and delivered either by hand to the party or by certified mail, return receipt requested. If notice is delivered by mail, it shall be delivered to the address shown below, or substituted address acknowledged in writing by both parties. The following is the initial address selected by each party:

For YCIPTA: John Andoh, Transit Director  
Yuma County Intergovernmental Public Transportation Authority  
2715 East 14<sup>th</sup> Street  
Yuma, Arizona, 85365  
928.539.7076, ext 237 office  
928.783.0309 fax  
[jandoh@ycipta.org](mailto:jandoh@ycipta.org)

For Contractor: Name of Individual, Title  
Name of Firm  
Address  
City, State, Zip Code  
Office Phone Number  
Fax Phone Number  
Email

## **SECTION SIXTEEN - ENTIRE AGREEMENT**

This is the entire Agreement between the parties and any modification of this Agreement or additional obligation assumed by any party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

## **SECTION SEVENTEEN - SEVERABILITY**

If any provision of this Agreement or any portion of any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not alter the remaining portion of such provision, or any other provision hereof, as each provision of this Agreement shall be deemed severable from all other provisions hereof.

## **SECTION EIGHTEEN - ARBITRATION**

In the event that any difference or dispute shall arise as to the interpretation of this Agreement, or the respective rights and obligations of the parties hereunder, or if any matter touching upon YCIPTA's operations, or the management thereof is not conclusively dealt with hereunder, or if this Agreement or any part of it shall be void for uncertainty, then any such difference, dispute or uncertainty shall be referred to arbitration pursuant to The Commercial Arbitration Act of the State of Arizona.

## **SECTION NINETEEN - ATTORNEYS' FEES**

In the event suit is brought or an attorney is retained by any party to this Agreement to seek interpretation or construction of any term or provision of this Agreement, to enforce the terms of this Agreement, to collect any money due, or to obtain any money damages or equitable relief for breach, or to seek recourse in a bankruptcy proceeding, the prevailing party shall be entitled to recover, in addition to any other available remedy, reimbursement for reasonable attorneys' fees for representation in the court (including, without limitation, bankruptcy court), court costs, costs of investigation, and other related expenses.

## **SECTION TWENTY - COUNTERPARTS**

This Agreement may be executed in counterparts, each of which, when taken together shall constitute fully executed originals.

## **SECTION TWENTY-ONE - GOVERNING LAW**

The parties agree this contract shall be construed in accordance with the laws of the State of Arizona, and any controversy, dispute or litigation shall be brought or commenced only in a court of proper jurisdiction in Yuma County, Arizona. If the YCIPTA initiates legal proceedings, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other court-authorized costs related to the proceedings.

## **SECTION TWENTY-TWO - INTERPRETATION**

This Agreement is the result of negotiations between the parties, and accordingly the terms and provisions hereof shall be interpreted and construed in accordance with their usual and customary meanings. The parties hereby waive the application of any rule of law which otherwise would be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions should be interpreted or construed against the party who (or whose attorney) prepared the executed Agreement or any earlier draft of the same.

**SECTION TWENTY-THREE - CAPTIONS**

Captions and paragraph hearings used in this agreement are for convenience only, and are not a part of this agreement, and shall not be deemed to limit or alter any provisions of this agreement, and shall not be deemed relevant in construing the agreement.

**IN WITNESS WHEREOF**, Contractor and YCIPTA have executed this Agreement, effective as of the date above.

**Yuma County Intergovernmental Public  
Transportation Authority**

**Contractor**

---

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By: John Andoh  
Its: Transit Director

---

By:  
Its:

**SCHEDULE A  
DESCRIPTION OF WORK**

**PROJECT DESCRIPTION**

**SCHEDULE B**  
**PRICE AND PAYMENT**

1. CONSULTANT shall submit an invoice to YCIPTA monthly, based on the percentage of completion of tasks listed in Schedule A, Description of Work:

The invoices shall be addressed to:

John Andoh, Transit Director  
Yuma County Intergovernmental Public Transportation Authority  
2715 East 14<sup>th</sup> Street  
Yuma, Arizona, 85365

2. YCIPTA shall pay the invoices in full within thirty days of receipt. Payment shall be sent to:

Name, Title  
Business Name  
Address  
City, State, Zip Code

3. Payment shall be made to the Contractor for the deliverables in Schedule A as defined below, **not to exceed** \_\_\_\_\_, and the Contractor shall submit monthly invoices and reports for same in the following categories as defined below:

4. Invoices will be submitted by the Contractor to YCIPTA periodically for services performed and expenses incurred. YCIPTA does not pay sales taxes as a governmental agency providing mass transportation services. Payment of each invoice will be due within thirty (30) days of receipt. If YCIPTA fails to make any payment due the Contractor for services and expenses under this or any other agreement within thirty (30) days after the Contractor's transmittal of its invoice therefore, the Contractor may, after giving notice to YCIPTA, suspend services under this Agreement until it has been paid in full all amounts due.

5. If YCIPTA objects to any charge on an invoice, it shall so advise the Contractor in writing giving its reasons within fourteen (14) days of receipt of the invoice or all such

objections shall be waived and the amount stated in the invoice shall conclusively be deemed due and owing.

6. If the Contractor initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other court-authorized costs related to the proceedings.
7. All extra work shall be approved in advance in writing by YCIPTA. The extra work proposal shall include the following: scope of work; cost of work; and time of completion. **Unauthorized work shall be at the Contractor's expense.**

## SCHEDULE C REQUIRED FTA THIRD PARTY CONTRACT CLAUSES

CONTRACTOR certifies that he/she shall operate the system in compliance with local, state, and Federal ordinances, laws and regulations applicable to this service. This contract is financed in part with funding received under Section 5307 of the Federal Transit Act. All services performed by CONTRACTOR shall be performed in accordance and full compliance with all applicable Federal laws and requirements.

### A. No Obligation by the Federal Government to Third Parties

1. YCIPTA 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. CONTRACTOR agrees to include the above clause in each subcontract financed in part or in whole with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractors who will be subject to its provisions.

### B. Program Fraud and False or Fraudulent Statements or Related Acts

1. CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and USDOT 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, 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, 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 penalties of the Program Fraud Civil Remedies Act of 1986 on CONTRACTOR to the extent the Federal Government deems appropriate.
2. 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 part or in whole 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 CONTRACTOR, to the extent the Federal Government deems appropriate.
3. CONTRACTOR agrees to include the above two clauses in each subcontract financed in part or in whole with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractors who will be subject to the provisions.

### C. 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, and 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.

### D. 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,



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, 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, 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. 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, CONTRACTOR agrees to comply with any implementing requirements that the 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, CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, CONTRACTOR agrees to comply with any implementing requirements that the FTA may issue.
- c. Disabilities - In accordance with Section 102 of the Americans with Disabilities act, as amended, 42 U.S.C. § 12112, 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, CONTRACTOR agrees to comply with any implementing requirements that the FTA may issue.

3. 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.

E. Disadvantage Business Enterprise

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

CONTRACTOR, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify to YCIPTA that it has complied with the requirements of section 49 CFR Part 26.49 (DBE certification).

F. Incorporation of FTA Terms

The preceding provisions include, in part, certain standard terms and conditions required by USDOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1E are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this

Agreement. CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any YCIPTA requests which would cause YCIPTA to be in violation of the FTA terms and conditions.

G. Energy Conservation

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.

H. ADA Access

Access Requirements for Persons with Disabilities –YCIPTA agrees to comply with the requirements of 49 U.S.C. § 5301(d), which states the Federal policy that elderly persons and persons with disabilities have the same right as other persons to use mass transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. CONTRACTOR also agrees to comply with all applicable requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended 42 U.S.C. § § 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § § 4151 et. seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, CONTRACTOR agrees to comply with all applicable requirements of the following regulations and any subsequent amendments thereto:

1. USDOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. Part 37;
2. USDOT regulations, “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. Part 27;
3. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/USDOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
4. USDOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. Part 35;
5. USDOJ. regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. Part 36;
6. U.S. General Services Administration (GSA) regulations, “Accommodations for the Physically Handicapped,” 41 C.F.R. Subpart 101-19;
7. 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;
8. U.S. Federal Communications Commission regulation, “Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled,” 47 C.F.R. Part 67, Subpart F;
9. U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. Part 1194; and
10. FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. Part 609;
11. Any implementing requirements the FTA may issue.

I. Fly America Requirements (foreign transport or travel by air)

CONTRACTOR agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and sub recipients of

Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. Flag air carrier was not available, or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. CONTRACTOR agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

L. Termination

[Reserved]

K. Disputes, Breaches, or other Litigation

1. Disputes

CONTRACTOR and YCIPTA shall negotiate in good faith in an attempt to resolve any dispute that may arise under this contract. Disputes that cannot be resolved by negotiation shall be submitted to mediation using a mutually agreed upon mediator. In the absence of an agreement on a mediator, CONTRACTOR and YCIPTA shall select a temporary mediator and those mediators shall jointly select the permanent mediator. If mediation is not successful, CONTRACTOR and YCIPTA may pursue their remedies as they choose. Nothing in this contract shall be deemed to prevent CONTRACTOR and YCIPTA from agreeing in the future to submit a dispute to arbitration.

2. Performance During Dispute

Unless otherwise directed by YCIPTA, CONTRACTOR shall continue performance under this contract while matters in dispute are being resolved.

3. 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 part or of any of his employees, agents, or other 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 of damage.

4. Remedies

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

5. Rights and Remedies

The duties and obligations imposed by the contract documents and rights and remedies available hereunder 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 YCIPTA 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 hereunder, except as may be specifically agreed in writing.

L. Clean Air

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. 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 Environmental Protection Agency (EPA) Regional Office.

M. Performance and Payment Bonding Requirements (Non-Construction)

[Not Applicable]

N. Buy America (Rolling Stock, Construction, or Materials & Supplies only)

CONTRACTOR agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA, or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a sixty (60) percent domestic content.

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

O. Charter Service Operations

CONTRACTOR agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients, sub recipients and contractors of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exception must be “incidental”, i.e., it must not interfere with or detract from the provision of mass transportation.

P. Transit Employee Protective Provisions

1. CONTRACTOR agrees to comply with applicable transit employee protective requirements as follows:

a. General Transit Employee Protective Requirements

To the extent that FTA determines that transit operations are involved, 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. § 5333(b), and Department Of Labor (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 DOL to FTA, applicable to YCIPTA’s project from which Federal assistance is provided to support work on the underlying contract. CONTRACTOR agrees to carry out that work in compliance with the conditions stated in that DOL letter. The requirements if this subsection, 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.

a. 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. § 5333(b) are necessary or appropriate for the state and public body sub recipient for which work is performed on the underlying contract, CONTRACTOR agrees to carry out the project in compliance with the terms and conditions determined by guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the DOL’s letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative

Agreement with the state. CONTRACTOR agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that DOL letter.

b. 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, CONTRACTOR 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 the U.S. DOL or any revision thereto.

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

Q. Drug and Alcohol Testing

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 administration, the State Oversight Agency of Arizona, or YCIPTA, 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. CONTRACTOR agrees further to certify annually its compliance with Parts 653 and 654 before August 1, 2008, and accordingly every contract year, to YCIPTA. To certify compliance, 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.

R. School Bus Requirements (U.S.C. § 5323(f), 49 CFR Part 605)

Pursuant to 49 U.S.C. § 5323(f) and 49 CFR part 605, recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and sub-recipients may not use federally funded equipment, vehicles, or facilities.

S. Clean Water Requirements (33 U.S.C. § 1251)

1. CONTRACTOR agrees to comply with all applicable standard orders or regulations issued, pursuant to the Federal Water Pollution Control Act, as amended, 22 U.S.C. § 1251 et seq. CONTRACTOR agrees to report each violation to YCIPTA, and understands and agrees that YCIPTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA regional office.
2. CONTRACTOR also agrees to include these requirements in each subcontract exceeding one hundred thousand dollars (\$100,000) financed in whole or in part with Federal assistance provided by FTA.

T. Lobbying (31 U.S.C. § 1352, 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 U.S.C. § 1601, et. seq.)

Providers who apply or bid for an award of one hundred thousand dollars (\$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 federally 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 or 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 YCIPTA.

U. Recycled Products (42 U.S.C. § 6962, 40 CFR Part 247, Executive Order 12873)

Recovered Materials – CONTRACTOR agrees to comply with all requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6932), including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 2417.

V. Program Fraud and False or Fraudulent Statement and Related Acts (31 U.S.C. § 3801 et seq., 49 CFR Part 31, 18 U.S.C. § 1001, 49 U.S.C. § 5307)

1. CONTRACTOR acknowledges that the provisions of the program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and the United States Department of Transportation regulations, “Program Fraud Civil Remedies”, 49 CFR Part 31, apply to its actions pertaining to the Agreement. Upon execution of an agreement, 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 Agreement or the FTA-assisted project for which this work is being performed. In addition to other penalties that may be applicable, 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 CONTRACTOR, to the extent the Federal Government deems appropriate.
2. CONTRACTOR also acknowledges that 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 this Agreement 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 CONTRACTOR to the extent the Federal Government deems appropriate.
3. 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 sub provider who will be subject to the provisions.

W. Privacy Act (5 U.S.C. § 552)

Contracts involving Federal Privacy Act Requirements

The following requirements apply to CONTRACTOR and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. 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. § 552 (the “Privacy Act”). Among other things, CONTRACTOR agrees to obtain the express consent of the Federal Government before CONTRACTOR or its employees operate a system of records on behalf of the Federal Government. 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 an agreement.
2. CONTRACTOR also agrees to include these requirements in each subcontract to administer any system or records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

X. Access to Records and Report (49 U.S.C. 5325, 49 CFR 18.36(i), 49 CFR 633.17)

CONTRACTOR agrees to provide YCIPTA, 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 CONTRACTOR’s which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. CONTRACTOR also agrees, pursuant to 49 CFR 633.17, to provide the FTA Administrator or his

authorized representatives, including any Program Management Office Provider, 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.

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

CONTRACTOR agrees to maintain all books, records, accounts, and reports required under this contract for a period of not less than five (5) years after the date of termination or expiration of the Agreement, 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 YCIPTA, 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).

**SCHEDULE D**  
**ADDITIONAL FORMS**