

REQUEST FOR PROPOSALS RFP 866

Ann Arbor Station Environmental Review



Proposal Due Date: Monday, July 22, 2013, by 11:00 AM EDT

Issued By:
City of Ann Arbor
Procurement Unit
301 East Huron Street
Ann Arbor, Michigan 48107-8647

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SECTION I
GENERAL INFORMATION

A. OBJECTIVE

The purpose of this Request for Proposals (“RFP”) is to solicit sealed proposals and statements of qualifications for the purpose of selecting a firm or firms to provide environmental review and conceptual design for an intercity passenger rail station. This project is titled: **Ann Arbor Station Environmental Review** (“Project”).

B. QUESTIONS AND CLARIFICATIONS ABOUT THE RFP

The RFP is issued by the City of Ann Arbor. All questions regarding the RFP shall be submitted via email. Emailed questions and inquiries will be accepted from any and all prospective respondents in accordance with the terms and conditions of this RFP. All questions shall be submitted on or before Friday, June 28, 2013 by noon EDT, and must be addressed as follows:

Scope of Work/Proposal Content questions should be addressed to:
Eli Cooper, Transportation Manager, at ecooper@a2gov.org

All questions regarding the RFP submissions process must be addressed to:
Karen Lancaster, Finance Director at: klancaster@a2gov.org.

Responses will be provided to questions and requests for clarification by 5:00 p.m. on Monday, July 8, 2013.

C. PRE-PROPOSAL MEETING

No pre-proposal meeting will be held. All questions regarding the proposal process or the technical content of the RFP shall be direct to the above referenced individuals.

D. PROPOSAL FORMAT

To be considered, each respondent must submit a response to this RFP (“Proposal”) using the format provided in Section III. No other distribution of Proposals is to be made by the respondent.

The Proposal must be signed in ink by an official authorized to bind the respondent to its provisions. Each Proposal must remain valid for at least 120 days from the due date of this RFP.

Proposals should be prepared simply and economically, providing a straightforward, concise description of the respondent’s ability to meet the requirements of the RFP. No erasures are permitted. Mistakes may be crossed out and corrected and must be initialed in ink by the person signing the proposal.

Each Proposal should not be more than 15 sheets (30 sides), with material on two sides, not including required attachments. Proposals should not include any plastic covers, binders, or other non-recyclable materials.

E. PROPOSAL SUBMISSION

All Proposals must be hand-delivered or mailed to the City of Ann Arbor Procurement Unit and **received** on or before Monday, July 22, 2013 **by 11:00 AM Eastern Daylight Time (“Due Date”)**. Late submissions or submissions that are not in a sealed envelope (e.g. oral, emailed, or faxed submissions) **will not** be accepted or considered.

Each respondent must submit in a sealed envelope **ONE (1)** original Proposal, **SIX (6)** additional Proposal copies, and **ONE (1)** digital copy of the Proposal (in PDF or other appropriate format on a Windows-compatible CD, DVD, or USB flash drive). Proposals submitted must be clearly marked: “RFP 866 – Ann Arbor Station Environmental Review.”

Proposals must be addressed and delivered to:

City of Ann Arbor
Procurement Unit, 5th Floor
301 East Huron Street
P.O. Box 8647
Ann Arbor, MI 48107

All Proposals received by the Due Date will be publicly opened and recorded on the Due Date, at 11:00 AM. No immediate decision will be rendered.

Hand delivered Proposals will be date/time stamped/signed at the address above in order to be considered. Proposal drop off hours are 9:00 a.m. to 3:00 p.m. Monday through Friday, excluding City holidays. The City will not be liable to any respondent for any unforeseen circumstances, delivery, or postal delays. Postmarking to the Due Date will not substitute for receipt of the Proposal. Each respondent is responsible for ensuring timely submission of their Proposal.

Additional time will not be granted to a single respondent; however, additional time may be granted to all respondents if the City determines that circumstances warrant it.

F. SELECTION CRITERIA

Proposals will be evaluated and compensation negotiated as shown in Section III. The evaluation will be completed by a selection committee of staff from the City of Ann Arbor, Ann Arbor Transportation Authority and Michigan Department of Transportation.

After initial evaluation, the City will determine which, if any, respondents will be interviewed. If the City elects to interview respondents, the selected firms will be given the opportunity to discuss their proposal, qualifications, and past experience in more detail during the interviews. The City further reserves the right to interview the key personnel assigned by the selected firm to this Project. Respondents are expected to be available for interviews if requested.

All Proposals submitted may be subject to clarifications and further negotiation. All agreements resulting from negotiations that differ from what is represented within the RFP or in the respondent’s response shall be documented and included as part of the final contract.

G. INTERPRETATIONS AND ADDENDA

If a respondent has a question as to the meaning of this RFP or finds any ambiguity, inconsistency, or omission, the respondent shall make a written request for an official interpretation or correction to the appropriate individual listed above. Such requests must be received by the City not later than Friday, June 28, 2013 by noon (EDT).

All interpretations, corrections, or additions to this RFP will be made only as an official addendum that will be posted to A2gov.org and MITN.info and it shall be the respondent's responsibility to ensure they have received all addenda before submitting a Proposal. Any addendum issued by the City shall become part of the RFP and must be incorporated in the Proposal where applicable.

Each respondent must in its proposal, to avoid any miscommunications, acknowledge all addenda which it has received, but the failure of a respondent to receive or acknowledge receipt of any addenda shall not relieve the respondent of the responsibility for complying with the terms thereof.

The City will not be bound by oral responses to inquiries or written responses other than official written addenda.

H. DISCLOSURES

All information submitted to the City as part of a Proposal is subject to disclosure under the provisions of Public Act No. 442 of 1976 known as the "Freedom of Information Act". This act also provides for the complete disclosure of contracts and attachments thereto.

I. PROFESSIONAL SERVICES AGREEMENT

The selected respondent should anticipate entering into a contract for services with the City of Ann Arbor. For your reference a sample Professional Services Agreement is attached (Appendix A). Respondents should review the terms of this sample agreement carefully prior to submitting a Proposal. Respondents should specifically note that the insurance requirements under a City contract are listed in Exhibit C of the sample Professional Services Agreement.

The City has an agreement with the Michigan Department of Transportation for the purposes of this RFP and contract. The funding for the contract is a grant to the Michigan Department of Transportation from the Federal Railroad Administration. The selected contractor is required to complete all Project related work in accordance with and subject to all Federal and State requirements. Federal and State requirements may change and the changed requirements will apply to this Project as required. The contractor must also comply with all applicable requirements of the Grant/Cooperative Agreement between FRA and MDOT as well as applicable requirements of the contract between MDOT and the City for this Project. These contracts are attached at Appendix E, Attachments 3 and 4. A summary of applicable requirements is provided in Appendix F (Technical Assurances). These contracts may contain other applicable requirements not listed in Appendix F.

J. COST LIABILITY

The City of Ann Arbor assumes no responsibility or liability for costs incurred by any respondent prior to the execution of a Professional Services Agreement. By submitting a Proposal, a

respondent agrees to bear all costs incurred or related to the preparation, submission and selection process for the Proposal.

K. NONDISCRIMINATION AND LIVING WAGE REQUIREMENTS

The City’s standard Professional Services Agreement outlines the requirements for fair employment practices under City of Ann Arbor contracts. To establish compliance with this requirement, the respondent should complete and return with its proposal completed copies of the Human Rights Division Contract Compliance forms.

All respondents proposing to do business with the City of Ann Arbor, except those specifically exempted by regulations by the Administrator and approved by City Council, agree to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code and, if a “covered employer” as defined therein, to pay those employees providing services to the City under this agreement a “living wage” as defined in Chapter 23 of the Ann Arbor City Code; and, if requested by the City, provide documentation to verify compliance. Living Wage forms should be submitted with the proposal

The following forms are attached:

- Contract compliance form to report employment data (Appendix D).
- Living wage declaration form (Appendix C)
- Copy of the current living wage poster (Appendix C).

If Contract Compliance and Living Wage forms are not submitted with the proposal, a respondent will have 24 hours from the City’s request to return completed forms.

In addition to City ordinance requirements, respondents will be required to comply with all applicable Federal and State nondiscrimination requirements as stated in the terms of the applicable agreements listed in the Appendices.

L. SCHEDULE

The Proposal should define an appropriate timeline in accordance with the following schedule:

Activity/Event	Anticipated Date
RFP Release	Tuesday, June 11, 2013
Questions about RFP due	Friday, June 28, 2013 by noon (EDT)
Responses to Questions	Monday, July 8, 2013 by 5:00 PM
Proposal Due Date and Bid Opening	Monday, July 22, 2013 at 11:00AM
Interview (as needed)	August 7-9, 2013

Tentative Award	August 16, 2013
City Council Authorization	Tuesday, September 3, 2013

Note: The above schedule is for information purposes only, and is subject to change at the City's discretion.

M. COLLUSIVE PRICING

The respondent shall submit a certification (Appendix G) that their Proposal is made without any previous understanding, agreement or connection with any person, firm or corporation making a Proposal for the same services and is in all respects fair, without outside control, collusion, fraud or otherwise illegal action.

N. DEBARMENT AND DRUG-FREE WORKPLACE

Submission of a proposal in response to this RFP is certification that the respondent is not currently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal departments or agency. Submission is also agreement that the City will be notified of any changes in this status. Respondents shall sign and include with their Proposal the Debarment and Drug-Free Workplace Certifications at Appendix I, which shall be included as part of any contract awarded for this Project.

O. IRS FORM W-9

The selected Respondent will be required to provide the City of Ann Arbor an IRS form W-9.

P. RESERVATION OF RIGHTS

1. The City reserves the right to award any contract arising out of this RFP in any manner deemed in the best interest of the City.
2. The City reserves the right to accept or reject any Proposal, in whole or in part, to waive any defect, irregularity, or informality in any Proposal, and to further negotiate the terms of any Proposal.
3. The City reserves the right to request additional information from any respondent.
4. The City reserves the right to waive the presentation and interview process and evaluate a respondent based solely on the Proposal.
5. The City reserves the right not to consider any Proposal which it determines to be unresponsive or deficient in any of the information requested within RFP.
6. The City reserves the right to determine whether the scope of the Project will be entirely as described in the RFP, a portion of the scope, or a revised scope.
7. The City reserves the right to select one or more respondents to perform services.
8. The City reserves the right to retain all Proposals submitted and to use any concepts in a Proposal regardless of whether that Proposal is selected. Submission of a Proposal indicates acceptance by the respondent of the conditions contained in this RFP, unless clearly and specifically noted in the Proposal.

SECTION II

BACKGROUND

Project Name

Ann Arbor Station Environmental Review. ("Project")

Project Description

The City is seeking professional services to conduct environmental review and produce a conceptual design for a new or enhanced railroad passenger station/intermodal facility in the City of Ann Arbor as outlined in the City's adopted 2009 Transportation Plan Update. Project development will include preparation of environmental documentation with appropriate federal and state agency review and public outreach and engagement, and preparation of a conceptual design. The respondent should have familiarity and experience with all applicable environmental and historic preservation laws and regulations pertaining to federally-funded rail projects, including Section 4(f) of the National Environmental Policy Act ("NEPA"), Section 6(f) of the Land and Water Conservation Act, and Section 106 of the National Historic Preservation Act.

The City of Ann Arbor is working with the Michigan Department of Transportation ("MDOT") and Federal Railroad Administration ("FRA") to create conceptual designs for an improved Ann Arbor Station ("AAS") that will address important City transportation issues, such as commuter parking, realigning existing railroad tracks, providing passenger boarding platforms and amenities, and "intermodal" integration of the transportation network, including high-speed passenger rail, commuter rail, urban, charter and intercity bus systems, automobiles, taxis, limousines, bicycles, and pedestrians.

Project Funding

The Project will be primarily funded with a federal grant awarded to MDOT and subawarded to the City under the American Recovery and Reinvestment Act of 2009 through the FRA High-speed Intercity Passenger Rail ("HSIPR") Program. This Project will also be partially funded with local funds contributed by the City.

Award of the Project may be subject to the City's receipt of funds as a subgrantee under the above grants. Respondents are advised that the City does not guarantee award of this contract.

Background

The City of Ann Arbor Transportation Plan Update adopted in May 2009 is an element of the City's Master Plan. It includes consideration and provides policy direction to study the improvement and relocation of the current Ann Arbor Amtrak passenger rail station. The idea of relocating the Ann Arbor Amtrak Station is seen as an opportunity to improve conditions for current and future rail passengers. The City's Adopted Transportation Master Plan can be viewed at:

<http://www.a2gov.org/GOVERNMENT/COMMUNITYSERVICES/PLANNINGANDDEVELOPMENT/PLANNING/Pages/MasterPlans.aspx>

The existing Ann Arbor Amtrak Station is located at 325 Depot Street. This station, in its current configuration, represents the no-build option. An improved station at this location is also one of the possible build option(s) to be evaluated for this Project. The existing station's long term parking area sits north of the Norfolk Southern right-of-way.

This Project is to include appropriate analysis necessary to evaluate the existing Ann Arbor Amtrak station and a suitable set of alternatives for improving intermodal train station operations. All work is to be conducted in accordance with FRA and Amtrak requirements. Respondents' proposed work plan should be consistent with the FRA Detailed Project Work Plan Outline (See Appendix E, Attachment 1), which requires a conceptual design and alternatives analysis prior to completion of an appropriate environmental review.

The contractor shall prepare all necessary environmental and conceptual documents in accordance with the National Environmental Policy Act (42 U.S.C. 4332), the Council on Environmental Quality's regulations implementing NEPA (40 CFR part 1500 et seq.), FRA's "Procedures for Considering Environmental Impacts" (45 FR 40854, June 16, 1980, as revised May 26, 1999, 64 FR 28545) and other related laws and regulations such as Section 4(f) of NEPA, Section 6(f) of the Land and Water Conservation Fund, Section 106 of the National Historic Preservation Act, and applicable requirements of the Clean Water Act and Endangered Species Act.

The contractor's conceptual design for an improved AAS should serve the existing and future intercity passenger rail system by facilitating easy, direct, and convenient access adequate to meet the needs of intercity passenger rail and transit riders, drivers, pedestrians, and cyclists. It should include convenient intermodal connections for all modes of travel, including automobiles, taxicabs, public and private transit, intercity bus, walking, and bicycling. It should also feature walk access, proximity to major destinations and the ability to accommodate a sufficient parking supply. The AAS conceptual design must accommodate present and projected usage and include the flexibility to accommodate commuter rail transportation.

The conceptual design for AAS should include coordination with MDOT regarding rail infrastructure improvements needed to support expanded rail service in the vicinity of the station. Increasing numbers of trains are expected, resulting in a possible need for a station siding in the short term and the ultimate double-tracking of the corridor in the future. Planned rail system improvements will allow for the increased service expected at this station location.

As part of this environmental review and conceptual design project, the contractor will be required to consider a sufficient base of data to define and explore alternative solutions to meeting the identified design requirements. Evaluation of the existing station and its capacity to serve current and future needs are to be documented, reviewed, and adjusted as needed. Alternative sites are to be explored and a preliminary locally preferred alternative identified as part of the draft environmental review development process.

Notice to Respondents: This Project is for environmental review and conceptual design. Additional phases of work, including preliminary engineering and construction may follow completion of this Project. The respondent selected to complete this Project must sign and include with their Proposal the attached Disclosure Statement (Appendix H) verifying that it has no financial or other interest in the outcome of the environmental review or conceptual design. The respondent selected to complete this Project may bid for future phases of work as part of the City's competitive procurement process for those phases. A respondent's intent to bid on future phases is not considered a conflict of interest for purposes of responding to this RFP.

SCOPE OF WORK AND DELIVERABLES

All deliverable documents must be submitted in hard copy (3 copies of each). The City reserves the right to request submissions in appropriate electronic formats to be specified by the City (e.g. CAD, pdf, jpg, or other working formats).

Task 1 - Project Initiation

Following execution of a contract including a detailed scope of work, a project initiation meeting (kickoff meeting) will be held. This meeting will include review of the approved Project description, scope of work, timeline and milestones. Roles and responsibilities of the City and contractor will be discussed. This is intended to be the first of regularly scheduled progress meetings.

Task 1 Deliverables:

- Kickoff meeting with City staff to discuss goals and tasks and to coordinate site access requirements, timeline, and project management responsibilities.
- Written summary of kickoff meeting including copies of meeting agenda, notes, and materials introduced.
- Complete Project detailed work plan for approval by the FRA.

Task 2 - Public Participation

The contractor shall be required to solicit public participation. Environmental analysis and conceptual planning will be subject to public review at meetings convened for that purpose. Clear descriptions of the conditions found at the current station site and other sites considered by the contractor are to be provided. Public involvement is anticipated at appropriate points in the development of the conceptual design and the environmental review process.

It is anticipated the contractor will engage the public in the planning and design process to assure public input and produce a Project that is responsive to the requirements of the City, MDOT, and FRA, and the community's values and desires. In addition to public meetings, communication mechanisms should include development and maintenance of a Project website, newsletters, and other techniques deemed appropriate. Project-related communications materials are to be produced and distributed at appropriate milestones.

City Council, Planning Commission and Parks Advisory Commission input will be solicited at their meetings at appropriate milestones in the Project. These meetings allow for key stakeholder involvement and allow input into the planning and design phases. Policy forums may also serve as an opportunity for the general public to engage in the Project.

A detailed timeline with associated communication and public input opportunities should be developed. All materials are to be provided in a manner consistent with FRA worksheets for work plan development (See Appendix E, Attachment 5, FRA Worksheets). Coordination efforts with MDOT, Amtrak, and the FRA, as required, should be included on the preliminary timeline

Subtask 2.1 Public Involvement Plan

The contractor will develop a Public Involvement Plan ("PIP"). The PIP will define the goals and objectives of the public involvement effort, identify key stakeholders, and discuss the public involvement techniques and public participation materials that will be used, such as newsletters, fact-sheets, graphical displays, etc. Based upon the schedule of Project milestones, a public

involvement matrix will be developed to address methods proposed for the conveyance of information. The matrix will help guide and focus the various stages of the outreach effort.

Subtask 2.2 Stakeholders

The contractor will undertake an effort to develop an outreach program including all the appropriate stakeholders. The contractor will work with City staff to establish an initial stakeholder database, which will include City Staff, the Ann Arbor Transportation Authority (“ATA”), appropriate community groups, organizations, and individuals that have expressed an interest in staying informed.

Subtask 2.3 Public Meeting Structure and Schedule

The contractor will conduct all meetings with the general public. This scope assumes at least three major opportunities to engage the public. They include project initiation, conceptual design development, and the required public engagement in the environmental review process. The contractor will provide technical background, visual aids and on-site assistance as needed. Meetings with the general public and other identified groups will be designed and scheduled to facilitate information exchange and listening opportunities at key intervals throughout the process.

The contractor shall be responsible for the cost of all public engagement meetings throughout the Project as part of the Project budget. The City and/or FRA must approve all public meeting materials prior to public release.

A suggested list the types of meetings that the contractor will be asked to schedule is as follows:

- Agency
- Stakeholder
- Public workshops
- Policy bodies, including elected and appointed officials, City Council, Parks Advisory Commission, City Planning Commission, etc.

For most major public meeting cycles, two separate meetings should be held at different times during the day with identical format and materials to maximize opportunity for members of the public to participate.

Subtask 2.4 Project Website

A Project website hosted on the City’s web page will be utilized by the public as a means of providing and obtaining information about the Project. The contractor shall provide updated information and materials, as appropriate and when requested by the City, which may be posted by the City to its website. Many members of the public are familiar with the website structure, so consistency should be maintained to encourage its use as a valuable communication tool. Additional pages, links and topics could be added to the website to provide a continued source of up-to-date postings about current Project information, meetings and events, opportunities for involvement and avenues for comment. Interactive capabilities will be maintained to enable the public to ask questions, help identify issues, express concerns, and review and comment on documents.

Task 2 Deliverables:

- Stakeholder database.
- Support materials for all Project-related meetings.
- Maintenance of the AAS webpage on the City's website.
- Project newsletter, if included in scope (web-based and 100 hard copies).
- Other public involvement tools and programs as needed.
- Minimum of three Project-related public meetings and presentations to policy bodies as outlined in subtask 2.3 above.

Task 3 - Concept Plan and Report

The contractor will produce 1) a "Concept Plan" that visually illustrates the proposed design of the new AAS site and buildings and 2) a "Concept Plan Report" that provides a narrative description of the Concept Plan (together referred to as the "Concept Plan and Report").

As an initial step, the contractor will generate a document that establishes the design criteria that AAS must meet ("Program Document"). The design criteria shall be developed through discussions with the City, MDOT, FRA, and other stakeholders. The design criteria in the Program Document shall meet all identified requirements and include future requirements or considerations as appropriate. The Program Document shall be used as an aid in site selection and shall form the basis for the Concept Plan and Report.

The contractor shall identify and evaluate potential sites in the City and select a preferred site. Discussion of alternative sites shall be included in the Concept Plan Report and as part of the environmental review.

Subtask 3.1 Development and Consideration of Alternatives

As part of the conceptual design, the contractor shall consider the following alternative: no-build, existing station site build, and building on other site(s), as appropriate. The contractor shall develop design concepts for the various alternatives and cite the advantages and disadvantages of each to the stakeholders. This information is to be presented to the public for review and comment.

This process should include appropriate meetings and interviews with principal transportation stakeholders and the City to determine what space allocations, Project elements, and performance requirements are most appropriate for the new AAS. This information is to be compiled into the Program Document.

The Concept Plan Report should include at least four major elements: Background, Development of Alternatives, Consideration of Alternatives, and Development of the Preferred AAS Concept. Coordination of significant elements of the conceptual design should occur with appropriate stakeholders, including, but not limited to City departments, the Ann Arbor Transportation Authority, the Michigan Department of Transportation, Amtrak, and the public. The development and consideration of alternatives is to be conducted in a manner consistent with all state and federal requirements, including NEPA and other applicable environmental requirements. If additional property is required to implement any alternative, the analysis is to include a preliminary cost estimate and timelines needed to assist the City with the acquisition of required property.

In developing the alternatives analysis section of the Concept Plan and Report the following evaluations should be performed:

- Site and building footprint, size and massing of the station, probable vehicular and pedestrian flow, accessibility, expandability, functional layouts, etc.
- Integration of parking with the proposed future station uses and rail platform and related infrastructure.
- Design flexibility to accommodate future expansion and anticipated future facility and service expansion.
- Evaluation of alternative parking layouts and circulation systems, advantages and disadvantages of each, and recommended layout meeting the Project criteria.
- Consideration of sustainable design principles and practices
- Consideration of likely required environmental documents or determinations for each alternative, including possible environmental mitigation where appropriate.
- Consideration of opportunities for integration of public art.

Subtask 3.2 Definition of the Preferred AAS Concept

The contractor is to synthesize the information and conclusions from the conceptual planning effort and prepare a preliminary Concept Plan and Report for AAS that identifies potential site alternatives. The preliminary Concept Plan and Report are to be subject to public review. At this preliminary stage, program-level cost estimates for the facility are to be provided. After gathering feedback from stakeholders and the public, the contractor will identify a preferred site and design.

Subtask 3.3 Draft Revised Concept Plan and Report

The contractor will synthesize the information and conclusions from the design process and associated technical analysis into a revised Concept Plan and Report. The Concept Plan portion shall include a Concept Site Plan of the overall site of the proposed facilities, a Concept Floor Plan, and a typical cross section, as appropriate. The Concept Plan Report portion shall contain a narrative describing the station structure and how it relates to vehicular, transit and non-motorized circulation, rail facilities, site features, parking, Project phasing issues, sustainable practices, and proposed Project budget. This revised Concept Plan and Report is to be subject to public review.

Subtask 3.3.1 AAS Conceptual Design

The Concept Plan for the AAS is to be developed at a scale of 1" = 40'. It is to be derived from the conceptual design development process, the information and requirements outlined from the participants. The Concept Floor Plan should result in defined space sizes and preliminary outline of the proposed facility including the relationships between the defined spaces.

Subtask 3.3.2 Site Conceptual Design

The Concept Site Plan will address the relationship of the proposed AAS to the site and include the following features: AAS structure(s), access drives, landscape areas, pedestrian, vehicular, and railroad circulation as well as utility locations and building leads. The site

features should be developed and presented at a scale of 1" = 40', coordinated with the conceptual parking layout, and include:

- Relationship of the structure to peripheral street, transit, railroad, non-motorized systems, and possible signature transit as described in the City's 2009 Transportation Plan Update, and adjacent development and anticipated user destinations.
- Relationship of AAS to anticipated future rail facility and rail service expansion.
- Future expansion of the facility, including transit mode expansion and possible future signature transit elements.
- Location and size of entrances/exits.
- Need for and location of stair/elevator towers and pedestrian access.
- Location of rail infrastructure components.
- Vehicular parking.

Subtask 3.4 Final Concept Plan and Report

The Project team will finalize the Concept Plan and Report to be used as a basis for completing the environmental review. A summary of public input will be incorporated into the final report.

Task 3 Deliverables:

- A written assessment of existing conditions.
- Program Document.
- Concept Plan and Report including proposed station footprint, rail platform footprint, possible signature transit system, curb cuts, driveways, pedestrian paths/walks, skyway, and green spaces. All Concept Plan sheets shall be drawn and prepared in accordance with the City of Ann Arbor Public Services Area Drafting Standards. All scales shall be approved by the City of Ann Arbor Project Management Unit.
- Concept Floor Plan, including first floor layout for future rail station, transit station, bike station, supporting spaces and vertical circulation.
- Typical cross-section.
- Agendas and Minutes for all Project meetings.

Task 4 - Environmental Review

This Project is intended to form the basis for a federally funded intercity rail station project. The environmental review task is intended to secure appropriate environmental authorization from the FRA to proceed with the development of an improved AAS. Coordination with appropriate local, state, and federal agencies is needed to develop documents to support environmental clearance for the rail passenger station and associated features.

An environmental review must be conducted to meet applicable requirements, and may require preparation of categorical exclusions, environmental assessments, environmental impact statements, Section 4(f) evaluations, or other determinations or documents. The contractor should coordinate with all appropriate local, state, and federal entities to ascertain any potential adverse impacts on the environment due to the proposed AAS and determine any appropriate mitigation measures. The contractor should be prepared to conduct studies and research based on data or on-site analysis, as needed. The environmental review may require traffic studies, noise and vibration studies, testing for environmental contamination, reviewing

environmental records for the presence of hazardous materials, archaeological investigations, wetland delineation, and other environmental analytics.

The contractor must evaluate the final Concept Plan and Report with respect to applicable environmental requirements, including the National Environmental Policy Act (42 U.S.C. 4332), the Council on Environmental Quality's regulations implementing NEPA (40 CFR part 1500 et seq.), FRA's "Procedures for Considering Environmental Impacts" (45 FR 40854, June 16, 1980, as revised May 26, 1999, 64 FR 28545) and other related laws and regulations such as Section 4(f) of NEPA, Section 6(f) of the Land and Water Conservation Fund, Section 106 of the National Historic Preservation Act, and applicable requirements of the Clean Water Act and Endangered Species Act.

To the extent that an Environmental Assessment may be required, the contractor shall refer to the Environmental Assessment Outline provided by the FRA (Appendix E, Attachment 2) and shall consult with the FRA and other appropriate federal, state, and local agencies regarding appropriate procedure.

The environmental review process shall be subject to public involvement as described in the Task 2.1 Public Involvement Plan.

Subtask 4.1 Section 4(f) Evaluation

If any proposed design uses certain public land or historic sites it may be subject to Section 4(f) of the 1966 Department of Transportation Act, which specifies that publicly owned land from a park, recreation area, or wildlife/waterfowl refuge of national, state or local significance or land from a historic site of national, state or local significance may not be used for transportation projects unless 1) there is no feasible and prudent alternative to the use of such land, and 2) the proposed project includes all possible planning to minimize harm. Any necessary Section 4(f) evaluation should be integrated into the final environmental review documents.

Subtask 4.2 Section 6(f) Evaluation

If any proposed design impacts a recreational trail and or recreational property, it may be subject to Section 6(f) of the Land and Water Conservation Fund (LWCF) Act of 1965. This act allows for the development and maintenance of recreational trails and recreational property. Coordination with the City of Ann Arbor, the Michigan Department of Natural Resources and the National Park Service may be required to determine if any impacted trails or recreational properties were funded using Land and Water Conservation funds. If there are impacts to funded sites, then mitigation should be evaluated where appropriate. Any necessary Section 6(f) evaluation should be included in the final environmental review documents.

Subtask 4.3 Section 106 Evaluation

The contractor must comply with all requirements of Section 106 of the National Historic Preservation Act, which requires the contractor to determine whether the proposed rail station could affect historic properties. Historic properties are properties that are included in the National Register of Historic Places or that meet the criteria for the National Register. If historic properties could be affected, the contractor must consult with the Michigan State Historic Preservation Office and determine appropriate further steps under the requirements of Section 106. This evaluation shall be included in the final environmental review documents for the Project.

Subtask 4.4 Environmental Review Presentation and Report

A presentation will be delivered to the Ann Arbor City Council at a working session at the completion of a final draft of the environmental review. The presentation will include a presentation of the conceptual design focusing on environmental issues related to AAS and how the proposal relates to the traffic patterns, rail line, other existing facilities, proposed signature transit features if applicable, and landscape features. A summary document will be prepared to demonstrate how the concept(s) meets the Project goals and addresses the key issues outlined in the Program Document and responds to environmental requirements.

Following City Council comment, the contractor will revise the final environmental documents as needed.

Upon FRA's final concurrence with the final environmental documents, the contractor will distribute the documents as appropriate.

Task 4 Deliverables:

- Resource and infrastructure reports as necessary for completion of the environmental review, e.g., traffic and transportation, floodplains, visual resources.
- Environmental documentation covering all applicable environmental regulations that is satisfactory to the City, MDOT, and the FRA.
- Presentation and summary document of the results of the environmental review to City Council.

Task 5 - Project Management

The contractor shall participate in progress meetings at or near milestone dates in order to assure proper communication of Project goals and objectives and to assure the timely completion of the Project. Regular meetings will enable the contractor's and City's Project managers to coordinate efforts and oversee progress during the Project. Regular meetings and monthly reporting will enable monitoring of work quality and adherence to budget and schedule. Quality assurance and quality control systems will be used to assure the highest quality of product for this effort. The City anticipates resumption of weekly scheduled conference calls with the MDOT Office of Rail and the FRA to guide the preparation of the Concept Plan and Report and environmental review. The contractor is to be available to participate on such teleconferences.

Task 5 Deliverables:

- QA/QC review of all contractor deliverables.
- Prepare and distribute meeting minutes for all progress and coordination meetings.
- Completed set of all required documentation.
- Completed set of FRA required work sheets (See Appendix E, Attachment 5).

SECTION III

MINIMUM INFORMATION REQUIRED AND PROPOSAL EVALUATION

Process

Responses to this RFP will be reviewed and evaluated by a "Selection Committee" composed of staff from the City of Ann Arbor, the Ann Arbor Transportation Authority, and the Michigan Department of Transportation. Evaluation and selection will involve a three step process as described below. The City reserves the right not to consider any Proposal, which is determined to be unresponsive and deficient in any of the information requested for evaluation.

1. All Proposals received will be evaluated and scored by the Selection Committee using the evaluation criteria described below and the associated point system (Evaluation Criteria 1 through 4) to select a short list of firms for further consideration. A proposal with all the requested information does not guarantee the proposing firm to be a candidate for advancement in the selection process. The Committee may contact references to verify material submitted by the respondent.

This initial evaluation will be the basis to determine which respondents, if any, will advance to the second step of the process. Evaluated Proposals will be ranked and those which are judged to be strongest will be short-listed, and selected for an interview. Short-listing will not be arbitrary. Those Proposals that lack sufficient points will be rejected at the end of this step.

2. The Selection Committee may interview, at its election, at least three respondents. The Committee will schedule interviews only with selected firms. Respondents selected will be required to give an oral presentation to the Selection Committee. The purpose of the presentation will be to clarify the Proposal and ensure a mutual understanding of the Project. The respondents interviewed will be re-evaluated and scored again using the evaluation criteria and the associated point system (Evaluation Criteria 1 through 4 below) and adjustments to scoring will be made as appropriate to determine which respondent(s), if any, will advance to the third and final step.
3. The City will notify the most highly qualified respondent and request submission of a fee proposal listing costs (direct and indirect) and fixed fee (profit) as the basis for contract negotiations. Upon review of the fee proposal the City will conduct negotiations to confirm the final scope of work and establish fair and reasonable compensation for the expected professional services. In determining fair and reasonable compensation, the City shall consider the scope, complexity, professional nature, and estimated value of the services to be rendered. If the City is unable, in a reasonable time as determined by the City, to negotiate a satisfactory contract with the selected respondent, the City will formally terminate negotiations and then undertake negotiations with the next most qualified respondent, continuing the process until an agreement is reached. If the City is unable to negotiate a satisfactory contract with any of the selected respondents, the City shall select additional firms in order of their competence and qualification and continue negotiations until an agreement is reached.

The City reserves the right to not consider any Proposal which it determines to be unresponsive and/or deficient in any of the information requested for evaluation. The City also reserves the right to waive the interview process and evaluate the firms based on their Proposals alone.

The City will determine whether the final scope of the project to be negotiated will be entirely as described in this Request for Proposal, a portion of the scope, or a revised scope.

Submission Organization

Respondents should organize Proposals into the following Sections:

- A. Professional Qualifications
- B. Past Involvement with Similar Projects
- C. Proposed Project Team and Organization/Current Workload
- D. Proposed Work Plan
- E. Authorized Negotiator
- F. Appendices

Evaluation Criteria

All Proposals must contain the following minimum information and will be evaluated and scored using the criteria described below together with the associated point system. The criteria will allow each Proposal to be judged and then comparatively ranked to determine which are strongest.

1. Professional Qualifications (0 - 20 Points Maximum)

This should include a description of the respondent's knowledge and experience with:

- Regulations governing environmental review for rail projects funded through FRA
- Amtrak rail station design guidelines
- Intermodal facility operations
- Traffic engineering and transportation planning
- Public engagement

State the full name and address of your organization and, if applicable, the branch office or other subordinate elements that will perform, or assist in performing, the work hereunder. Indicate whether it operates as an individual, partnership, or corporation. If as a corporation, include the state in which it is incorporated. If appropriate, indicate whether it is licensed to operate in the State of Michigan.

Include the number of executive and professional personnel by skill and qualification that will be employed in the work. Show where these personnel will be physically located during the time they are engaged in the work. Indicate which of these individuals you consider key to the successful completion of the Project. Identify individuals who will do the work on this Project by name and title. Resumes or qualifications are required for proposed Project personnel who will be assigned to the Project. Qualifications and capabilities of any sub consultants shall be included.

State history of firm, in terms of length of existence, types of services provided, etc. Identify the technical details that make the firm uniquely qualified for this work.

2. Past Involvement with Similar work (0 - 30 Points Maximum)

This should include a description of past experience in:

- Preparation of environmental documents for FRA-managed projects
- Evaluation of projects under Section 4 (f), Section 6(f), and Section 106, as discussed above in Section II
- Railroad station conceptual planning and design
- Managing public projects with substantial public involvement

The Proposal must include a list of specific experience in the Project area(s) and indicate proven ability in preparing environmental documents for federally-funded rail projects, developing rail station conceptual designs, management of public involvement processes and success in completing similar projects by the firm and the individuals to be involved in the Project. The Proposal should also indicate the ability to have projects completed within the budgeted amounts. A summary of related projects with the original deadline and cost estimate versus the actual Project completion date and final cost is appropriate with this section. A complete list of client references must be provided for similar projects recently completed. It shall include the client's name, address, telephone number, project title, and contact person.

3. Proposed Project Team and Organization and Current Workload (0 - 15 Points Maximum)

The organizational structure of the respondent will be evaluated in terms of its effective use of personnel. This should include a description of relevant experience and time commitment of key personnel, including the designated Project manager and all sub-contractors (if applicable); logic of project organization; adequacy of labor commitment and resources; and capability to reallocate resources as needed to meet project schedules.

4. Proposed Work Plan (0 - 35 Points Maximum)

A detailed work plan should be submitted which lists all tasks determined to be necessary to accomplish the work of the Project. The work plan shall include, but not be limited to, the objectives/tasks listed in Section II of the RFP. The work plan shall define resources needed for each task (title and person hours) and staff persons completing the Project element tasks. In addition, the work plan shall include a time line schedule depicting the sequence and duration of tasks showing how the work will be organized and executed.

The work plan shall be sufficiently detailed and clear to identify the progress milestones, i.e. when project elements, measures, and deliverables are to be completed. Additional project elements suggested by the respondent that are thought to be necessary for the completion of the project are to be included in the work plan and identified as respondent-suggested elements. Identify all of those, if any, who will be subcontracted to assist you with this project, and the extent of work for which they will be responsible. Include similar reference data for subcontractors and employees as requested above for the main proposer. Include any other information that you believe to be pertinent but not specifically asked for elsewhere.

The work plan and timeline may be subject to revision upon award of a contract.

Interview

The Selection Committee may schedule interviews with top scoring respondents. These respondents will be given the opportunity to discuss in more detail their Proposals, qualifications, past experience and proposed work plan. The interviews may include up to one-half hour of presentation by the respondents, followed by approximately one hour of questions and answers. The respondent's interview team shall consist of no more than five representatives of the respondent's Project team (including key personnel and the person who will be Project manager). Audiovisual aids may be used during the interviews. The interviews may be recorded by the Selection Committee.

Fee Proposal

Respondent(s) notified of selection as a qualified respondent for purposes of contract negotiation, as specified above in Section III, Process, will be required to submit a fee proposal which includes all costs (direct and indirect) for delivery of the Scope of Work and named Deliverables and the fixed fee (profit). Fee proposals are to include the names, titles, hourly labor rates of key personnel, as well as overhead factors, material costs, service costs (other than salaries), travel and subsistence costs, subconsultant costs, the fixed fee, and any other details by which the overall Project element costs have been derived for the purpose of negotiating a contract. The fee proposal must provide a price breakdown for each item of the proposed work plan, including respondent-suggested Project elements and respondent--suggested contingencies, if any. The respondents who are asked to provide a fee proposal should be capable of justifying the details of each component of the fee proposal during negotiations.

The fee proposal must include the total estimated cost for the Project, when it is 100% completed. This total may be adjusted based on the final work plan accepted by the City prior to signing a formal contract, if necessary. The City standard Professional Services Agreement is included in Section IV of this RFP.

Authorized Negotiator

Include the name, phone number, and e-mail address of persons(s) in your organization authorized to negotiate the scope of work in any final contract with the City.

Appendices

This section of the Proposal should include:

- Proposer Submission Agreement & Legal Status of Proposer
- Non-Collusion Affidavit
- Living Wage Compliance form and Contract Compliance forms.
- Disclosure Statement
- Debarment and Drug-Free Workplace Certifications

These elements should be included as appendices to the proposal submission.

Contract Award

Contractual arrangements will be established on a cost plus fixed fee basis. The successful respondent must be prepared to provide necessary data to support all costs associated with Project expenditures as stated in this Section.

SECTION IV

APPENDICES

Appendix A – Sample Contract

AGREEMENT BETWEEN

**AND THE CITY OF ANN ARBOR
FOR PROFESSIONAL SERVICES**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 East Huron Street, Ann Arbor, Michigan 48107 ("City"), and _____

("Consultant") a(n) _____
(State where organized) (Partnership, Sole Proprietorship, or Corporation)

with its address at _____
agree as follows on this _____ day of _____, 20____.

The Consultant agrees to provide professional services to the City under the following terms and conditions:

I. DEFINITIONS

Administering Service Area/Unit means _____.

Contract Administrator means _____, acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for or delivered to City by Consultant under this Agreement

Project means _____.
(Project name; File and Subfile No.)

II. DURATION

This Agreement shall become effective on _____, 20____, and shall remain in effect until satisfactory completion of the Services specified below unless terminated as provided for in this Agreement.

III. SERVICES

- A. The Consultant agrees to provide professional _____ (type of service) services ("Services") in connection with the Project as described in Exhibit A. The City retains the right to make changes to the quantities of service

within the general scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the services, the contract sum shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.

- B. Quality of Services under this Agreement shall be of the level of professional quality performed by experts regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. The Consultant shall perform its Services for the Project in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.
- D. The Consultant may rely upon the accuracy of reports and surveys provided to it by the City except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

IV. COMPENSATION OF CONSULTANT

- A. The Consultant shall be paid in the manner set forth in Exhibit B. Payment shall be made monthly, unless another payment term is specified in Exhibit B, following receipt of invoices submitted by the Consultant, and approved by the Contract Administrator. Total compensation payable for all Services performed during the term of this Agreement shall not exceed _____.
- B. The Consultant will be compensated for Services performed in addition to the Services described in Section III, only when those additional Services have received prior written approval of the Contract Administrator. Compensation will be payable according to the fee schedule in Exhibit B. The Contract Administrator shall be the sole arbitrator of what shall be considered "reasonable" under this provision.
- C. The Consultant shall keep complete records of time spent and materials used on the Project so that the City may verify invoices submitted by the Consultant. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

V. INSURANCE/INDEMNIFICATION

- A. The Consultant shall procure and maintain during the life of this contract, such insurance policies, including those set forth in Exhibit C, as will protect itself and the City from all claims for bodily injuries, death or property damage which may arise under this contract; whether the acts

were made by the Consultant or by any subcontractor or anyone employed by them directly or indirectly. In the case of all contracts involving on-site work, the Contractor shall provide to the City, before the commencement of any work under this contract, documentation demonstrating it has obtained the policies required by Exhibit C.

- B. Any insurance provider of Consultant shall be admitted and authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-admitted insurance companies are not acceptable unless approved in writing by the City.
- C. To the fullest extent permitted by law, the Consultant shall indemnify, defend and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees resulting or alleged to result from any acts or omissions by the Consultant or its employees and agents occurring in the performance of or breach in this Agreement.

VI. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The Consultant agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of Section 209 of the Elliot-Larsen Civil Rights Act (MCL 37.2209) The Contractor further agrees to comply with the nondiscrimination provisions of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.
- B. Living Wage. The Consultant is a "covered employer" as defined in Chapter 23 of the Ann Arbor City Code and agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Consultant agrees to pay those employees providing Services to the City under this Agreement a "living wage," as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide documentation to verify compliance; to take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for employment in order to pay the living wage required by Section 1:815; and otherwise to comply with the requirements of Chapter 23.

VII. WARRANTIES BY THE CONSULTANT

- A. The Consultant warrants that the quality of its Services under this Agreement shall conform to the level of professional quality performed by experts regularly rendering this type of service.
- B. The Consultant warrants that it has all the skills, experience, and professional licenses necessary to perform the Services specified in this Agreement.
- C. The Consultant warrants that it has available, or will engage, at its own expense, sufficient trained employees to provide the Services specified in this Agreement.
- D. The Consultant warrants that it is not, and shall not become overdue or in default to the City for any contract, debt, or any other obligation to the City including real and personal property taxes.

VIII. TERMINATION OF AGREEMENT

- A. If either party is in breach of this Agreement for a period of fifteen (15) days following receipt of notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice.
- B. The City may terminate this Agreement, on at least thirty (30) days advance notice, for any reason, including convenience, without incurring any penalty, expense or liability to the Consultant except the obligation to pay for Services actually performed under the Agreement before the termination date.
- C. Consultant acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for this Project. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to the Consultant. The Contract Administrator shall give the Consultant written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.
- D. The remedies provided in this Agreement will be cumulative, and the assertion by a party of any right or remedy will not preclude the assertion by such party of any other rights or the seeking of any other remedies.

IX. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Consultant access to the Project area and other City-owned properties as required to perform the necessary Services under this Agreement.
- B. The City shall notify the Consultant of any defects in the Services of which the Contract Administrator has actual notice.

X. ASSIGNMENT

- A. The Consultant shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Consultant shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.
- B. The Consultant shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XI. NOTICE

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated in this Agreement or such other address as either party may designate by prior written notice to the other.

Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to the CONTRACTOR, it shall be addressed and sent to:

If Notice is sent to the CITY, it shall be addressed and sent to:

City of Ann Arbor
301 E. Huron
Ann Arbor, Michigan 48107
Attn:

XII. CHOICE OF LAW

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

XIII. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all documents (i.e., deliverables) prepared by or obtained by the Consultant as provided under the terms of this Agreement shall be delivered to and become the property of the City. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities and other data shall remain in the possession of the Consultant as instruments of service unless specifically incorporated in a deliverable, but shall be made available, upon request, to the City without restriction or limitation on their use. The City acknowledges that the documents are prepared only for the Project. Prior to completion of the contracted Services the City shall have a recognized proprietary interest in the work product of the Consultant.

Unless otherwise stated in this Agreement, any intellectual property owned by Consultant prior to the effective date of this Agreement (i.e., preexisting information) shall remain the exclusive property of Consultant even if such Preexisting Information is embedded or otherwise incorporated in materials or products first produced as a result of this Agreement or used to develop Deliverables. The City's right under this provision shall not apply to any Preexisting Information or any component thereof regardless of form or media.

XIV. CONFLICT OF INTEREST

Consultant certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Consultant further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

XV. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

XVI. EXTENT OF AGREEMENT

This Agreement, together with any affixed exhibits, schedules or other documentation, constitutes the entire understanding between the City and the Consultant with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. This Agreement may be altered, amended or modified only by written amendment signed by the Consultant and the City.

FOR CONSULTANT

By _____
Its

FOR THE CITY OF ANN ARBOR

By _____
John Hieftje, Mayor

By _____
Jacqueline Beaudry, City Clerk

Approved as to substance

Steven D. Powers, City Administrator

Craig Hupy, Public Services Administrator

Approved as to Form and Content

Stephen K. Postema, City Attorney

SAMPLE AGREEMENT EXHIBITS

EXHIBIT A

(negotiated scope of work based on accepted terms of Proposal)

EXHIBIT B

(negotiated compensation based on accepted terms of Proposal)

EXHIBIT C

INSURANCE REQUIREMENTS

Effective the date of this Agreement, and continuing without interruption during the term of this Agreement, Contractor shall provide certificates of insurance to the City on behalf of itself, and when requested any subcontractor(s). The certificates of insurance shall meet the following minimum requirements.

1. Worker's Compensation Insurance in accordance with all applicable state and federal statutes. Further, Employers Liability Coverage shall be obtained in the following minimum amounts:

Bodily Injury by Accident - \$500,000 each accident
Bodily Injury by Disease - \$500,000 each employee
Bodily Injury by Disease - \$500,000 each policy limit
2. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 07 98 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements including, but not limited to: Products and Completed Operations, Explosion, Collapse and Underground Coverage or Pollution. Further, the following minimum limits of liability are required:

\$1,000,000 Each occurrence as respect Bodily Injury Liability or
Property Damage Liability, or both combined
\$2,000,000 Per Job General Aggregate
\$1,000,000 Personal and Advertising Injury
3. Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, equivalent to, as a minimum, Insurance Services Office form CA 00 01 07 97 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles. Further, the limits of liability shall be \$1,000,000 for each occurrence as respects Bodily Injury Liability or Property Damage Liability, or both combined.
4. Umbrella/Excess Liability Insurance shall be provided to apply in excess of the Commercial General Liability, Employers Liability and the Motor Vehicle coverage enumerated above, for each occurrence and for aggregate in the amount of \$1,000,000.

- B. Insurance required under V.A 2 and V.A.3 of this contract shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City.
- C. Documentation must provide and demonstrate an unconditional 30 day written notice of cancellation in favor of the City of Ann Arbor. Further, the documentation must explicitly state the following: (a) the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions which shall be approved by the City, in its sole discretion; (c) that the policy conforms to the requirements specified. An original certificate of insurance may be provided as an initial indication of the required insurance, provided that no later than 21 calendar days after commencement of any work the Contractor supplies a copy of the endorsements required on the policies. Upon request, the Contractor shall provide within 30 days a copy of the policy(ies) to the City. If any of the above coverages expire by their terms during the term of this contract, the Contractor shall deliver proof of renewal and/or new policies to the Administering Service Area/Unit at least ten days prior to the expiration date.

Appendix B

**PROPOSAL SUBMISSION AGREEMENT &
LEGAL STATUS OF RESPONDENT**

By signing below the authorized representative of the Respondent hereby certifies that:

The Respondent is:

- A corporation organized and doing business under the laws of the state of _____, for whom _____ bearing the office title of _____ whose signature is affixed to this proposal, is authorized to execute contracts on behalf of respondent.
- A limited liability company doing business under the laws of the state of _____ for whom _____ bearing the title of _____ whose signature is affixed to this proposal, is authorized to execute contract on behalf of the LLC.
- A partnership organized under the laws of and filed with the state of _____, and county of _____, whose members are (list street and mailing address for each.)
- An individual, whose signature with address, is affixed to this RFP.

Respondent has examined the basic requirements of this RFP and its scope of services, including all Addendum (if applicable) and hereby agrees to offer the services as specified in the RFP.

Respondent agrees that this submission may not be withdrawn for a period of ninety (90) calendar days after the scheduled submission deadline.

Signature Date: _____, 2013

Name Title

Firm

Address

Phone

Fax

Email

Webpage

Appendix C – Living Wage Requirements

**CITY OF ANN ARBOR
LIVING WAGE ORDINANCE
DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that employers providing services to the City or recipients of grants for financial assistance (in amounts greater than \$10,000 in a twelve-month period of time) pay their employees who are working on the City project or grant, a minimum level of compensation known as the **Living Wage**. This wage must be paid to the employees for the length of the contract/project.

Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from the Ordinance. If this exemption applies to your firm, please check below:

_____ This **company** is exempt due to the fact that we employ or contract with fewer than 5 individuals.

_____ This **non-profit agency** is exempt due to the fact that we employ or contract with fewer than 10 employees.

The Ordinance requires that all contractors/respondents and/or grantees agree to the following terms:

a) To pay each of its employees performing work on any covered contract or grant with the City, no less than the living wage, which is defined as \$12.52/hour when health care is provided, or no less than \$13.96/hour for those employers that do *not* provide health care. It is understood that the Living Wage will be adjusted each year on April 30, and covered employers will be required to pay the adjusted amount thereafter. The rates stated above include any adjustment for 2013.

b) Please check the boxes below which apply to your workforce:

Employees who are assigned to *any covered* City project or grant will be paid at or above the applicable living wage without health benefits Yes _____ No _____

OR

Employees who are assigned to *any covered* City project or grant will be paid at or above the applicable living wage with health benefits Yes _____ No _____

c) To post a notice approved by the City regarding the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.

d) To provide the City payroll records or other documentation as requested; and,

e) To permit access to work sites to City representatives for the purposes of monitoring compliance, investigating complaints or non-compliance.

The undersigned authorized representative hereby obligates the contractor/respondent or grantee to the above stated conditions under penalty of perjury and violation of the Ordinance.

Company Name

Address, City, State, Zip

Signature of Authorized Representative

Phone (area code)

Type or Print Name and Title

Email address

Date signed

Questions about this form? Please contact:
Procurement Office City of Ann Arbor
Phone: 734/794-6500

CITY OF ANN ARBOR LIVING WAGE ORDINANCE

RATE EFFECTIVE APRIL 30, 2013 - ENDING APRIL 29, 2014

\$12.52 per hour

If the employer provides health care benefits*

\$13.96 per hour

If the employer does **NOT** provide health care benefits*

Employers providing services to or for the City of Ann Arbor or recipients of grants or financial assistance from the City of Ann Arbor for a value of more than \$10,000 in a twelve-month period of time must pay those employees performing work on a City of Ann Arbor contract or grant, the above living wage.

ENFORCEMENT

The City of Ann Arbor may recover back wages either administratively or through court action for the employees that have been underpaid in violation of the law. Persons denied payment of the living wage have the right to bring a civil action for damages in addition to any action taken by the City.

Violation of this Ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ann Arbor has the right to modify, terminate, cancel or suspend a contract in the event of a violation of the Ordinance.

* Health Care benefits include those paid for by the employer or making an employer contribution toward the purchase of health care. The employee contribution must not exceed \$.50 an hour for an average work week; and the employer cost or contribution must equal no less than \$1/hr for the average work week.

The Law Requires Employers to Display This Poster Where Employees Can Readily See It.

For Additional Information or to File a Complaint Contact
Karen Lancaster at 734/794-6500 or Klancaster@a2gov.org

Appendix D –Contract Compliance Forms

Instructions

City Policy

The “nondiscrimination in contracts” provision of the City Code, (Chapter 112, Section 9:161) requires contractors/respondents/grantees doing business with the City not to discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, condition of pregnancy, marital status, physical or mental limitations, source of income, family responsibilities, educational association, sexual orientation, gender identity or HIV status against any of their employees, any City employee working with them, or any applicant for employment. It also requires that the contractors/respondents/grantees include a similar provision in all subcontracts that they execute for City work or programs.

This Ordinance further requires that each prospective contractor/respondent submit employment data to the City showing current total employee breakdown by occupation, race and gender. This allows the Human Rights Office to determine whether or not the contractor/respondent has a workforce that is reflective of the availability of women and under-represented minorities within the contractor’s labor recruitment area (the area where they can reasonably be expected to recruit employees). **This data is provided to the City on the Human Rights Contract Compliance Forms (attached).**

To complete the form:

- 1) **If a company has more than one location, then that company must complete 2 versions of the form.**
 - **Form #1** should contain the employment data for the **entire corporation.**
 - **Form #2** should contain the employment data for those employees:
 - who will be working on-site;
 - in the office responsible for completing the contract; or,
 - in the case of non-profit grantees, those employees working on the project funded by the City grant(s).
- 2) If the company has only one location, fill out Form #1 only.
- 3) Complete all data in the upper section of the form including the name of the person who completes the form and the name of the company/organization’s president.
- 4) Complete the Employment Data in the remainder of the form. Please be sure to complete all columns including the Total columns on the far right side of the form, and the Total row and Previous Year Total row at the bottom of the form.
- 5) Return the completed form(s) to *your contact* in the City Department for whom you will be conducting the work.

For assistance in completing the form, contact:

Procurement Office of the City of Ann Arbor
734/794-6500

CITY OF ANN ARBOR PROCUREMENT OFFICE
HUMAN RIGHTS CONTRACT COMPLIANCE FORM
Entire Organization (Totals for All Locations where applicable)

Form #1

Name of Company/Organization _____ Date Form Completed _____

Name and Title of Person Completing this Form _____ Name of President _____

Address _____ County _____ Phone # _____
 (Street address) (City) (State) (Zip) (Area Code)

Fax# _____ Email Address _____
 (Area Code)

EMPLOYMENT DATA

Job Categories	Number of Employees (Report employees in only one category)												TOTAL COLUMNS A-L
	Male						Female						
	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	
A	B	C	D	E	F	G	H	I	J	K	L		
Exec/Sr. Level Officials													
Supervisors													
Professionals													
Technicians													
Sales													
Admin. Support													
Craftspeople													
Operatives													
Service Workers													
Laborers/Helper													
Apprentices													
Other													
TOTAL													
PREVIOUS YEAR TOTAL													

CITY OF ANN ARBOR PROCUREMENT OFFICE
HUMAN RIGHTS CONTRACT COMPLIANCE FORM
Local Office (Only those employees that will do local or on-site work, if applicable)

Form #2

Name of Company/Organization _____ Date Form Completed _____

Name and Title of Person Completing this Form _____ Name of President _____

Address _____ County _____ Phone # _____
(Street address) (City) (State) (Zip) (Area Code)

Fax# _____ Email Address _____
(Area Code)

EMPLOYMENT DATA

Job Categories	Number of Employees (Report employees in only one category)												
	Male						Female						TOTAL COLUMNS A-L
	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	
A	B	C	D	E	F	G	H	I	J	K	L		
Exec/Sr. Level Officials													
Supervisors													
Professionals													
Technicians													
Sales													
Admin. Support													
Craftspeople													
Operatives													
Service Workers													
Laborers/Helper													
Apprentices													
Other													
TOTAL													
PREVIOUS YEAR TOTAL													

Appendix E – FRA/MDOT Attachments

Attachment 1: FRA Detailed Project Work Plan Outline

FRA Detailed Project Work Plan Outline Ann Arbor Station PE/NEPA

- 1.0 Overview (briefly describe the Project Name, Project Location, Project Description, Project Cost and Funding Sources, and the anticipated Class Action for Compliance with the National Environmental Policy Act (NEPA))
- 2.0 Description of Work
 - 2.1 Conceptual Design (for each subtask below, describe the method, objective, intended outcome, the activities required to complete the task, key milestones and deliverables)
 - 2.1.1 Research and Data Collection
 - 2.1.2 Baseline Document Development
 - 2.1.3 Engineering Draft Studies
 - 2.1.4 Alternative Analysis Report and Conceptual Design
 - 2.2 Environmental Review (include Section 4(f) Compliance Review) (for each subtask below, describe the method, objective, intended outcome, the activities required to complete this task, key milestones and deliverables)
 - 2.2.1 Administrative Draft Tier-2 EA
 - 2.2.2 Draft Tier-2 EA
 - 2.2.3 Administrative Final Tier-2 EA
 - 2.2.4 Final EA and Finding of No Significant Impact (FONSI)
 - 2.3 Preliminary Engineering (for each subtask below, describe the method, objective, intended outcome, the activities required to complete this task, key milestones and deliverables)
 - 2.3.1 As Is Survey
 - 2.3.2 Complete PE Drawings
 - 2.3.3 Engineer's Estimate
 - 2.3.4 Financial Planning Document
 - 2.3.5 Construction Project Implementation Schedule
 - 2.3.6 Construction Project Benefits Estimate
 - 2.3.7 Construction Project Management Documentation
- 3.0 Schedule (include deliverables and broken down into the tasks and subtasks described in Section 2)
 - 3.1 Summary Task Schedule
 - 3.2 Detailed Task Schedule
- 4.0 Budget (broken down into the tasks and subtasks described in Section 2)
 - 4.1 Budget by OMB Cost Categories
 - 4.2 Budget by FRA Standard Cost Categories
- 5.0 Project Management
 - 5.1 Project Management Approach
 - 5.2 Organizational Chart and Roles, Responsibilities, and Decision Rights
 - 5.3 Project Coordination Plan
 - 5.4 Risk Management and Mitigation
 - 5.5 Project Reporting and Tracking

Appendix E – FRA/MDOT Attachments

Attachment 2 : FRA Provided Environmental Assessment Outline

Environmental Assessment Outline

Environmental assessments (EA) must include, among other information, "brief discussions of the need for the proposal" (40 C.F.R. § 1508.9(b)), although the alternatives that meet that need should comport with the requirements of § 102(2)(E) of NEPA, 42 U.S.C. §4332(2)(E), providing that agencies " study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."

EAs are needed for actions that are not categorically excluded and do not require the preparation of an environmental impact statement because no significant impacts are anticipated, or where the agency believes preparation of an EA would assist in determining the need for an environmental impact statement.

If, at any point in the EA process, the project is determined to likely to be a federal action that significantly affects the quality of the human environment, the EA should be immediately terminated and a Notice of Intent should be issued for preparation of an Environmental Impact Statement (EIS).

Introduction

- Document Summary
- Table of Contents, List of Figures, List of Tables

Purpose and Need for Action

Project Purpose

- Describe purpose of the project

Project Background

- Project History
- Previous Studies
- Existing and Future Conditions

Project Need

- Describe project need
- This section will concisely explain the problem(s) the proposed action is intended to address

Alternatives

This section will include a brief description of the build alternative (proposed action) under consideration and the “no-build” alternative. Alternatives should be designed in sufficient

detail that the impacts can be evaluated and mitigation designed into the project where appropriate. The alternatives section should include:

- A description of the No-Build Alternative, existing conditions including location and features and physical characteristics
- A description of the build alternative (proposed action), including location and features and physical characteristics
- Costs for the No-Build and build alternatives will be provided if known

Environmental Resources, Impacts and Mitigation

This section of the EA will address existing environmental conditions for a baseline (No-Build) alternative, any impacts associated with the build alternative (proposed action) and any mitigation that is being proposed. The EA must disclose the impacts of the build (proposed action) on the natural and built environment.

o **Physical Environment**

- Air Quality and Energy

Impacts to energy and air quality are expected to be minor. A qualitative discussion of both will be included in this section. The anticipated air quality effects and consumption of energy during construction will also be discussed.

- Floodplains

Project area floodplains will be checked, updated with new flood mapping information if applicable, and presented. Floodplain mapping from the Federal Emergency Management Agency (FEMA) will be used to inventory the existing floodplains. Floodplain impacts resulting from construction of the build alternatives (proposed action) will be analyzed (including acres used) and presented. It is anticipated there will be floodplain impacts wherever fill is needed to add an additional track is added along the corridor where it crosses a regulated waterway.

- Noise and Vibration

If it is determined there will be noise or vibration impacts, the EA will identify sensitive receivers in the study area for a general assessment consistent with FRA guidance to estimate the severity of existing noise and vibration impacts. These will include in general areas residential and related uses and specifically highly sensitive sites including historic structures, concert venues, and laboratories with sensitive equipment. The existing level of project noise exposure or vibration level will be determined at reference distances from the proposal based on FRA and FTA manuals. Reference distances for noise are expected to vary between “hard” and “soft” sites. Vibration distances are expected to vary by subsurfaces with differing vibration propagation characteristics. The EA will identify changes in noise/vibration to the sensitive receivers in the study area that result from the build alternatives (proposed action) for a general assessment consistent with FRA guidance to estimate the

severity of proposed noise and vibration impacts. These effects, along with any proposed mitigation strategies, will be presented.

Construction noise and vibration impacts should be discussed in the construction impacts section.

- **Visual Resources**

Areas of sensitive viewers will be identified by reference to the land use and historic resource sections. The visual impact analysis maybe required to: evaluate the visual and aesthetic impacts from a proposed action; identify the relationship of the impacts to potential views of and from the project; and identify measures to avoid, minimize, or reduce adverse impacts. Discussion should be added of visual changes to adjacent property owners if applicable.

- **Agriculture**

If applicable, the section will identifying farmland soils and active farmlands in areas where new right-of-way will be required and pertinent travel information in areas where private or public crossing are proposed for closure in active agricultural areas and could result in adverse travel. Information can be obtained from the Natural Resource Conservation Service (NRCS) local district office, and an alternative may be needed if prime and unique farmlands are impacted.

- **Ecological Systems**

- **Wetlands and Waters of the U.S.**

If wetland impacts are determined to exist, the existing wetland areas will be identified from GIS information where they occur within and near the project. The available wetland information will be checked, updated, and presented. National Wetland Inventory (NWI) maps from the U.S. Fish and Wildlife Service (USFWS) will be used to inventory existing wetlands. Impacts to wetlands identified resulting from construction of the build alternatives (proposed action) will be analyzed and presented. Potential avoidance, minimization, mitigation strategies also will be identified.

If the proposed action may damage a wetland and may require an individual Section 404 permit as a result, the Section 404(b)(1) Guidelines, which require an analysis of alternatives to avoid the damage, must be followed.

- **Water Quality and Water Resources**

The water quality characteristics of any nearby perennial streams and associated tributaries impacted by the proposal will be examined and presented. USEPA, and local databases will be used to identify existing water resources and existing water quality. Impacts to water resources or water quality resulting from the build alternatives (proposed action) will be analyzed and discussed (including changes in impervious surfacing, water flow maintenance, and Best Management Practice mitigation commitments). Potential for disruption of groundwater and well-head protection areas will be addressed, if applicable.

A National Pollution Elimination Discharge System (NPDES) permit may be needed or similar state permit to satisfy the Clean Water Act for (grading, excavating and stockpiling) activities that disturb one or more acres.

- Threatened and Endangered Species

USFWS and local databases will be consulted. If applicable, specific locations of threatened and endangered species sightings and habitat along the proposal will be described.

Section 7 of the Endangered Species Act (ESA) directs all federal agencies to use their existing authorities to conserve threatened and endangered species and, in consultation with USFWS.

- Special Lands including 4(f) Properties

If applicable, public lands such as parks, wildlife refuges, nature preserves, and other lands adjacent to the proposal that may qualify as a Section 4(f) or 6(f) resource will be identified and inventoried. Assume the project will be designed to avoid Section 4(f) and 6(f) properties, including constructive uses from noise, vibration, and visual. This fact will be substantiated in the EA, and if impacted further analysis and alternatives may be required.

○ **Human Environment**

- Transportation

This section will include a discussion of transportation effects to rail traffic (including freight), buses, motor vehicle traffic, parking, and pedestrian and bicyclists for both the no-build and build alternatives(proposed action).

- Socioeconomics and Land Use including Environmental Justice

Socio-economic data from various public sources, including the U.S. Census, will be collected and presented. Items include population and employment data (existing and trends), existing and planned land use, low-income and minority populations, community services, such as schools and emergency services. Existing land use data will be assembled to provide a description of the general character of the community near the proposal. Land use and community features adjacent to the proposal will be identified. Potential property acquisitions and/or relocations will also be identified in this section.

Direct property impacts (including displacement), changes in pedestrian, bicycle, and motor vehicle access, community cohesion, community service function and access, land use plan compatibility, safety, and other socio/economic factors directly influenced by the build alternative (proposed action) will be analyzed and presented. Grade crossing impacts can be mentioned here.

Environmental Justice (EJ) evaluation will be included as part of this section of the EA. It will include an assessment of potential for environmental justice groups to suffer inequitable impacts compared to other groups and consider the equitability of service benefits to environmental justice and other groups.

- Public Health and Safety

The EA will discuss safety of existing facilities. The EA will address security issues on proposed systems. Designs to reduce the likelihood of criminal activity will be identified. Factors such as equipment (e.g., lighting, direct line of sight, video cameras, PA systems, etc.) are major contributors to personal security. Include discussion of emergency access during grade crossing closures.

- Hazardous Materials & Waste

The EA will discuss whether the build alternative (proposed action) will involve the use or handling of hazardous materials and describe the use and measures that will be used to mitigate the release. A Preliminary Environmental Site Assessment (PESA) will be prepared and results of the PESA will be presented in this section.

- Cultural Resources

The EA will describe the cultural, historic, or archaeological resources located in the immediate vicinity of the build alternative (proposed action), if applicable. Effects to the resource(s) will be described. Consultation with the State Historic Preservation Officer (SHPO) will need to take place and relevant correspondence with SHPO will need to be referenced and attached as an appendix.

If the proposed action will adversely affect historic properties (i.e., properties on or eligible for the National Register), then the EA must state the proposed findings on each of the following: (1) the consulting parties invited into the Section 106 process; (2) the areas of potential effects (APEs) for historic buildings and for archaeological resources; (3) the identification of National Register-eligible resources within the APE; (4) the assessment of effects, including the nature of the adverse effects (e.g., demolition, modification or rehabilitation, visual change in setting), if any, on each Section 106 resource; and (5) the extent of approvals of these proposed findings by the SHPO. SHPO concurrences are required prior to FRA issuing its environmental determination, along with an executed Section 106 Agreement if there are findings of adverse effects.

- **Construction Impacts**

This section will describe a construction scenario, detailing typical construction techniques, equipment and timing, and construction staging area. These will be used to evaluate construction impacts and mitigation for the build alternative (proposed action). Graphics may be used to assist in the description of project construction activities and impacts.

- **Secondary and Cumulative Impacts**

The indirect (secondary) and cumulative effects of build alternatives will be discussed, including:

- Describe the indirect and cumulative effects study area.
- Describe notable features in the study area.
- Impact-causing activities in the study area, including the proposed project, other activities generated in response to the presence of the project, and other

past, present, and reasonably foreseeable future actions. The latter would include in particular other railroad-related improvements in the project corridors, including impacts from increased freight service and other proposed trackwork improvements along corridors.

- Potential indirect impacts on community, cultural, natural, and other physical resources.
- Potential cumulative impacts on community, cultural, natural, and other physical resources.

If the project will have no impact or a negligible impact on a particular resource (along all or part of the corridors either directly or as a result of induced activities), it will be assumed that no indirect or cumulative impact assessment is required for that resource.

○ **Permits and Mitigation**

Environmental permits or certifications will likely be required depending on the nature of the impact. Some of these permits/certifications may be obtained during the planning phase of project development, and others may be obtained during the design or construction phase. The EA will list the permits required for the project.

The EA must address the mitigation of environmental and community impacts, including: (1) mitigation that will support FRA's Finding of No Significant Impact (FONSI), and (2) all reasonable steps to minimize adverse effects in accordance with 49 U.S.C. § 5324(b). The FONSI will commit to all mitigation included in the EA. If the EA discusses mitigation options for a particular type of impact, any comments received on this impact and its mitigation should be considered before one of the mitigation options is selected for commitment in the FONSI.

Comments and Coordination

A Public Hearing may be proposed to meet or exceed the formal NEPA requirements for public participation in preparation of EA.

This section will summarize the comments from the public meeting and prior stakeholder involvement, including public and agency involvement, and the issues raised, and respond to those comments.

Distribution of the EA and or FONSI

A list of federal, state, and local agencies, and public review locations for the EA and or FRA's FONSI will be prepared if applicable.

References

Contributors to the EA will provide technical references used in describing key elements of the affected environment and those used in the impact analyses which will be compiled in this chapter.

Appendices

All correspondence and meeting materials.

If methods, assumptions, data gathering, and raw modeling output need to be documented at length, this material will be confined to memorandums to file or appendices. This will help focus the EA on findings that are relevant to evaluating the build alternative (proposed action).

Appendix E – FRA/MDOT Attachments

Attachment 3: FRA Grant/Cooperative Agreement



U.S. Department
of Transportation
**Federal Railroad
Administration**

Grant/Cooperative Agreement

1. RECIPIENT NAME AND ADDRESS Michigan Department of Transportation 425 W Ottawa St Lansing, MI 48933-1532		2. AGREEMENT NUMBER: FR-HSR-0066-11-01-00	3. AMENDMENT NO. 0
1A. IRS/VENDOR NO. 38-6000134		4. PROJECT PERFORMANCE PERIOD: FROM 08/29/2011 TO 08/29/2013	
1B. DUNS NO. 805340361		5. FEDERAL FUNDING PERIOD: FROM 08/29/2011 TO 08/29/2013	
7. CFDA#: 20.319		6. ACTION New	
8. PROJECT TITLE Preliminary Engineering and Environmental Documentation for the Ann Arbor Station		9. TOTAL OF PREVIOUS AGREEMENT AND ALL AMENDMENTS 0	
		10. AMOUNT OF THIS AGREEMENT OR AMENDMENT 2,806,400	
		11. TOTAL AGREEMENT AMOUNT 2,806,400	

12. INCORPORATED ATTACHMENTS
THIS AGREEMENT INCLUDES THE FOLLOWING ATTACHMENTS, INCORPORATED HEREIN AND MADE A PART HEREOF:
Special Provisions, Attachment 1; PRIIA of 2008 Clauses for Individual Construction Projects, Attachment 1A (Not Applicable); American Recovery and Reinvestment Act of 2009, Attachment 1B; General Provisions, Attachment 2

Award Attachments: Statement of Work, Attachment 3; Quarterly Progress Report for FRA, Attachment 4

13. STATUTORY AUTHORITY FOR GRANT/ COOPERATIVE AGREEMENT
American Recovery and Reinvestment Act of 2009, Public Law 111-5 (February 17, 2009)

14. REMARKS

GRANTEE ACCEPTANCE		AGENCY APPROVAL	
15. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Mr. Al Johnson Supervisor		17. NAME AND TITLE OF AUTHORIZED FRA OFFICIAL Ms. Gina Christodoulou-AO	
16. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL Electronically Signed	16A. DATE 08/29/2011	18. SIGNATURE OF AUTHORIZED FRA OFFICIAL Electronically Signed	18A. DATE 09/02/2011

AGENCY USE ONLY

19. OBJECT CLASS CODE: 41010		20. ORGANIZATION CODE: 9013000000	
21. ACCOUNTING CLASSIFICATION CODES			
DOCUMENT NUMBER FR-HSR-0066-11-01-00	FUND 2709120718	BY 2011	BPAC 91010029Y0 AMOUNT 2,806,400

Special Provisions, Attachment 1

1. Identification of Awarding Agency and Grantee:

The Grantee and the Administrator of the FRA, acting by delegation from the Secretary of Transportation, have entered into this Cooperative Agreement ("Agreement") to conduct and fund this project, as more specifically set forth in the Statement of Work, Attachment 3, attached hereto and made a part hereof ("the Project").

2. Scope:

The Grantee shall furnish all personnel, facilities, equipment, and other materials and services (except as otherwise specified herein) necessary to perform the approved Project, as set forth in the Statement of Work (Attachment 3), and in accordance with the representations, certifications and assurances set forth in the Grantee's application(s), and any amendments thereto ("Application"), incorporated herein by reference and made a part hereof.

3. Awarding Agency Participation:

The FRA will provide, on an "as available" basis, one professional staff person, to be designated as the Grant Manager, to review work or work products in progress, and arrange for the review of the Project results upon completion. If this award is made as a cooperative agreement, FRA will have substantial programmatic involvement. Substantial involvement means that, after award, technical, administrative, or programmatic staff will assist, guide, coordinate, or otherwise participate in Project activities.

4. Term:

Unless sooner terminated in accordance with its terms, this Agreement shall be valid for the period described in Section 4 of the Grant/Cooperative Agreement. This time frame includes the period for both completion of the Project, and completion and submission of a final report on Project results, as described in Section 11 and/or other deliverables as agreed to between the parties.

5. Total Project Cost; Cost-Sharing Responsibility:

- a. The total estimated cost of the Project is \$3,508,000.00.
- b. FRA funding assistance is limited to 80% of the estimated cost for completing the Project or \$2,806,400.00, whichever is less. Costs for completing the Project in excess of the amounts set forth in this section will be the responsibility of the Grantee.
- c. Grantee funding assistance shall not be less than 20% of the total cost of the Project. Consequently, of the amount specified in subparagraph (a) of this section, Grantee funding is not to be less than \$701,600.00. The Grantee may provide its funding assistance under this subsection from permissible non-Grantee sources.
- d. When requesting payment, the Grantee must identify: (1) the total amount of costs; (2) Grantee funding assistance applied to the Project; and (3) the balance of Federal assistance dollars requested for payment.
- e. Funding responsibility for the Project under this Agreement is recapped as follows:

FRA Funding Assistance	+	Grantee Cash Contribution	+	Grantee In-Kind Contribution Total	=	Total Project Funding
\$2,806,400.00	+	\$701,600.00	+	\$0.00	=	\$3,508,000.00

f. In accordance with Attachment 2, Sections 7c.(5) and d.(1) herein, FRA hereby authorizes the incurrence of pre-agreement costs by the Grantee on or after February 17, 2009, in anticipation of Agreement award, but such costs are allowable only to the extent that they are otherwise allowable under the terms of this Agreement.

6. Program Income:

a. The Grantee is encouraged to earn income to defray Project costs. Unless prohibited by 49 C.F.R. Part 18.25 or 49 C.F.R. Part 19.24, as applicable, or otherwise agreed to in writing to by FRA and the Grantee, any program income derived from the Project shall be committed under this Agreement to further eligible objectives of the Project.

b. Program income shall be proportionally deducted from Project outlays, which shall include both the Federal and non-Federal shares of Project costs, as applicable.

7. Payment Method:

Payment of FRA funding through FRA's Office of Financial Services, shall be made on a reimbursable basis whereby the Grantee will be reimbursed, after the submission of proper invoices, for actual expenses incurred.

The Grantee will use the Automated Clearing House (ACH) Electronic Vendor Payment method for transfer of reimbursed funds and submit an SF 270 form.

Unless directed otherwise, requests for payment shall be made via email to 9-AMC-AMZ-FRA-INVOCES@FAA.GOV or by mail to:

MMAC/DOT/FRA
 AMZ-150, Accounts Payable
 P.O. Box 268943
 Oklahoma City, OK 73126

Or via Federal Express to:

MMAC/DOT/FRA
 AMZ-150, Accounts Payable
 HQ Bldg, Rm 272-F
 6500 S MacArthur Blvd
 Oklahoma City, OK 73169

8. Reports, Presentations and Other Deliverables:

Whether for technical examination, administrative review, or publication, all submittals shall be of a professional quality and suitable for their intended purpose.

9. Progress Reports:

Four quarterly progress reports following the form of Attachment 4 shall be submitted for periods: January 1- March 31, April 1-June 30, July 1-September 30, and October 1-December 31. The Grantee shall furnish one (1) copy to the Grant Manager on or before the thirtieth (30th) calendar day of the month following the end of the quarter being reported. Each report shall set forth concise statements concerning activities relevant to the Project, and shall include, but not be limited to, the following:

- a) Relate the state of completion of items in the Statement of Work to expenditures of the relevant budget elements.
- b) An account of significant progress (findings, events, trends, etc.) made during the reporting period.
- c) A description of any technical and/or cost problem(s) encountered or anticipated that will affect completion of the grant within the time and fiscal constraints as set forth in the Agreement, together with recommended solutions or corrective action plans (with dates) to such problems, or identification of specific action that is required by the FRA, or a statement that no problems were encountered.
- d) An outline of work and activities planned for the next reporting period.

10. Quarterly Federal Financial Report:

The Grantee shall furnish one (1) copy of a quarterly financial status report to the Grant Manager, and one (1) copy to the Administrative Officer, on or before the thirtieth (30th) calendar day of the month following the end of the quarter being reported. The Grantee shall use SF-425, Federal Financial Report, in accordance with the instructions accompanying the form, to report all transactions, including Federal cash, Federal expenditures and unobligated balance, recipient share, and program income.

11. Interim and/or Final Report(s):

If required, interim reports will be due at intervals specified in the Statement of Work. Within 90 days of the Project completion date or termination by FRA, the Grantee shall furnish one (1) hard copy and one (1) reproducible master original to the Grant Manager, and one (1) hard copy to the FRA Administrative Officer of a Summary Project Report. A final version of this report, detailing the results and benefits of the Grantee's improvement efforts, shall be furnished by the expiration date of this Agreement.

12. Administrative Responsibility:

Jennifer Capps, Office of Financial Management, is designated as FRA's Administrative Officer for this Project. All FRA administrative duties under this Agreement are to be performed by the Administrative Officer, unless otherwise specified.

13. Grant Manager:

- a. Andrew Peternith, Office of Railroad Policy and Development, is designated as FRA's Grant Manager. The Grant Manager will oversee the technical administration of this Agreement and act as technical liaison with the Grantee. The Grant Manager is not authorized to change the Statement of

Work or specifications as stated in this Agreement, to make any commitments or otherwise obligate the FRA, or authorize any changes which affect this Agreement's monetary amount, the delivery schedule, period of performance or other terms or conditions.

b. The FRA official authorized to sign this Agreement is the only individual who can legally commit or obligate FRA for the expenditure of public funds. The technical administration of this Agreement shall not be construed to authorize the revision of the terms and conditions of this Agreement.

14. Delivery/Mailing Addresses:

Unless directed otherwise, all deliverables and copies of reports required to be delivered to the Grant Manager under this Agreement shall be delivered F.O.B. destination, under transmittal letter, to:

Federal Railroad Administration
 Office of Railroad Policy and Development
 1200 New Jersey Avenue, SE (Mail Stop 20)
 Washington, DC 20590
 ATTN: Andrew Peternith

Unless directed otherwise, all deliverables and copies of reports required to be delivered to the Administrative Officer under this Agreement shall be delivered F.O.B. destination, under transmittal letter, to:

Federal Railroad Administration
 Office of Financial Management
 1200 New Jersey Avenue, SE (Mail Stop 45)
 Washington, DC 20590
 ATTN: Jennifer Capps

15. Governing Regulations:

The Grantee acknowledges that its performance shall be governed by and in compliance with the following Administrative and Cost Principles:

For State, Local and/or Tribal Governmental Entities:

- 49 C.F.R. Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"
- OMB Circular A-87, "Cost Principles for State and Local Governments," as amended.

For non-profit and for-profit:

- 49 C.F.R. Part 19, "Uniform Administrative Requirements for Grants and Cooperative Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" (applies to non-profit and for-profit organizations)
- OMB Circular A-21, "Cost Principles for Educational Institutions" (applies to educational institutions)
- OMB Circular A-122, "Cost Principles for Nonprofit Organizations" (applies to private non-profit organizations)
- Federal Acquisition Regulation, 48 C.F.R. Chapter I, Subpart 31.2, "Contracts with Commercial Organizations" (applies to for-profit organizations).

These identified circulars and regulations are hereby incorporated into this Agreement by reference as if fully set out herein.

16. Buy America:

The Grantee shall comply with the Buy America provisions set forth in 49 U.S.C. §24405(a) for the Project requiring the use of steel, iron, and manufactured goods produced in the United States, in accordance with the conditions therein set forth.

American Recovery and Reinvestment Act of 2009 Clauses, Attachment 1B

1. The Grantee will comply with the following clauses derived from the American Recovery and Reinvestment Act of 2009 (Recovery Act) and the Passenger Rail Investment and Improvement Act of 2008, which are an integral part of the Agreement to which these clauses are attached and made a part thereof.

Section 1. Grantee Certifications.

The Recovery Act requires three certifications, which the Grantee shall address as follows:

a. Maintenance of Effort Certification (Recovery Act Section 1201). A Maintenance of Effort Certification was required from each State within thirty days of enactment of the Recovery Act (February 17, 2009) pursuant to section 1201 of the Recovery Act. With respect to the Recovery Act funds provided through this Agreement, the Grantee may rely on an existing certification submitted by the State to the Secretary of Transportation, so long as the Grantee certifies to the Administrator (c/o the Grant Manager identified in Attachment 2, section 14) as to the existence and continued validity of the existing certification. If a new certification is required, it should be submitted to the Secretary of Transportation, c/o Joel Szabat, Deputy Assistant Secretary of Transportation for Policy, at TigerTeam.Leads@dot.gov. Certifications may be submitted via e-mail as electronic, scanned copies, with original signed versions to be submitted via U.S. mail.

b. Responsible Investments Certification (Recovery Act Section 1511). With respect to and prior to the receipt of the funds made available through this Agreement, the Governor or the head of the State Department of Transportation shall certify to the Secretary of Transportation that the infrastructure investments to be funded herein have received the full review and vetting required by law and that the Governor or head of the State Department of Transportation accepts responsibility that the infrastructure investments are an appropriate use of taxpayer dollars. The certification shall include a description of the investments, the estimated total cost, and the amount of Recovery Act funds to be used, and shall be submitted to the Secretary of Transportation, c/o Joel Szabat, Deputy Assistant Secretary of Transportation for Policy, at TigerTeam.Leads@dot.gov. Certifications may be submitted via e-mail as electronic, scanned copies, with original signed versions to be submitted via U.S. mail. As required by the Recovery Act, Certifications under Section 1511 shall be immediately posted on an appropriate State website and linked to the website established by the Recovery Accountability and Transparency Board. No funds will be reimbursed until such posting is made.

c. Appropriate Use of Funds Certification (Recovery Act Section 1607). An Appropriate Use of Funds Certification was required from each State within 45 days of enactment of the Recovery Act (February 17, 2009) pursuant to section 1607 of the Recovery Act. With respect to the Recovery Act funds provided through this Agreement, the Grantee may rely on an existing certification submitted by the State to the Secretary of Transportation, so long as the Grantee certifies to the Administrator (c/o the Grant Manager identified in Attachment 2, Section 14) of the existence and continued validity

of the existing certification. If a new certification is required, it should be submitted to the Secretary of Transportation, c/o Joel Szabat, Deputy Assistant Secretary of Transportation for Policy, at TigerTeam.Leads@dot.gov. Certifications may be submitted via e-mail as electronic, scanned copies, with original signed versions to be submitted via U.S. mail.

d. Department of Transportation Guidance. The Department has issued guidance on compliance with the certification requirements of the Recovery Act, which is found at <http://www.dot.gov/recovery/certguidance.htm>. The Grantee should refer to this guidance in evaluating the continued validity of any existing certifications and in preparing any new certifications required under this section 1.

Section 2. Whistleblower Protections.

An employee of the Grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Recovery Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of – (1) gross mismanagement of an agency contract or grant relating to Recovery Act funds; (2) a gross waste of Recovery Act funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of Recovery Act funds; (4) an abuse of authority related to the implementation or use of Recovery Act funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Recovery Act funds.

Section 3. False Claims Act.

The Grantee and any sub-grantee awarded funds made available under the Recovery Act and through this Agreement shall promptly refer to the Department of Transportation Inspector General any credible evidence that a principal, employee, agency, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving Recovery Act funds.

Section 4. Prohibited Activities.

None of the funds provided through this Agreement may be used for any casino or other gaming establishment, aquarium, zoo, golf course or swimming pool.

Section 5. Recovery Act Funding Announcement.

The Grantee is strongly encouraged to post a sign at all fixed project locations at the most publicly accessible location and a plaque in all purchased or rehabilitated rail cars announcing that the project or equipment was funded by the U.S. Department of Transportation, Federal Railroad Administration, with funds provided through the American Recovery and Reinvestment Act. The configuration of the signs or plaques will be consistent with guidance issued by the Office of Management and Budget and/or the Department of Transportation and approved by the FRA.

Section 6. Reporting Requirements.

a. Periodic Reports. The Grantee shall submit periodic reports to the FRA Administrator, as

required by section 1201(c) of the Recovery Act, and as described in this section, not later than February 17, 2012. The periodic reports shall include information describing: (1) the amount of Federal funds appropriated, allocated, obligated, and outlayed under this Agreement; (2) the number of projects that have been put out to bid under this Agreement and the amount of Federal funds associated with such projects; (3) the number of projects for which contracts have been awarded under this Agreement and the amount of Federal funds associated with such contracts; (4) the number of projects for which work has begun under such contracts and the amount of Federal funds associated with such contracts; (5) the number of projects for which work has been completed under such contracts and the amount of Federal funds associated with such contracts; (6) the number of direct, on-project jobs created or sustained by the Federal funds provided for projects under this Agreement and, to the extent possible, the estimated indirect jobs created or sustained in the associated supplying industries, including the number of jobs created and the total increase in employment since February 17, 2009; and (7) information tracking the actual aggregate expenditures by the Grantee from Grantee sources (both internal and external) for projects eligible for funding under this Agreement during the period beginning on February 17, 2009 through September 30, 2010, as compared to the level of such expenditures that were planned to occur during such period as of February 17, 2009. The Department of Transportation or the FRA may issue additional guidance on the preparation and submission of periodic reports.

b. Jobs Accountability Reports.

i. As required by Section 1512(c) of the Recovery Act, and consistent with Office of Management and Budget (OMB) Guidance, dated June 22, 2009 and found at (http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf), the Grantee shall submit a jobs accountability report to <http://www.FederalReporting.gov> not later than ten days after the end of each quarter. The report shall contain: (1) the total amount of Recovery Act funds received pursuant to this Agreement; (2) the amount of Recovery Act funds received that were expended or obligated to projects or activities; and (3) a detailed list of all projects or activities for which Recovery Act funds were expended or obligated, including—(A) the name of the project or activity; (B) a description of the project or activity; (C) an evaluation of the completion status of the project or activity; (D) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and (E) detailed information on any subcontracts or subgrants awarded by the Grantee to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

ii. Information from these reports will be made available to the public. The reporting responsibility should be passed down from the Grantee to the sub-grantee/sub-recipient or vendor, in order to ensure that the necessary information is provided to the Grantee, which is ultimately responsible for reporting the required elements. The Office of Management and Budget may issue additional guidance on the preparation and submission of jobs accountability reports. The Grantee must also register with the Central Contractor Registration database (<http://www.ccr.gov>) or complete other registration requirements as determined by the Director of the Office of Management and Budget. A DUNS Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

Section 7. Contract Awards

As required by Section 1554 of the Recovery Act, the Grantee shall to the maximum extent possible award contracts funded under this Agreement as fixed-priced contracts through the use of competitive procedures. In rare circumstances where the Grantee awards a contract that is not fixed-price and not awarded using competitive procedures, the Grantee shall publicly and electronically post a summary of such contract on its website and electronically link such posting to the website created and

maintained by the Recovery Accountability and Transparency Board pursuant to section 1526 of the Recovery Act.

Section 8. Davis-Bacon Act Provisions.

As required by section 1606 of the Recovery Act, all laborers and mechanics employed by contractors and subcontractors on the Project funded directly by or assisted in whole or part by and through this Agreement shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Section 9. Buy America.

As required by section 1605 of the Recovery Act and associated guidance, the Grantee shall comply with the Buy America provisions set forth in 49 U.S.C. §24405(a) for the Project requiring the use of steel, iron, and manufactured goods produced in the United States, in accordance with conditions therein set forth.

General Provisions, Attachment 2

1. Definitions. As used in this Agreement:

- a. **Agreement** means this Grant Agreement or Cooperative Agreement, including all attachments.
- b. **Application** means the signed and dated proposal by or on behalf of the Grantee, as may be amended, for Federal financial assistance for the Project, together with all explanatory, supporting, and supplementary documents heretofore filed with and accepted or approved by FRA.
- c. **Approved Project Budget** means the most recently dated written statement, approved in writing by FRA, of the estimated total cost of the Project, the items to be deducted from such total in order to calculate the estimated net Project cost, the maximum amount of Federal assistance for which the Grantee is currently eligible, the specific items (including contingencies specified) for which the total may be spent, and the estimated cost of each of such items. The term "Approved Project Budget" also includes "Financial Plan" as used in 49 C.F.R. Part 19.
- d. **Awarding Agency** means (1) with respect to a grant, the Federal agency, and (2) with respect to a subgrant, the party that awarded the subgrant. In the case of a Federal Agency, the term "Awarding Agency" also includes "Federal Awarding Agency" as used in 49 C.F.R. Part 19.
- e. **Federal Railroad Administration** is an operating administration of the U.S. Department of Transportation.
- f. **Federal Government** means the United States of America and any executive department or agency thereof.
- g. **Grantee** means any entity that receives Federal grant assistance directly from FRA for the accomplishment of the Project.
- h. **Project** means the task or set of tasks set forth in the approved Application which the Grantee carries out pursuant to this Agreement, as set forth in the Statement of Work (Attachment 3).
- i. **Subgrantee** means any entity that receives FRA assistance from an FRA Grantee, rather than

from FRA directly. The term "subgrantee" does not include "third party contractor."

j. U.S. DOT means the U.S. Department of Transportation, including its operating administrations.

2. Accomplishment of the Project:

a. General Requirements:

The Grantee agrees to carry out the Project in a sound, economical, and efficient manner, and in accordance with the provisions of this Agreement, grant guidance, the Application, the Approved Project Budget, the Statement of Work, Project schedules, and all applicable laws, regulations, and published policies. This includes, but is not limited to the following, as applicable:

- 1) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (common grant management rule), 49 C.F.R. Part 18, applies to Projects with governmental bodies.
- 2) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations," 49 C.F.R. Part 19, applies to Projects with institutions of higher education and private nonprofit organizations. 49 C.F.R. Part 19 also applies to grants and cooperative agreements with private for-profit organizations.

b. Application of Federal, State, and Local Laws and Regulations.

- 1) Federal Laws and Regulations. The Grantee understands that Federal laws, regulations, policies, and related administrative practices to this Agreement on the date the Agreement was executed may be modified from time to time. The Grantee agrees that the most recent of such Federal requirements will govern the administration of this Agreement at any particular time, except if there is sufficient evidence in this Agreement of a contrary intent. Likewise, new Federal laws, regulations, policies and administrative practices may be established after the date the Agreement has been executed and may apply to this Agreement. To achieve compliance with changing Federal requirements, the Grantee agrees to include in all sub-assistance agreements and third party contracts financed with FRA assistance, specific notice that Federal requirements may change and the changed requirements will apply to the Project as required. All limits or standards set forth in this Agreement to be observed in the performance of the Project are minimum requirements.
- 2) State or Territorial Law and Local Law. Except to the extent that a Federal statute or regulation preempts State or territorial law, nothing in this Agreement shall require the Grantee to observe or enforce compliance with any provision thereof, perform any other act, or do any other thing in contravention of any applicable State or territorial law; however, if any of the provisions of this Agreement violate any applicable State or territorial law, or if compliance with the provisions of this Agreement would require the Grantee to violate any applicable State or territorial law, the Grantee agrees to notify the FRA immediately in writing in order that FRA and the Grantee may make appropriate arrangements to proceed with the Project as soon as possible.

c. **Funds of the Grantee.** Unless approved otherwise by FRA, the Grantee agrees to complete all actions necessary to provide the matching contributory funds or cost share of the Project costs, if applicable, at or before the time that such funds are needed to meet Project expenses.

d. **Changed Conditions of Performance (Including Litigation).** The Grantee agrees to notify FRA immediately of any change in local law, conditions, or any other event that may affect its ability to perform the Project in accordance with the terms of this Agreement. In addition, the Grantee agrees to

notify FRA immediately of any decision pertaining to the Grantee's conduct of litigation that may affect FRA's interests in the Project or FRA's administration or enforcement of applicable Federal laws or regulations. Before the Grantee may name FRA as a party to litigation for any reason, the Grantee agrees first to inform FRA; this proviso applies to any type of litigation whatsoever, in any forum.

e. No FRA Obligations to Third Parties. Absent FRA's express written consent, and notwithstanding any concurrence by FRA in or approval of the award of any contract of the Grantee (third party contract) or subcontract of the Grantee (third party subcontract) or the solicitation thereof, FRA shall not be subject to any obligations or liabilities to third party contractors or third party subcontractors or any other person not a party to this Agreement in connection with the performance of the Project.

3. Ethics:

a. Standards of Conduct. The Grantee agrees to maintain a written code or standards of conduct that shall govern the performance of its officers, employees, board members, or agents engaged in the award and administration of contracts supported by Federal funds. The code or standards shall provide that the Grantee's officers, employees, board members, or agents may neither solicit nor accept gratuities, favors or anything of monetary value from present or potential contractors or subgrantees. The Grantee may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. As permitted by State or local law or regulations, such code or standards shall provide for penalties, sanctions, or other disciplinary actions for violations by the Grantee's officers, employees, board members, or agents, or by contractors or subgrantees or their agents.

1) **Personal Conflict of Interest.** The Grantee's code or standards must provide that no employee, officer, board member, or agent of the Grantee may participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when any of the parties set forth below has a financial or other interest in the firm selected for award:

- a) The employee, officer, board member, or agent;
- b) Any member of his or her immediate family;
- c) His or her partner; or
- d) An organization that employs, or is about to employ, any of the above.

2) **Organizational Conflicts of Interest.** The Grantee's code or standards of conduct must include procedures for identifying and preventing real and apparent organizational conflicts of interests. An organizational conflict of interest exists when the nature of the work to be performed under a proposed third party contract, may, without some restrictions on future activities, result in an unfair competitive advantage to the contractor or impair the contractor's objectivity in performing the contract work.

b. Existing Provisions. This section does not require the Grantee to implement a new code or standards of conduct where a State statute, or written code or standards of conduct, already effectively covers all of the elements of a.

4. Approved Project Budget:

The Grantee agrees to carry out the Project in accordance with the Approved Project Budget, written approval of which the Grantee shall secure prior to being reimbursed under this Agreement. If the Approved Project Budget is included in this Agreement as Attachment 3, execution of the Agreement

shall constitute such written approval. The Grantee agrees to obtain the prior written approval of FRA's Associate Administrator for Railroad Development or the Associate Administrator for Railroad Safety, as applicable, for any revisions to the Approved Project Budget that equal or exceed 10 percent any line item or pertain to a line item involving contingency or miscellaneous costs. For revisions to the Approved Project Budget that are less than 10 percent of any line item, and do not involve contingency or miscellaneous costs, the Grantee agrees to notify FRA of the revisions to the Approved Project Budget. Any revisions to the Approved Project Budget must not affect total project costs or the respective cost-sharing responsibilities set forth in Attachment 1, Section 5.

5. Accounting Records:

- a. **Project Accounts.** The Grantee agrees to establish and maintain for the Project either a separate set of accounts or accounts within the framework of an established accounting system, in a manner consistent with 49 C.F.R. § 18.20, or 49 C.F.R. § 19.21, as amended, whichever is applicable.
- b. **Funds Received or Made Available for the Project.** Consistent with the provisions of 49 C.F.R. § 18.21, or 49 C.F.R. § 19.21, as amended, whichever is applicable, the Grantee agrees to record in the Project Account, and deposit in a financial institution all Project payments received by it from FRA pursuant to this Agreement and all other funds provided for, accruing to, or otherwise received on account of the Project (Project Funds). The Grantee is encouraged to use financial institutions owned at least 50 percent by minority group members.
- c. **Documentation of Project Costs and Program Income.** All costs charged to the Project, including any approved services contributed by the Grantee or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers describing in detail the nature and propriety of the charges. The Grantee also agrees to maintain accurate records of all Program Income derived from Project implementation.
- d. **Checks, Orders, and Vouchers.** The Grantee agrees that all checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible, and, to the extent feasible, kept separate from documents not pertaining to the Project.

6. Record Retention:

- a. **Submission of Proceedings, Contracts and Other Documents.** During the course of the Project and for three years thereafter, the Grantee agrees to retain intact and to provide any data, documents, reports, records, contracts, and supporting materials relating to the Project as FRA may require. Reporting and record-keeping requirements are set forth in-

- 1) 49 C.F.R. Part 18 for governmental Grantees; and
- 2) 49 C.F.R. Part 19 for private non-profit and for-profit Grantees.

Project closeout does not alter these requirements.

b. Audit and Inspection.

- 1) **General Audit Requirements.** A Grantee that is:
 - a) a State, local government or Indian tribal government agrees to comply with the audit requirements of 49 C.F.R. § 18.26 and OMB Circular A-133, and any revision or supplement thereto.

b) an institution of higher education or nonprofit organization agrees to comply with the audit requirements of 49 C.F.R. § 19.26 and OMB Circular A-133, and any revision or supplement thereto.

c) a private for-profit organization agrees to comply with the audit requirements of OMB Circular A-133.

The Grantee agrees to obtain any other audits required by FRA. Project closeout will not alter the Grantee's audit responsibilities. Audit costs for Project administration and management are allowable under this Project to the extent authorized by OMB Circular A-87, Revised; OMB Circular A-21, Revised; or OMB Circular A-122, Revised.

2) Inspection by Federal Officials. The Grantee agrees to permit the Secretary and the Comptroller General of the United States, or their authorized representatives, to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Grantee and its contractors pertaining to the Project. The Grantee agrees to require each third party contractor whose contract award is not based on competitive bidding procedures as defined by the Secretary to permit the Secretary of Transportation and the Comptroller General of the United States, or their duly authorized representatives, to inspect all work, materials, payrolls, and other data and records involving that contract, and to audit the books, records, and accounts involving that contract as it affects the Project.

7. Payments:

a. **Request by the Grantee for Payment.** The Grantee's request for payment of the Federal share of allowable costs shall be made to FRA at the address shown in Section 7 of Attachment 1, Special Provisions, and will be acted upon by FRA as set forth in this section. Each payment made to the Grantee must comply with Department of the Treasury regulations, "Rules and Procedures for Funds Transfers," 31C.F.R. Part 205. To receive a Federal assistance payment, the Grantee must:

1) Have demonstrated or certified that it has made a binding commitment of non-Federal funds, if applicable, adequate when combined with Federal payments, to cover all costs to be incurred under the Project to date. A Grantee required by Federal statute or this Agreement to provide contributory matching funds or a cost share agrees:

a) to refrain from requesting or obtaining Federal funds in excess of the amount justified by the contributory matching funds or cost share that has been provided; and

b) to refrain from taking any action that would cause the proportion of Federal funds made available to the Project at any time to exceed the percentage authorized under this Agreement. The requirement for contributory matching funds or cost share may be temporarily waived only to the extent expressly provided in writing by FRA.

2) Have submitted to FRA all financial and progress reports required to date under this Agreement; and

3) Have identified the source(s) of financial assistance provided under this Project, if applicable, from which the payment is to be derived.

b. **Payment by FRA.**

1) Reimbursement Payment by FRA. FRA uses the reimbursement method, whereby the Grantee agrees to:

a. Complete and submit Standard Form 3881, "Payment Information Form - ACH Payment Vendor Payment System," to FRA; and

b. Complete and submit Standard Form 270, "Request for Advance or Reimbursement," to FRA.

2) Upon receipt of a payment request and adequate accompanying information (invoices in accordance with applicable cost principles), FRA will authorize payment by direct deposit, or if requested by the Grantee, by issuance of a treasury check (allow 30 day processing time for issuance of check), provided the Grantee: (i) is complying with its obligations under this Agreement, (ii) has satisfied FRA that it needs the requested Federal funds during the requisition period, and (iii) is making adequate and timely progress toward Project completion. If all these circumstances are present, FRA may reimburse allowable costs incurred by the Grantee up to the maximum amount of FRA's share of the total Project funding.

3) Other Payment Information.

a. The Grantee agrees to adhere to and impose on its subgrantees all applicable foregoing "Payment by FRA" requirements of this Agreement.

b. If the Grantee fails to adhere to the foregoing "Payment by FRA" requirements of this Agreement, FRA may revoke the portion of the Grantee's funds that has not been expended.

c. **Allowable Costs.** The Grantee's expenditures will be reimbursed only if they meet all requirements set forth below:

- 1) Conform with the Project description, the Statement of Work, and the Approved Project Budget and all other terms of this Agreement;
- 2) Be necessary in order to accomplish the Project;
- 3) Be reasonable for the goods or services purchased;
- 4) Be actual net costs to the Grantee (i.e., the price paid minus any refunds, rebates, or other items of value received by the Grantee that have the effect of reducing the cost actually incurred);
- 5) Be incurred (and be for work performed) after the effective date of this Agreement, unless specific authorization from FRA to the contrary is received in writing;
- 6) Unless permitted otherwise by Federal status or regulation, conform with Federal guidelines or regulations and Federal cost principles as set forth below:
 - a. For Grantees that are governmental organizations, the standards of OMB Circular A-87, Revised, "Cost Principles for State and Local Governments" apply;
 - b. For Grantees that are institutions of higher education, the standards of OMB Circular A-21, Revised, "Cost Principles for Educational Institutions" apply;
 - c. For Grantees that are private nonprofit organizations, the standards of OMB Circular A-122, Revised, "Cost Principles for Nonprofit Organizations" apply; and

d. For Grantees that are for-profit organizations, the standards of the Federal Acquisition Regulation, 48 C.F.R. Chapter I, Subpart 31.2, "Contracts with Commercial Organizations" apply.

7) Be satisfactorily documented; and

8) Be treated uniformly and consistently under accounting principles and procedures approved and prescribed by FRA for the Grantee, and those approved or prescribed by the Grantee for its subgrantees and contractors.

d. Disallowed Costs. In determining the amount of Federal assistance FRA will provide, FRA will exclude:

1) Any Project costs incurred by the Grantee before the obligation date of this Agreement, or amendment or modification thereof, whichever is later, unless specifically allowed by this Agreement, otherwise permitted by Federal law or regulation, or unless an authorized representative of FRA states in writing to the contrary;

2) Any costs incurred by the Grantee that are not included in the latest Approved Project Budget; and

3) Any costs attributable to goods or services received under a contract or other arrangement that is required to be, but has not been, concurred in or approved in writing by FRA.

The Grantee agrees that reimbursement of any cost under the "Payment by FRA," part of this Agreement does not constitute a final FRA decision about the allowability of that cost and does not constitute a waiver of any violation by the Grantee of the terms of this Agreement. The Grantee understands that FRA will not make a final determination about the allowability of any cost until an audit of the Project has been completed. If FRA determines that the Grantee is not entitled to receive any part of the Federal funds requested, FRA will notify the Grantee stating the reasons therefore. Project closeout will not alter the Grantee's obligation to return any funds due to FRA as a result of later refunds, corrections, or other transactions. Nor will Project closeout alter FRA's right to disallow costs and recover funds on the basis of a later audit or other review. Unless prohibited by law, FRA may offset any Federal assistance funds to be made available under this Project as needed to satisfy any outstanding monetary claims that the Federal Government may have against the Grantee. Exceptions pertaining to disallowed costs will be assessed based on their applicability, as set forth in the applicable Federal cost principals or other written Federal guidance.

e. Bond Interest and Other Financing Costs. To the extent permitted in writing by FRA, bond interest and other financing costs are allowable.

f. Requirement to Remit Interest. The Grantee agrees that:

1) Any interest earned by the Grantee on FRA funds must be remitted to FRA, except as provided by 31 U.S.C. § 6503, or the Indian Self-Determination Act, 25 U.S.C. § 450 et seq., and any regulations thereunder that may be issued by the U.S. Secretary of the Treasury.

2) Irrespective of whether the Grantee has deposited funds in an interest-bearing account, the Grantee agrees to pay to FRA interest on any FRA funds that the Grantee has drawn down and failed to spend for eligible Project activities. Unless waived by FRA, interest will be calculated at rates imposed by the U.S. Secretary of the Treasury beginning on the fourth day after the funds were deposited in the Grantee's bank or other financial depository. This requirement does not apply to any Grantee that is a state, state instrumentality, or Indian Tribal Government, except as permitted under applicable state law and by regulations that may be issued by the U.S. Secretary of the Treasury.

3) Upon notice by FRA to the Grantee of specific amounts due, the Grantee agrees to promptly remit to FRA any excess payment of amounts or disallowed costs, including any interest due thereon.

g. **De-obligation of Funds.** FRA reserves the right to de-obligate unspent FRA funds prior to Project closeout.

8. Property, Equipment and Supplies:

Unless otherwise approved by FRA, the following conditions apply to property, equipment, and supplies financed under this Agreement:

a. **Use of Property.** The Grantee agrees that Project property, equipment, and supplies shall be used for the provision of the Project activity for the duration of its useful life, as determined by FRA. Should the Grantee unreasonably delay or fail to use Project property, equipment, or supplies during its useful life, the Grantee agrees that FRA may require the Grantee to return the entire amount of FRA assistance expended on that property, equipment, or supplies. The Grantee further agrees to notify FRA immediately when any Project property or equipment is withdrawn from use in the Project activity or when such property or equipment is used in a manner substantially different from the representations made by the Grantee in its Application or the text of the Project description.

b. General Federal Requirements.

1) a Grantee that is a governmental entity agrees to comply with the property management standards of 49 C.F.R. §§ 18.31, 18.32, and 18.33, including any amendments thereto, and other applicable guidelines or regulations that are issued.

2) a Grantee that is not a governmental entity agrees to comply with the property standards of 49 C.F.R. §§ 19.30 through 19.37 inclusive, including any amendments thereto, and other applicable guidelines or regulations that are issued. Exceptions to the requirements of 49 C.F.R. §§ 18.31, 18.32, and 18.33, and 49 C.F.R. §§ 19.30 through 19.37 inclusive, must be specifically approved by FRA.

c. **Maintenance.** The Grantee agrees to maintain the Project property and equipment in good operating order, and in accordance with any guidelines, directives, or regulations that FRA may issue.

d. **Records.** The Grantee agrees to keep satisfactory records with regard to the use of the property, equipment, and supplies, and submit to FRA, upon request, such information as may be required to assure compliance with this section of this Agreement.

e. **Transfer of Project Property.** The Grantee agrees that FRA may:

1) require the Grantee to transfer title to any property, equipment, or supplies financed with FRA assistance made available by this Agreement, as permitted by 49 C.F.R. § 18.32(g) or 49 C.F.R. §§ 19.30 through 19.37 inclusive, whichever may be applicable.

2) direct the disposition of property or equipment financed with FRA assistance made available under this Agreement, as set forth by 49 C.F.R. §§ 18.31 and 18.32 or 49 C.F.R. §§ 19.30 through 19.37 inclusive, whichever may be applicable.

f. **Withdrawn Property.** If any Project property, equipment, or supplies are not used for the Project for the duration of its useful life, as determined by FRA, whether by planned withdrawal, misuse or casualty loss, the Grantee agrees to notify FRA immediately. Disposition of withdrawn property,

equipment, or supplies shall be in accordance with 49 C.F.R. §§ 18.31 and 18.32 for a Grantee that is a governmental entity, or 49 C.F.R. §§ 19.30 through 19.37 inclusive, for a Grantee that is an institution of higher education or a private organization.

g. **Encumbrance of Project Property.** Unless expressly authorized in writing by FRA, the Grantee agrees to refrain from:

- 1) Executing any transfer of title, lease, lien, pledge, mortgage, encumbrance, contract, grant anticipation note, alienation, or other obligation that in any way would affect FRA interest in any Project property or equipment; or
- 2) Obligating itself in any manner to any third party with respect to Project property or equipment.

The Grantee agrees to refrain from taking any action or acting in a manner that would adversely affect FRA's interest or impair the Grantee's continuing control over the use of Project property or equipment.

9. Relocation and Land Acquisition:

The Grantee agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. §§ 4601 et seq.; and U.S. DOT regulations, "Uniform Relocation and Real Property Acquisition for Federal and Federally Assisted Programs," 49 C.F.R. Part 24.

10. Flood Hazards:

The Grantee agrees to comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a(a), with respect to any construction or acquisition Project.

11. Procurement:

a. **Federal Standards.** The Grantee agrees to comply with the Procurement Standards requirements set forth at 49 C.F.R. § 18.36 or 49 C.F.R. §§ 19.40 through 19.48 inclusive, whichever may be applicable, and with applicable supplementary U.S. DOT or FRA directives or regulations. If determined necessary for proper Project administration, FRA reserves the right to review the Grantee's technical specifications and requirements.

b. **Cargo Preference -- Use of United States-Flag Vessels.** Pursuant to U.S. DOT, Maritime Administration regulations, "Cargo Preference -- U.S.-Flag Vessels," 46 C.F.R. Part 381, the Grantee shall insert the following clauses in contracts let by the Grantee in which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project:

As required by 46 C.F.R. Part 381, The contractor agrees -

- 1) To utilize privately owned United States-flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this contract to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- 2) To furnish within 20 days following the date of loading for shipments originating within the

United States, or within 30 working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) above to the recipient (through the prime contractor in the case of subcontractor bills-of lading) and to the Division of Cargo Preference and Domestic Trade, Maritime Administration, 1200 New Jersey Avenue, SE, Washington, D.C. 20590, marked with appropriate identification of the Project.

3) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract

c. Notification Requirement. With respect to any procurement for goods and services (including construction services) having an aggregate value of \$500,000 or more, the Grantee agrees to:

1) specify in any announcement of the awarding of the contract for such goods or services the amount of Federal funds that will be used to finance the acquisition; and

2) express the said amount as a percentage of the total costs of the planned acquisition.

d. Debarment and Suspension; and Drug-Free Work Place. The Grantee agrees to obtain certifications on debarment and suspension from its third party contractors and subgrantees and otherwise comply with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, and "Government wide Requirements for Drug-Free Workplace (Grants)," 49 C.F.R. Part 32.

e. Notification of Third Party Contract Disputes or Breaches. The Grantee agrees to notify FRA of any current or prospective major dispute, breach, or litigation pertaining to any third party contract. If the Grantee seeks to name FRA as a party to litigation for any reason, the Grantee agrees first to inform FRA before doing so. This proviso applies to any type of litigation whatsoever, in any forum.

f. Participation by Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals.

1) The Grantee agrees to: (a) provide maximum practicable opportunities for small businesses, including veteran-owned small businesses and service disabled veteran-owned small businesses, and (b) implement best practices, consistent with our nation's civil rights and equal opportunity laws, for ensuring that all individuals – regardless of race, gender, age, disability, and national origin – benefit from activities funded through this Agreement.

2) An example of a best practice under (b) above would be to incorporate key elements of the Department's Disadvantage Business Enterprise (DBE) program (see 49 C.F.R. Part 26) in contracts under this Agreement. This practice would involve setting a DBE contract goal on contracts funded under this Agreement that have subcontracting possibilities. The goal would reflect the amount of DBE participation on the contract that the Grantee would expect to obtain absent the effects of discrimination and consistent with the availability of certified DBE firms to perform work under the contract. When a DBE contract goal has been established by a Grantee, the contract would be awarded only to a bidder/offer that has met or made (or in the case of a design/build project, is committed to meeting or making) documented, good faith efforts to reach the goal. Good faith efforts are defined as efforts to achieve a DBE goal or other requirement of this Agreement which, by their scope, intensity, and appropriateness to the objective can reasonably be expected to achieve the goal or other requirement.

3) The Grantee must provide FRA a plan for incorporating the above best practice into its

implementation of the Project within 30 days following execution of this Agreement. If the Grantee is not able to substantially incorporate Part 26 elements in accordance with the above-described best practice, the Grantee agrees to provide the FRA with a written explanation and an alternative program for ensuring the use of contractors owned and controlled by socially and economically disadvantaged individuals.

12. Metric System:

The Grantee agrees to use the metric system of measurement in its Project activities to the extent practicable, in conformance with applicable regulations, guidelines, and policies that U.S. DOT or FRA may issue. The Metric Conversion Act of 1975, as amended by the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 205), designates the metric system of measurement as the preferred system of weights and measures for United States trade and commerce, and it requires that each agency use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impracticable or likely to cause significant inefficiencies or loss of markets to U.S. firms.

13. Patent Rights:

- a. If any invention, improvement, or discovery of the Grantee or any of its third party contractors is conceived or first actually reduced to practice in the course of or under this Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Grantee agrees to notify FRA immediately and provide a detailed report. The rights and responsibilities of the Grantee, third party contractors and FRA with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, policies, and any waiver thereof.
- b. If the Grantee secures a patent with respect to any invention, improvement, or discovery of the Grantee or any of its third party contractors conceived or first actually reduced to practice in the course of or under this Project, the Grantee agrees to grant to FRA a royalty-free, non-exclusive, and irrevocable license to use and to authorize others to use the patented device or process for Federal Government purposes.
- c. The Grantee agrees to include the requirements of the "Patent Rights" section of this Agreement in its third party contracts for planning, research, development, or demonstration under the Project.

14. Rights in Data and Copyrights:

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

1) Except for its own internal use, the Grantee may not publish or reproduce such data in whole or in part, or in any manner or form, nor may the Grantee authorize others to do so, without the written consent of FRA, until such time as FRA may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to grant agreements with academic institutions.

2) As authorized by 49 C.F.R. § 18.34, or 49 C.F.R. § 19.36, as applicable, FRA reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

a) Any work developed under a grant, cooperative agreement, sub-grant, sub-agreement, or third party contract, irrespective of whether or not a copyright has been obtained; and

b) Any rights of copyright to which a Grantee, subgrantee, or a third party contractor purchases ownership with Federal assistance.

c. When FRA provides assistance to a Grantee for a Project involving planning, research, or development, it is generally FRA's intent to increase the body of knowledge, rather than to limit the benefits of the Project to those parties that have participated therein. Therefore, unless FRA determines otherwise, the Grantee understands and agrees that, in addition to the rights set forth in preceding portions of this section of this Agreement, FRA may make available to any FRA Grantee, subgrantee, third party contractor, or third party subcontractor, either FRA's license in the copyright to the "subject data" derived under this Agreement or a copy of the "subject data" first produced under this Agreement. In the event that such a Project which is the subject of this Agreement is not completed, for any reason whatsoever, all data developed under that Project shall become subject data as defined herein and shall be delivered as FRA may direct.

d. To the extent permitted by State law, the Grantee agrees to indemnify, save and hold harmless FRA, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Grantee of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under this Agreement. The Grantee shall not be required to indemnify FRA for any such liability arising out of the wrongful acts of employees or agents of FRA.

e. Nothing contained in this section on rights in data, shall imply a license to FRA under any patent or be construed as affecting the scope of any license or other right otherwise granted to FRA under any patent.

f. The requirements of this section of this Agreement do not apply to material furnished to the Grantee by FRA and incorporated in the work carried out under this Agreement, provided that such incorporated material is identified by the Grantee at the time of delivery of such work.

g. Unless FRA determines otherwise, the Grantee agrees to include the requirements of this section of this Agreement in its third party contracts for planning, research, development, or demonstration under the Project.

15. Acknowledgment of Support and Disclaimer:

a. An acknowledgment of FRA support and a disclaimer must appear in any grantee publication, whether copyrighted or not, based on or developed under the Agreement, in the following terms:

"This material is based upon work supported by the Federal Railroad Administration

under a grant/cooperative agreement, dated ." (Fill-in appropriate identification of grant/cooperative agreement)

b. All grantee publications must also contain the following:

"Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the view of the Federal Railroad Administration and/or U.S. DOT."

c. The Grantee agrees to cause to be erected at the site of any construction, and maintain during construction, signs satisfactory to FRA identifying the Project and indicating that FRA is participating in the development of the Project.

16. Reprints of Publications:

At such time as any article resulting from work under this Agreement is published in a scientific, technical, or professional journal or publication, two reprints of the publication should be sent to FRA's Grant Manager, clearly referenced with the appropriate identifying information.

17. Site Visits:

FRA, through its authorized representatives, has the right, at all reasonable times, to make site visits to review Project accomplishments and management control systems and to provide such technical assistance as may be required. If any site visit is made by FRA on the premises of the Grantee, subgrantee, contractor, or subcontractor under this Agreement, the Grantee shall provide and shall require its subgrantees or subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of FRA representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner as will not unduly delay work being conducted by the Grantee, subgrantee, contractor, or subcontractor.

18. Safety Oversight:

To the extent applicable, the Grantee agrees to comply with any Federal regulations, laws, or policy and other guidance that FRA or U.S. DOT may issue pertaining to safety oversight in general, and in the performance of this Agreement, in particular.

19. Civil Rights:

The Grantee agrees to comply with all civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the FRA determines otherwise in writing. These include, but are not limited to, the following: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) (as implemented by 49 C.F.R. Part 21), which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex, (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 1601-1607), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title V111 of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to

nondiscrimination in the sale, rental or financing of housing, (i) 49 U.S.C. § 306, which prohibits discrimination on the basis of race, color, national origin, or sex in railroad financial assistance programs; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance was made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the Grantee.

20. Americans With Disabilities Act:

The Grantee agrees to utilize funds provided under this Agreement in a manner consistent with the requirements of the Americans With Disabilities Act of 1990, as amended (42 U.S.C. § 12101 et seq.).

21. Environmental Protection:

- a. All facilities that will be used to perform work under this Agreement shall not be so used unless the facilities are designed and equipped to limit water and air pollution in accordance with all applicable local, state and Federal standards.
- b. The Grantee will conduct work under this Agreement, and will require that work that is conducted as a result of this Agreement be in compliance with the following provisions, as modified from time to time, all of which are incorporated herein by reference: section 114 of the Clean Air Act, 42 U.S.C. 7414, and section 308 of the Federal Water Pollution Control Act, 33 U.S.C. 1318, and all regulations issued thereunder. The Grantee certifies that no facilities that will be used to perform work under this Agreement are listed on the List of Violating Facilities maintained by the Environmental Protection Agency ("EPA"). The Grantee will notify the Administrator as soon as it or any contractor or subcontractor receives any communication from the EPA indicating that any facility which will be used to perform work pursuant to this Agreement is under consideration to be listed on the EPA's List of Violating Facilities; provided, however, that the Grantee's duty of notification hereunder shall extend only to those communications of which it is aware, or should reasonably have been aware. The Grantee will include or cause to be included in each contract or subcontract entered into, which contract or subcontract exceeds Fifty Thousand Dollars (\$50,000.00) in connection with work performed pursuant to this Agreement, the criteria and requirements of this section and an affirmative covenant requiring such contractor or subcontractor to immediately inform the Grantee upon the receipt of a communication from the EPA concerning the matters set forth herein.
- c. The Grantee may not expend any of the funds provided in this agreement on construction or other activities that represent an irretrievable commitment of resources to a particular course of action affecting the environment until after all environmental and historic preservation analyses required by the National Environmental Policy Act (42 U.S.C. 4332)(NEPA), the National Historic Preservation Act (16 U.S.C. 470(f))(NHPA), and related laws and regulations have been completed and the FRA has provided the Grantee with a written notice authorizing the Grantee to proceed.
- d. The Grantee shall assist the FRA in its compliance with the provisions of NEPA, the Council on Environmental Quality's regulations implementing NEPA (40 C.F.R. Part 1500 et seq.), FRA's "Procedures for Considering Environmental Impacts" (45 Fed. Reg. 40854, June 16, 1980), as revised May 26, 1999, 64 Fed. Reg. 28545), Section 106 of the NHPA, and related environmental and historic preservation statutes and regulations. As a condition of receiving financial assistance under this agreement, the Grantee may be required to conduct certain environmental analyses and to prepare and submit to the FRA draft documents required under NEPA, NHPA, and related statutes and regulations (including draft environmental assessments and proposed draft and final environmental impact statements).
- e. No publicly-owned land from a park, recreational area, or wildlife or waterfowl refuge of national,

state, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, state or local significance as so determined by such officials shall be used by the Grantee without the prior written concurrence of FRA. The Grantee shall assist the FRA in complying with the requirements of 49 U.S.C. §303(c).

f. The Grantee agrees to facilitate compliance with the policies of Executive Order No. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. '4321 note, except to the extent that the FRA determines otherwise in writing.

22. Project Completion, Audit, Settlement, and Closeout:

a. **Project Completion.** Within 90 days of the Project completion date or termination by FRA, the Grantee agrees to submit a final Federal Financial Report (Standard Form 425), a certification or summary of Project expenses, and third party audit reports, as applicable.

b. **Audits.** Each governmental Grantee agrees to undertake the audits required by 49 C.F.R. § 18.26 and OMB Circular A-128 or any revision or supplement thereto. Each non-governmental Grantee agrees to undertake the audits required by 49 C.F.R. § 19.26 and OMB Circular A-133 or any revision or supplement thereto.

c. **Remittance of Excess Payments.** If FRA has made payments to the Grantee in excess of the total amount of FRA funding due, the Grantee agrees to promptly remit that excess and interest as may be required by the "Payment by FRA" section of this Attachment.

d. **Project Closeout.** Project closeout occurs when all required Project work and all administrative procedures described in 49 C.F.R. Part 18, or 49 C.F.R. Part 19, as applicable, have been completed, and when FRA notifies the Grantee and forwards the final Federal assistance payment, or when FRA acknowledges the Grantee's remittance of the proper refund. Project closeout shall not invalidate any continuing obligations imposed on the Grantee by this Agreement or by the FRA's final notification or acknowledgment.

23. Right of FRA to Terminate:

a. Upon written notice, the Grantee agrees that FRA may suspend or terminate all or part of the financial assistance provided herein if the Grantee has violated the terms of this Agreement, or if FRA determines that the purposes of the statute under which the Project is authorized would not be adequately served by continuation of Federal financial assistance for the Project. Any failure to make reasonable progress on the Project or other violation of this Agreement that significantly endangers substantial performance of the Project shall provide sufficient grounds for FRA to terminate this Agreement.

b. In general, termination of any financial assistance under this Agreement will not invalidate obligations properly incurred by the Grantee and concurred in by FRA before the termination date, to the extent those obligations cannot be canceled. However, if FRA determines that the Grantee has willfully misused Federal assistance funds by failing to make adequate progress, failing to make reasonable use of the Project property, facilities, or equipment, or failing to adhere to the terms of this Agreement, FRA reserves the right to require the Grantee to refund the entire amount of FRA funds provided under this Agreement or any lesser amount as may be determined by FRA.

c. Expiration of any Project time period established for this Project does not, by itself, constitute an expiration or termination of this Agreement.

24. Transparency Act Requirements—Reporting Subawards and Executive Compensation (Does

not Apply to American Recovery and Reinvestment Act Funds):

The Grantee will insert the following clause in all first-tier subgrants of \$25,000 or more--

a. Reporting of First-Tier Subawards.

1) Applicability. Unless you are exempt as provided in paragraph d. of this section, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in subsection e. of this section).

2) Where and when to report.

a. You must report each obligating action described in subsection a.1. of this section to <http://www.frs.gov>.

b. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3) What to report. You must report the information about each obligating action that the submission instructions posted at <http://www.frs.gov> specify.

b. Reporting Total Compensation of Recipient Executives.

1) Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

a. the total Federal funding authorized to date under this award is \$25,000 or more;

b. in the preceding fiscal year, you received—

(1) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(2) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

c. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

2) Where and when to report. You must report executive total compensation described in subsection b.1. of this section:

a. As part of your registration profile at <http://www.ccr.gov>.

b. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1) Applicability and what to report. Unless you are exempt as provided in subsection d. of this section, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

a. in the subrecipient's preceding fiscal year, the subrecipient received—

(1) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(2) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

b. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2) Where and when to report. You must report subrecipient executive total compensation described in subsection c.1. of this section:

a. To the recipient.

b. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions.

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

a. Subawards,

and

b. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this section:

1) Entity means all of the following, as defined in 2 CFR part 25:

a. A Governmental organization, which is a State, local government, or Indian tribe;

b. A foreign public entity;

c. A domestic or foreign nonprofit organization;

- d. A domestic or foreign for-profit organization;
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
- 2) Executive means officers, managing partners, or any other employees in management positions.
- 3) Subaward:
 - a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. — .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - c. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
- 4) Subrecipient means an entity that:
 - a. Receives a subaward from you (the recipient) under this award; and
 - b. Is accountable to you for the use of the Federal funds provided by the subaward.
- 5) Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
 - a. Salary and bonus.
 - b. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
 - c. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
 - d. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
 - e. Above-market earnings on deferred compensation which is not tax-qualified.
 - f. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

25. Entire Agreement:

This Agreement constitutes the entire agreement between the parties. All prior discussions and

understandings concerning such scope and subject matter are superseded by this Agreement.

26. Grant Amendments:

Modifications to this Agreement may be made only in writing, signed by the each party's authorized representative, and specifically referred to as a modification to this Agreement.

27. Flow Down Provisions:

The Grantee shall include provisions to carry out the purposes of this Agreement in all contracts or grant agreements with persons who perform any part of the work under this Agreement. There shall be provisions for a further flow down of such requirements to each sub-tier contractor or grantee as required.

28. Successors and Assignees:

This Agreement may not be assigned without the express prior written consent of the other party.

29. Execution:

This Agreement may be executed in several counterparts, each of which shall be deemed an original.

30. Severability:

If any provision of this Agreement is held invalid, all remaining provisions of this Agreement shall continue in full force and effect to the extent not inconsistent with such holding.

AWARD ATTACHMENTS

Michigan Department of Transportation

FR-HSR-0066-11-01-00

1. Statement of Work, Attachment 3
2. Quarterly Progress Report for FRA, Attachment 4

ATTACHMENT 3

STATEMENT OF WORK

Preliminary Engineering and Environmental Documentation for the Ann Arbor Station

BACKGROUND

The proposed Ann Arbor Station would be located on the *Chicago-to-Detroit/Pontiac High-Speed Rail* Corridor (the Corridor), also known as the Wolverine Line, which currently hosts three daily passenger round trips as well as Norfolk Southern Railroad (NS) freight trains. The Corridor, in the vicinity of the proposed station location, which is in the City of Ann Arbor, Washtenaw County, MI (the City), is owned by NS. On March 11, 2011, the Federal Railroad Administration (FRA) issued a Notice of Funding Availability (NOFA) in the *Federal Register* for the High-Speed Intercity Passenger Rail Program. In response, the Michigan Department of Transportation (MDOT), in cooperation with the City, submitted an application for funding the completion of preliminary engineering (PE) and project-level environmental documentation relating to the proposed Ann Arbor Station to improve the existing Amtrak intercity passenger rail service on the Corridor. FRA reviewed MDOT's application for eligibility and ranking with the criteria outlined in the NOFA. On the basis of that evaluation, the U.S. Secretary of Transportation selected the application for funding. For the purposes of this Statement of Work (SOW), the term "Project" means the completion of PE and the environmental review for the proposed Ann Arbor Station, and the term "Construction Project" means future final design and construction work activities for the proposed Ann Arbor Station.

GENERAL OBJECTIVE

The objective of this Cooperative Agreement is for MDOT to complete PE and the required environmental documentation and approvals to support final design and construction of the proposed Ann Arbor Station. The Construction Project would consist of an intermodal intercity passenger rail station, new rail platforms, and improvements to the rail infrastructure including, but not limited to, new signals, crossovers, and a siding.

The proposed Ann Arbor Station would provide a relocated and improved station facility with easy, direct, and convenient access adequate to meet the needs of intercity passenger rail and transit riders, drivers, pedestrians, and cyclists (and would be designed in compliance with the Americans with Disabilities Act requirements for accessibility). In addition, the construction of a new crossover and siding would allow faster passenger trains to overtake and pass slower trains on this single-track line, improving intercity passenger, regional rail, and freight trains to operations in this territory, and would also enable greater operational flexibility (e.g., under circumstances where one track is taken out of service or is otherwise unavailable as a result of maintenance activities or operational disruptions).

PROJECT LOCATION

The site proposed for the Ann Arbor Station by MDOT and the City is a 7.61-acre parcel located adjacent to the NS-owned portion of the Corridor and is between Mileposts (MP) 36.1 and 37 on the south side of Fuller Road in Ann Arbor, MI, in Washtenaw County. This location is City-

owned property zoned as “public lands.” The location is within Fuller Park and includes a joint-use parking area. The parking area is shared by University of Michigan (UM) employees and Fuller Park visitors. The parcel is currently used as a surface parking lot on the west end and a youth soccer field on the east end. The proposed site encompasses approximately 3 acres within the parcel described above. The proposed Ann Arbor Station would occupy the same land area as the existing 250-space surface parking lot and would extend to the property line between that lot and the City’s Fuller Road right-of-way to the north and the NS Corridor to the south.

DESCRIPTION OF WORK

Task 1: Detailed Project Work Plan

For this initial task, MDOT will prepare a detailed Project Work Plan for Tasks 2, 3, and 4. The Work Plan will describe, in detail, the activities and steps necessary to complete the tasks outlined in this SOW. The Work Plan will include information about the Project management approach used to complete this SOW, including team organization, team decisionmaking, roles and responsibilities, and interaction with FRA. In addition, the Work Plan will include the Project schedule and a detailed Project budget. The detailed Project budget shall identify any Grantee or subgrantee funds expended prior to the effective date of this Cooperative Agreement which the Grantee proposes to qualify as the Grantee’s matching funds contribution to the Project as detailed in Attachment 2, section 5 of the Cooperative Agreement. If MDOT needs to secure an agreement with NS to access the railroad’s property to perform PE and/or environmental work, the executed agreement should also be included with the detailed Plan. The Work Plan will identify studies to be conducted as part of the environmental review and evaluation process. The Work Plan will be reviewed and approved by FRA.

Task 2: Conceptual Design

MDOT will complete sufficient conceptual design of the Construction Project to support Task 3 (environmental review). The conceptual design will be further refined in Task 4 (Preliminary Engineering).

Task 3: Environmental Review

MDOT will complete FRA-approved environmental clearance documentation for the Construction Project. The determination of the appropriate class of action and the Construction Project’s environmental impact will be made by FRA. MDOT will undertake an Environmental Assessment (EA) in accordance with the *FRA Procedures for Considering Environmental Impacts* (effective May 26, 1999) (64 FR 28545) (Environmental Procedures).

MDOT will conduct scoping to determine the key issues, needed studies, and potential effects of the proposed action. If determined appropriate, in consultation with FRA, MDOT will develop a public involvement plan that identifies key contacts within agencies, the news media, public officials, the general public, civic and business groups, relevant interest groups, present and potential riders/users, and private service providers/shippers. This plan will also identify how public involvement activities will be linked to key milestones in the planning/engineering and environmental processes.

Given the proposed location of the Ann Arbor Station site, MDOT will conduct a compliance review pursuant to Section 4(f) of the U.S. Department of Transportation Act of 1966 (codified

at 49 U.S.C. § 303). Among other things, Section 4(f) protects publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance. As part of this compliance review, MDOT must demonstrate to FRA that the City and State's proposed location site is not a Section 4(f) resource, or if it is, that it is exempted from Section 4(f). If such criteria are not met, a full Section 4(f) Evaluation will need to be completed to demonstrate that there are no feasible and prudent alternatives to the proposed use of a Section 4(f) property and that the preferred site includes all possible planning to minimize harm caused by such a use. It is the intention of the Grantee and the FRA that the Grantee not undertake significant activities to advance Task 4 until the Grantee has established to FRA's satisfaction that an intercity passenger rail station can be developed at the proposed location within the limitations reflected in Section 4(f).

MDOT will evaluate the proposed station location with the use of qualified environmental professionals to determine its impact, including conducting a review of existing literature, contacting relevant agencies, and performing field reconnaissance. MDOT, in coordination with FRA, will prepare an EA to include the following: definition of the Construction Project and existing conditions, identification of the purpose of and need for the Construction Project, identification and analysis of Construction Project build alternatives and a no-action alternative, and an analysis of existing conditions in comparison to the impacts of the proposed action. MDOT will submit a Draft EA to FRA for review and comment. MDOT will address FRA comments and submit a Final EA to FRA for review and approval. If determined appropriate, in consultation with FRA, MDOT will circulate the Draft EA for public and agency review and comment. Through consultation with FRA, and confirmation that no significant impacts are anticipated, MDOT will produce a Draft Finding of No Significant Impact (FONSI) (along with a response to comment document, if the EA is publically circulated) and will submit it to FRA for review, approval, and completion.

If there is an indication of the potential for significant impact that cannot be mitigated and FRA determines that a Draft Environmental Impact Statement (EIS) is required, MDOT will establish scopes and costs for the preparation of an EIS as well as concomitant additional public outreach activities.

In addition, MDOT is responsible for identifying all necessary permits required for the Construction Project's implementation.

Task 4: Preliminary Engineering (30% Design)

MDOT will complete PE (30% design) for FRA review and approval to support the Construction Project. PE will consist of the preparation of all design development and Construction Project delivery documentation necessary to demonstrate the effectiveness, feasibility, and readiness of the Construction Project. The following documentation will be prepared to accompany the design and specifications:

Preliminary Station, Track and Signal Design and Specifications (30% Level):

The Grantee will prepare station, track and signal designs and specifications for the Project at a level of detail adequate to demonstrate the feasibility of the proposed design and its appropriateness for fulfilling the Project's objectives. The minimum requirements for preliminary design and specifications are listed below.

- The Grantee will prepare drawings of existing and proposed track design prepared as part of PE, and the drawings will be at a scale of not less than 1 inch = 100 feet on 11" × 17" paper and will include, at a minimum, information relating to track configuration, design speeds, track centers, spiral and curve data, superelevation and assumed maximum underbalance, switch numbers and location, top of rail, toes of ballast, shoulders, toes of subgrade, and track profile.
- The Grantee will prepare drawings of existing and proposed signal design prepared as part of PE, and the drawings will include route and aspect charts, preliminary block design, and signal equipment locations.
- The Grantee will begin preparation of preliminary station, track and signal design and specifications by conducting an "as-is" survey of existing conditions within the Project area, which will result in a set of as-is drawings that provide an accurate representation of the ground terrain, physical obstructions, and existing track and signal design.
- The Grantee, working from the results of the "as-is" survey, will prepare preliminary station, track and signal design drawings and specifications for the proposed improvements encompassed by the Project, showing both the existing conditions and the proposed new design and including annotations showing how changes to track and signals within the Project area are to be implemented.

Construction Project Cost Estimate:

MDOT will prepare a Construction Project cost estimate consistent with the design and specifications. The Construction Project cost estimate will be presented in a format approved by FRA and will encompass all costs that MDOT anticipates will be incurred to implement the Construction Project following completion of PE (including all final design and construction costs). The Construction Project cost estimate will incorporate an appropriate allowance for cost risk and uncertainty associated with the Construction Project commensurate with its stage of development through inclusion of a cost contingency.

Financial Planning Documentation:

MDOT will prepare financial planning documentation demonstrating how the implementation of the Construction Project would be financed following completion of PE. On the basis of the Construction Project cost estimate, the minimum requirements for the financial planning documentation are listed below.

- A cost-loaded schedule depicting the cash outflow forecast for the Construction Project by calendar quarter, in both base year and "year of expenditure" (i.e., inflation-adjusted "nominal") dollars.
- A description of the inflation assumptions used to arrive at the year of expenditure values.
- A description of the degree to which funding for the implementation of the Construction Project has been committed and a description of the risks associated with the availability of the other sources of funding.
- A description of other financing risks associated with the Construction Project, including cost risks represented in the cost estimate and schedule risks represented in the schedule.
- A description of MDOT's plan for financing any cost overruns, including addressing the availability of the sources of funding that may be used to finance overruns.
- A description of how operating and maintenance costs of the Construction Project will be financed.

Construction Project Implementation Schedule:

MDOT will prepare a Construction Project implementation schedule consistent with the preliminary track and signal design and specifications. The Construction Project implementation schedule, including final design, will be presented in a format approved by FRA and will incorporate an appropriate allowance for Construction Project schedule risk, either through inclusion of a schedule contingency or through another method approved by FRA.

Construction Project Benefits Estimate:

MDOT will estimate the type and magnitude of benefits to intercity passenger rail service and other benefits that would result from the Construction Project.

Project Management Documentation:

MDOT will prepare Construction Project management documentation for the implementation of the Construction Project following completion of PE. The Construction Project management documentation will identify the stakeholders involved in the Construction Project's implementation and describe their respective roles, responsibilities, capabilities, capacities, and mechanisms through which these parties will interact with one another and will demonstrate that MDOT has the adequate staff organization with well-defined reporting relationships, statements of functional responsibilities, and job descriptions.

PROJECT SCHEDULE AND DELIVERABLES

The period of performance for all work will be approximately 24 months, from August 29, 2011 to August 29, 2013. In addition, MDOT and its subgrantee, the City, undertook certain work related specifically to tasks 2 and 3 in advance of the execution of this Cooperative Agreement and prior to this specified period of performance. FRA has agreed that it will consider the potential for such costs to qualify as the matching funds that MDOT has agreed to provide in this cooperative agreement. As noted in Attachment 2, section 5.f., such costs must have been incurred after February 17, 2009, must be directly related to the Project, and must otherwise be allowable under the terms of the Cooperative Agreement and this Statement of Work. FRA funds will be spent by the Grantee only during the period of performance noted above. The deliverables associated with this Cooperative Agreement are listed below. MDOT will achieve these deliverables to be authorized for funding of Project components and for the Project to be considered complete.

Deliverable	Due Date
Task 1: Detailed Work Plan	
Detailed Work Plan, Budget, Schedule, and Environmental Worksheet	October 3, 2011
Task 2: Conceptual Design	
Conceptual Design Drawings	October 10, 2011
Task 3: Environmental Review Documents	
Section 4(f) Compliance Review	December 31, 2011
Draft Environmental Review Document	January 2012

Final Environmental Review Document	March 2012
Draft Environmental Decision Document (FONSI)	May 2012
Task 4: Preliminary Engineering	
As-Is Survey	February 2012
Complete PE Drawings and Specifications	September 2012
Construction Project Cost Estimate	September 2012
Financial Planning Documentation	September 2012
Construction Project Implementation Schedule	September 2012
Construction Project Benefits Estimate	September 2012
Construction Project Management Documentation	September 2012

PROJECT BUDGET

The total estimated cost of the Project is \$3,508,000, for which this FRA Cooperative Agreement will contribute up to 80% of the total cost but not to exceed \$2,806,400. MDOT will be responsible for providing \$701,600 or 20% of the cost of the Project. Any additional expense required beyond that provided in this Cooperative Agreement to complete the Project will be borne by MDOT.

Deliverable	Cost Estimate
Task 1: Detailed Work Plan	20,000
Task 2: Conceptual Design	500,000
Task 3: Environmental Review Documents	250,000
Task 4: Preliminary Engineering	2,738,000
Total	\$3,508,000

MDOT will prepare the detailed Project budget as outlined in Task 1, which, when approved by FRA, will constitute the Approved Project Budget. Revisions to the Approved Project Budget will be made in compliance with Attachment 2, Section 4, of the Cooperative Agreement.

PROJECT COORDINATION

MDOT will perform all tasks required for the Project through a coordinated process, which will involve affected railroad owners, operators, and funding partners, including the City, NS, Amtrak, UM, and FRA.

PROJECT MANAGEMENT

MDOT is responsible for facilitating the coordination of all activities necessary for implementation of the Project. MDOT will monitor and evaluate the Project's progress through regular progress meetings scheduled throughout the Project's duration. MDOT will:

- Complete necessary tasks to hire a qualified consultant/contractor to perform required PE and/or environmental work
- Hold regularly scheduled Project meetings with FRA
- Inspect and approve work as it is completed
- Review and approve invoices as appropriate for completed work
- Perform Project closeout audit to ensure contractual compliance and issue closeout report
- Periodically submit required Project documents, including receipts and invoices, to FRA
- Comply with all FRA Project reporting requirements.

SUBSTANTIAL FEDERAL INVOLVEMENT

MDOT may choose to employ a third-party consultant for portions of this work; however, MDOT will be responsible for implementation of the Project and all obligations under the terms of this Cooperative Agreement. Under the Cooperative Agreement, FRA will participate in the Project, as described in this SOW and work plan and through review of the task deliverables. Oversight of any consultants will be conducted by MDOT, and there will be no modifications permitted to the funding under this Cooperative Agreement for cost overruns. All Federal progress reporting requirements will be handled by MDOT. FRA retains the right to audit or inspect all documentation and work throughout the term of this Cooperative Agreement.

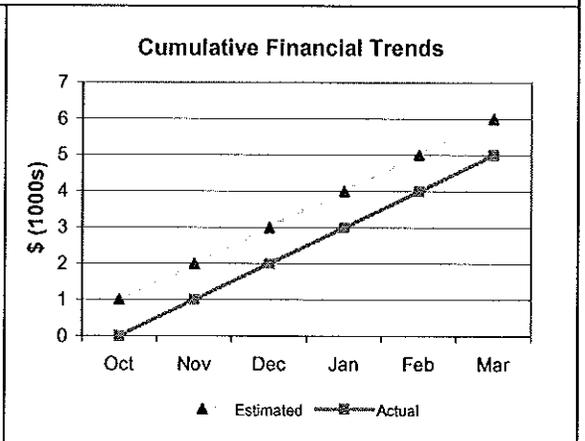
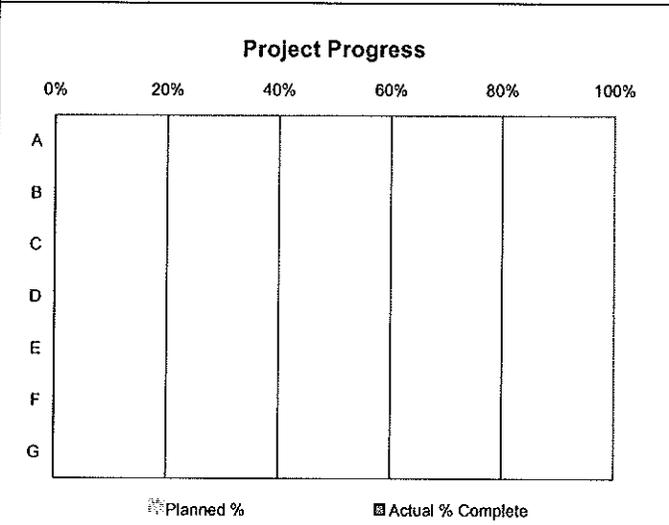
Attachment 4

Quarterly Progress Report for FRA

Grant No.	Performance Progress	Financial Progress	
WBS No.	Period Ending:	Funding Level:	\$0.00
Description	Start Date:	Expended:	\$0.00
Grantee Manager:	End Date:	Remaining:	\$0.00
FRA Manager:		% Expended:	0%

Project Description:

Significant Accomplishments This Period:



\$1000s	Oct	Nov	Dec	Jan	Feb	Mar
Estimated	1	2	3	4	5	6
Actual	0	1	2	3	4	5
Monthly		1	1	1	1	1

Milestones and Deliverables:	Start	Planned Completion	Revised Completion	Actual Completion	Planned %	Actual % Complete
A						
B						
C						
D						
E						
F						
G						

Technical/Cost/Schedule Problems:

Work Planned for Next Period:

Appendix E – FRA/MDOT Attachments

Attachment 4: MDOT, City of Ann Arbor Rail Passenger Station Contract



MICHIGAN DEPARTMENT OF TRANSPORTATION

CITY OF ANN ARBOR

RAIL PASSENGER STATION

THIS CONTRACT is made and entered into this date of _____ by and between the Michigan Department of Transportation, hereinafter referred to as the “DEPARTMENT,” and the City of Ann Arbor, hereinafter referred to as the “CITY.”

WITNESSETH:

WHEREAS, the Federal Railroad Administration (FRA) has awarded High Speed Rail funds for preliminary engineering work and the preparation of environmental documentation for the proposed Ann Arbor Intermodal Passenger Station and site; and

WHEREAS, the Federal funding will be provided under the American Recovery and Reinvestment Act of 2009 (ARRA) pursuant to the FRA’s High-Speed Intercity Passenger Rail program (HSIPR); and

WHEREAS, the purpose of the project is to benefit intercity passenger rail service, and the CITY is committed to helping to achieve, to the extent to which it is capable, the anticipated project benefits;

NOW, THEREFORE, the parties agree as follows:

Section 1. PURPOSE

This Contract is to provide for the performance of preliminary engineering work and the preparation of and acquisition of approvals for environmental documentation to support the final design and construction of the Ann Arbor Intermodal Passenger Station, as set forth in Attachment A, dated November 1, 2011, attached hereto and made a part hereof, such work hereinafter referred to as the “PROJECT.” The PROJECT will be performed in accordance with the Statement of Work, attached to and a part of the Grant Agreement (as defined below) submitted to the FRA by the DEPARTMENT, said Statement of Work

attached hereto and made a part hereof by reference as if the same were repeated in full herein.

The DEPARTMENT will participate in the PROJECT by making up to Two Million Eight Hundred Six Thousand Four Hundred Dollars (\$2,806,400.00) in ARRA funding available to the CITY for use in financing the PROJECT, as set forth in Section 4. The CITY will participate by making Seven Hundred One Thousand Six Hundred Dollars (\$701,600.00) in matching funds available for the PROJECT. The maximum PROJECT amount will be Three Million Five Hundred Eight Thousand Dollars (\$3,508,000.00), as set forth in Section 3.

Section 2. PROJECT

The CITY will perform or cause to be performed all of the PROJECT work. It is understood that the CITY will contract for all or portions of the PROJECT work, including the preliminary engineering work and the preparation of environmental documentation. The performance of the PROJECT work will be subject to all requirements contained in the DEPARTMENT's grant/cooperative agreement with the FRA concerning the PROJECT (the "Grant Agreement"), Grant Agreement Number FR-HSR-0066-11-01-00, specifically as defined in the Statement of Work, a copy of which will be provided under separate cover when available, and to the following:

- a. The PROJECT will comply with the requirements of the Americans with Disabilities Act.
- b. All CITY subcontracts will be submitted for approval to the DEPARTMENT and, if necessary, the FRA, prior to award. Any such approvals will not be construed as a warranty of the subcontractors' qualifications, professional standing, ability to perform the work being subcontracted, or financial integrity.
- c. The CITY will solicit and advertise for proposals from an adequate number of sources to permit reasonable competition for the contract(s) for the preliminary engineering work. The CITY will use competitive proposal procedures based on the Brooks Act, as defined in 40 USC Part 541.
- d. The CITY will accept full responsibility for the preliminary engineering work and the preparation of environmental documentation under the PROJECT. Any reviews undertaken by the DEPARTMENT are for its own purposes and will not be construed as a warranty or assumption of liability on the part of the DEPARTMENT, nor will such reviews relieve the CITY of liability for any claims, causes of action, or judgments arising out of the design for the modifications to the PROJECT building(s). It is understood that the CITY will, under contract with a licensed engineer and/or architect, perform all engineering activities required for completion of the PROJECT.

- e. The CITY will secure any and all necessary permits with concerned federal, state, and local agencies, etc., as may be necessary under federal, state, and local laws for the performance of work required for the PROJECT and will forward such permits to the DEPARTMENT for such reviews and approvals as may be required.
- f. The CITY will, within ten (10) days of any ceremony to be held in connection with the PROJECT, notify the DEPARTMENT.
- g. The CITY will, when issuing any news release or promotional material regarding the PROJECT, give the DEPARTMENT and the FRA credit for participation in the PROJECT and provide that the PROJECT is funded by the FRA with funds provided through ARRA.
- h. Within sixty (60) days of completion of all PROJECT work, the CITY will prepare a PROJECT report, in accordance with current DEPARTMENT requirements, and submit it to

Al Johnson, Supervisor
Office of High Speed Rail & Innovative Project Advancement
425 West Ottawa Street, P. O. Box 30050
Lansing, MI 48909

- i. Upon completion of the PROJECT work and acceptance thereof by the CITY, the CITY will so notify the DEPARTMENT and will request a final acceptance review of the PROJECT work. The DEPARTMENT will make a final acceptance review of the PROJECT work, as necessary to meet Federal aid requirements.
- j. The CITY will promptly refer to the U.S. Department of Transportation Inspector General any credible evidence that a principal, employee, agency, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.
- k. The CITY agrees to comply with the cargo preference requirements of 46 USC 1241(b), the regulations issued thereunder, 46 CFR Part 381, and the Grant Agreement. The CITY will include this provision in all PROJECT subcontracts.
- l. The CITY agrees to comply with the "Patent Rights" and "Rights in Data and Copyrights" sections of the Grant Agreement.
- m. The PROJECT property, equipment, and supplies financed by the Grant Agreement shall be used for the PROJECT purposes for the duration of their useful lives, as determined by FRA. Such property, equipment, and supplies are

subject to the property management standards, including disposition, of 49 CFR Part 18.

- n. The CITY agrees to include in all subcontracts involving ARRA funds a clause providing that the performance of the PROJECT work will be subject to all requirements contained in the Grant Agreement.

Section 3. COST

The DEPARTMENT and the CITY agree that the maximum PROJECT amount of Three Million Five Hundred Eight Thousand Dollars (\$3,508,000.00) set forth in Attachment A represents estimated line item costs required to complete the PROJECT and may be subject to revision and adjustment. Therefore, the DEPARTMENT and the CITY agree that revisions or adjustments to estimated line item costs set forth in Attachment A are permitted, provided, however, that such revisions or adjustments will not result in an increase in the financial obligations of the DEPARTMENT, as set forth in Section 4 of this Contract, or in a change in the scope of the PROJECT, unless by prior award of a written amendment to this Contract. All costs in excess of the amount stated above will be the CITY's responsibility.

No work may begin on the PROJECT until the work plan is approved by the DEPARTMENT and the DEPARTMENT provides the CITY with written notification to proceed. If costs are incurred for the PROJECT that are not approved by the DEPARTMENT, those costs will not be eligible for reimbursement and will remain the responsibility of the CITY. If for any reason this Contract is not awarded, the DEPARTMENT will not be responsible for any expenses that have been incurred.

Funding for this Contract made available through legislative appropriation is based on projected revenue estimates. The DEPARTMENT may reduce the amount of this Contract if the revenue actually received is insufficient to support the appropriation under which this Contract is made.

Section 4. COST REIMBURSEMENT

The PROJECT cost will be met by contributions from the federal government and the CITY. Federal ARRA funds will be applied to 80 percent of the eligible items of PROJECT cost not to exceed Two Million Eight Hundred Six Thousand Four Hundred Dollars (\$2,806,400.00), as set forth in Attachment A. All costs in excess of the amount stated above will be the CITY's responsibility.

Reimbursement for costs incurred is subject to the cost criteria set forth in OMB Circular A-87, 49 CFR Part 18, and Federal Acquisition Regulations, 48 CFR Chapter I, Subpart 31.2, incorporated herein by reference as if the same were repeated in full herein. ARRA funds used for management and administrative costs will be allowable, reasonable, allocable, and in accordance with applicable OMB cost principles.

Section 5. METHOD OF REIMBURSEMENT

- a. The reimbursements identified in Section 4 will be made by the DEPARTMENT against invoices presented to it by the CITY detailing actual costs by the CITY and/or its subconsultants as well as evidence of payment and/or other supporting documentation by the CITY. Reimbursement for costs incurred is subject to review and approval by the DEPARTMENT.
- b. The CITY will submit along with each invoice, as identified in Section 5(a), a PROJECT billing summary showing actual PROJECT costs to date. The CITY agrees that the costs reported to the DEPARTMENT for this Contract will represent only those items that are properly chargeable in accordance with this Contract. The CITY also certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.
- c. The DEPARTMENT will reimburse the CITY for all eligible PROJECT costs, as set forth in Attachment A, within thirty (30) days of receiving said billings, up to a maximum amount of Two Million Eight Hundred Six Thousand Four Hundred Dollars (\$2,806,400.00).

Section 6. AUDIT AND RECORD RETENTION

The CITY agrees to the following:

- a. The CITY will establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Contract. Separate accounts will be established and maintained for all costs incurred under this Contract.
- b. The CITY will also maintain accurate records of all information relating to the following: support for any proposal, change order, or request for equitable adjustment submitted by the CITY; Contract compliance and performance, including any work or deliverables in progress; compliance with applicable provisions of the DEPARTMENT's Federal grant; and support for all direct and indirect costs or prices charged to the DEPARTMENT. The information described in subsections (a) and (b) is hereinafter referred to as the "RECORDS."
- c. The CITY will comply with the Single Audit Act of 1984, as amended, including, but not limited to, the Single Audit Amendments of 1996 (31 USC 7501-7507) and the OMB Circular A-133, as revised or amended, and the provisions of 1951 PA 51; MCL 247.660h; MSA 9.1097 (10j), as applicable with regard to audits, that are in effect at the time of Contract award.
- d. The CITY will maintain the RECORDS for at least three (3) years from the date of final payment made by the DEPARTMENT under this Contract. In the event of

a dispute with regard to the allowable expenses or any other issue under this Contract, the CITY will thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired, or until the end of the three (3) year period, whichever is later.

- e. The DEPARTMENT, the FRA, the U.S. Department of Transportation, and the Comptroller General of the United States, and their authorized representatives shall have access to and the right to inspect, copy, and/or audit the RECORDS, at any reasonable time after giving reasonable notice. In connection with such audit and inspection activities, the DEPARTMENT, the FRA, the U.S. Department of Transportation, and the Comptroller General of the United States, and their authorized representatives shall be afforded access to the PROJECT facilities and to contract work and/or deliverables in progress, the opportunity to interview the CITY's employees concerning any matter relating to the Contract, and adequate and appropriate workspace.
- f. The CITY will assure, and is responsible for, compliance with subsections (a), (b), (c), (d), and (e) above for all subcontracted work and will require all subcontractors to include these subsections in all lower tier subcontract(s) and/or purchase order(s).
- g. The CITY must comply with applicable state laws and regulations relative to audit requirements.
- h. The CITY is subject to state monitoring activities, which may include limited scope reviews and other on-site monitoring.
- i. The DEPARTMENT, the FRA, the U.S. Department of Transportation, and the U.S. Comptroller General, and their authorized representatives have the right to make site visits at all reasonable times, and the CITY must provide access to all reasonable facilities at such visits.

Section 7. AUDIT AND REPAYMENT

In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this Contract or questions the allowability of an item of expense, the DEPARTMENT will promptly submit to the CITY a Notice of Audit Results and a copy of the audit report, which may supplement or modify any tentative findings verbally communicated to the CITY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the CITY will (a) respond in writing to the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense, and (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as

the "RESPONSE." The RESPONSE will be clearly stated and will provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the CITY may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE will refer to and apply the language of the Contract. The CITY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT will make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the CITY, the CITY will repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the CITY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the CITY agrees that the DEPARTMENT will deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the CITY under this Contract or any other agreement or payable to the CITY under the terms of PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The CITY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT's decision only as to any item of expense the disallowance of which was disputed by the CITY in a timely filed RESPONSE.

Section 8. INDEMNIFICATION

Each party to this Contract will remain responsible for any claims arising out of its performance of this Contract, as provided by this Contract or by law.

This Contract is not intended to increase or decrease either party's liability for or immunity from tort claims.

This Contract is not intended to give nor will it be interpreted as giving either party a right of indemnification, either by contract or by law, for claims arising out of the performance of this Contract.

Section 9. NONDISCRIMINATION

- a. The CITY and the DEPARTMENT will comply with the fair employment and equal opportunity practices of Executive Order (E.O.) 11246, as amended by E.O. 11375, and as supplemented by 41 CFR Part 60. The CITY will include this provision in all subcontracts relating to this Contract.
- b. In connection with the performance of the PROJECT under this Contract, the CITY (hereinafter in Appendix A referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix A, dated June 2011, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this Contract.
- c. During the performance of this Contract, the CITY, for itself, its assignees, and its successors in interest (hereinafter in Appendix B referred to as the "contractor"), agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241 as amended, being Title 42 USC Sections 1971, 1975a-1975d, and 2000a-2000h-6, and the Regulations of the Department of Transportation (49 CFR Part 21) issued pursuant to said Act, including Appendix B, dated June 2011, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this Contract.
- d. The CITY will carry out the applicable requirements of the DEPARTMENT's DBE program and 49 CFR Part 26, including, but not limited to, those requirements set forth in Appendix C, dated October 1, 2005, attached hereto and made a part hereof.

Section 10. SUBLETTING

No portion of the PROJECT will be sublet without the prior written consent of the DEPARTMENT. Consent to sublet any portion of the PROJECT will not be construed to relieve the CITY of any responsibility or obligation under or for the fulfillment of this Contract. All contracts, including amendments with subcontractors, in excess of Twenty-Five Thousand Dollars (\$25,000.00), will be submitted to the DEPARTMENT for approval prior to award and will contain all applicable provisions of this Contract. Any such approvals will not be construed as a warranty of the subcontractor's qualifications, professional standing, ability to perform the work being subcontracted, or financial integrity.

Section 11. ENTIRE CONTRACT

This Contract constitutes the entire agreement between the parties with respect to the PROJECT. There are no other agreements, either expressed or implied. All prior contracts, agreements, and understandings between the parties with respect to the

PROJECT are subsumed within this Contract. Except as otherwise provided in this Contract, no change in, modification to, or amendment to this Contract will be of any force or effect unless in writing, dated, and awarded by the duly authorized representatives of the parties.

Section 12. CHANGES

All changes in the scope or character of the PROJECT or in the cost, compensation, or term of this Contract will be by award of a prior written amendment to this Contract by the parties. The parties shall not enter into or agree to any substantive changes in the Contract without the FRA's prior written consent.

Section 13. TERMINATION

The DEPARTMENT may terminate this Contract for convenience or cause, as set forth below, before the PROJECT is completed. Written notice of termination will be sent to the CITY. The CITY will be reimbursed in accordance with the following:

a. Termination for Convenience:

If the DEPARTMENT terminates this Contract for convenience, the DEPARTMENT will give the CITY written notice of such termination thirty (30) days prior to the date of such termination, and the CITY will be reimbursed for eligible PROJECT costs incurred up to the effective date set forth in the notice of termination. In no case will the compensation paid to the CITY for partial completion of the PROJECT exceed the amount the CITY would have received had the PROJECT been completed.

b. Termination for Cause:

In the event the CITY fails to complete any part of the PROJECT in a manner satisfactory to the DEPARTMENT, the DEPARTMENT may terminate this Contract. If the DEPARTMENT terminates this Contract for cause before the PROJECT is completed, the DEPARTMENT will not reimburse the CITY for any PROJECT costs. Written notice of termination will be sent to the CITY.

In the event that termination by the DEPARTMENT is necessitated by any wrongful breach, failure, default, or omission by the CITY, the DEPARTMENT will be entitled to pursue whatever remedy is available to it, including, but not limited to, withholding funds or off-setting against funds owed to the CITY under this Contract, as well as any other existing or future contracts between the CITY and the DEPARTMENT, for any and all damages and costs incurred or sustained by the DEPARTMENT as a result of its termination of this Contract due to the wrongful breach, failure, default, or omission by the CITY. In the event of termination of this Contract, the DEPARTMENT may procure the PROJECT

work from other sources and hold the CITY responsible for any damages or excess costs occasioned thereby.

Section 14. UNFAIR LABOR PRACTICES

- a. In accordance with 1980 PA 278, MCL 423.321 *et seq.*; MSA 17.458(22) *et seq.*; the CITY, in the performance of this Contract, will not enter into a contract with a subcontractor, manufacturer, or supplier listed in the register maintained by the United States Department of Labor of employers who have been found in contempt of court by a Federal court of appeals on not less than three (3) occasions involving different violations during the preceding seven (7) years for failure to correct an unfair labor practice, as prohibited by Section 8 of Chapter 372 of the National Labor Relations Act, 29 USC 158. The DEPARTMENT may void this Contract if the name of the CITY or the name of a subcontractor, manufacturer, or supplier utilized by the CITY in the performance of this Contract subsequently appears in the register during the performance period of this Contract.
- b. The CITY will comply with the requirements of 40 USC 3141.
- c. The CITY and the DEPARTMENT will comply with the state, local government, and contractor whistleblower protections of ARRA.

Section 15. SEVERABILITY

If any part of this Contract is determined to be invalid, illegal, or unenforceable, such determination will not affect the validity, legality, or enforceability of any other part of this Contract, and the remaining parts of this Contract will be enforced as if such invalid, illegal, or unenforceable part were not contained herein.

Section 16. ASSIGNMENT OF ANTITRUST RIGHTS

With regard to claims based on goods or services that were used to meet the CITY's obligation to the DEPARTMENT under this Contract, the CITY hereby irrevocably assigns its right to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or the DEPARTMENT due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - .788, excluding Section 4a, to the State of Michigan or the DEPARTMENT.

The CITY shall require any subcontractors to irrevocably assign their rights to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or the DEPARTMENT with regard to claims based on goods or services that were used to meet the CITY's obligation to the DEPARTMENT under this Contract due to any violation of 15 USC, Sections 1 - 15, and/or 1984 PA 274, MCL 445.771 - .788, excluding Section 4a, to the State of Michigan or the DEPARTMENT as a third-party beneficiary.

The CITY shall notify the DEPARTMENT if it becomes aware that an antitrust violation with regard to claims based on goods or services that were used to meet the CITY's obligation to the DEPARTMENT under this Contract may have occurred or is threatened to occur. The CITY shall also notify the DEPARTMENT if it becomes aware of any person's intent to commence, or of commencement of, an antitrust action with regard to claims based on goods or services that were used to meet the CITY's obligation to the DEPARTMENT under this Contract.

Section 17. ARRA REQUIREMENTS

This Contract is subject to all applicable requirements and conditions of ARRA, including, but not limited to, the requirements set forth in Attachment B, pages 1 through 6, attached hereto and made a part hereof.

The CITY agrees that it and its subcontractors will provide all documentation requested by the DEPARTMENT for its use in preparing reports required by the Grant Agreement, including all ARRA reporting requirements, and any supplemental reports as may be required. Should the CITY and/or any of its subcontractors fail to provide such documentation, the DEPARTMENT may withhold reimbursement of federal funds for the PROJECT work until compliance is achieved.

The CITY agrees that ARRA funds will not be used for any casino or other gaming establishment, aquarium, zoo, golf course, or swimming pool.

The CITY agrees that, to the maximum extent possible, contracts funded under ARRA shall be awarded as fixed-price contracts through the use of competitive procedures, and that the CITY will provide a summary of any contract awarded with ARRA funds that is not fixed-price and not awarded using competitive procedures to the DEPARTMENT.

The CITY agrees to comply with the Buy American requirements of 49 USC 24405(a).

Section 18. TERM

This Contract will be in effect from the date of award of the Federal revenue grant through August 29, 2013.

The timely delivery of ARRA projects is critical. The expectation is that all PROJECT funds will be obligated within a year.

Prior to expiration, the time for completion of performance under this Contract may be extended by the DEPARTMENT upon written request and justification from the CITY. The parties will not enter into or agree to any such extension of the Contract without the FRA's prior written consent. Upon approval and authorization, a written time extension amendment will be issued by the DEPARTMENT. The terms and conditions of the extension will be set forth in the amendment. Any such extension will not operate as a waiver by the DEPARTMENT of any of its rights herein set forth.

Section 19. APPLICATION OF FEDERAL LAW

The CITY and the DEPARTMENT agree that federal requirements, including federal laws, regulations, policies, and related administrative practices, may change and the changed requirements will apply to the PROJECT, as required. The CITY will include this provision in all subcontracts financed with ARRA funds relating to this Contract.

Section 20. AWARD

This Contract will become binding on the parties and of full force and effect upon signing by the duly authorized representatives of the CITY and the DEPARTMENT and upon adoption of a resolution approving said Contract and authorizing the signature(s) thereto of the respective representative(s) of the CITY, a certified copy of which resolution will be sent to the DEPARTMENT with this Contract, as applicable.

IN WITNESS WHEREOF, the parties have caused this Contract to be awarded.

CITY OF ANN ARBOR

BY: _____
Title:

MICHIGAN DEPARTMENT OF TRANSPORTATION

BY: _____
Title: Department Director

ATTACHMENT A
THE CITY OF ANN ARBOR
AND
THE STATE OF MICHIGAN

November 1, 2011

Total estimated cost breakdown for the Preliminary Engineering and Environmental Documentation of the Ann Arbor Intermodal Passenger Station:

Deliverable	Cost Estimate
Task 1: Detailed Work Plan	20,000
Task 2: Conceptual Design	500,000
Task 3: Environmental Review Documents	250,000
Task 4: Preliminary Engineering	2,738,000
Total	\$3,508,000

Funding source:

FRA/ARRA funding @ \$2,806,400 - FY11, Account 77619/3219

Local/ARRA funding @ \$701,600 - FY11, Account 77619/4120

ATTACHMENT B

The following conditions apply to work funded under the American Recovery and Reinvestment Act 2009 (ARRA).

- A. This work is funded under the American Recovery and Reinvestment Act 2009 (ARRA).
- B. As such it will be monitored and audited by the federal government or their representatives. The Contractor is required to keep complete records including but not limited to invoices, payroll information, and timesheets. The Contractor is required to make such records available for federal government or their representatives for inspection and/or audit.
- C. Buy American Requirement: The Buy American requirement will be met by compliance with 49 USC 24405 (a).
- D. Wage Requirements: All laborers and mechanics employed by contractors and subcontractors of projects funded in whole or in part with funds available under the ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality, as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of Title 40 of the United States Code (see ARRA section 1606). The Secretary of Labor's determination regarding prevailing wages applicable to Michigan is available at <http://www.gpo.gov/davisbacon/mi.html>.
- E. Whistleblower Protection: Section 1553 of Title XV of Division A of the ARRA prohibits all non-federal recipients of ARRA funds, including the State of Michigan, and all contractors and grantees, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes there is evidence of (1) gross mismanagement of a contract or grant relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to implementation or use of ARRA funds; (4) an abuse of authority related to the implementation or use of recovery funds; or (5) a violation of law, rule or regulation related to an agency contract (including competition for or negotiation of a contract) or grant, awarded or issued relating to ARRA funds. The recipient must post notice of the rights and remedies available to employees under section 1553 of Title XV of Division A of ARRA.

This requirement must be included in all subcontracts or sub grants involving the use of funds made available under ARRA.

Contractors are to display the poster included below under section 'M'.

- F. Reporting Requirements: Reporting has to be done under ARRA and the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282). Prime responsibility for such reporting is with the Owner. However this Contractor will be required to provide monthly reports accompanying each

Payment Request. This information will be in addition to the typical payment request format and back-up.

The Owner will provide in electronic format a form to be completed each month. The form will include but not be limited to the following information:

1. Name of Contractor
2. Amount of Contract
3. Type of Contract*
4. Agency*
5. NAICS Code *
6. Program Source*
7. Purpose
8. Location of Contract
9. City
10. State
11. Congressional District*
12. County
13. Country
14. Unique Identifier*
15. Subcontracts
16. Amount of each Subcontract
17. Completion Status
18. Number of Jobs Created or Retained

Items marked * will be completed by the Owner. The Contactor shall complete all other items.

- G. Inspection of Records: The Contractor shall permit the United States Comptroller General or his representative or the appropriate inspector general appointed under Section 3 or 8G of the Inspector General Act of 1998 or his representative (1) to examine any records that directly pertain to and involve transactions relating to this contract, and (2) to interview any officer or employee of the contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by ARRA.
- H. Non-Discrimination: The Contractor shall comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments Act of 1972, the Age Discrimination Act of 1975, and other civil rights laws applicable to recipients for Federal financial assistance.
- I. Job Opportunity Posting Requirements: contractors shall post notice of job opportunities created in connection with activities funded in whole or in part with ARRA funds in the Michigan Talent bank www.michworks.org/mtb.

J.

Notification
ARRA MONTHLY EMPLOYMENT REPORTS

Note: This notification is only applicable for those projects/contracts funded with ARRA funds.
If you have questions please contact MDOT Contract Services Division at (517) 335-0071.

The American Recovery and Reinvestment Act of 2009 (ARRA), requires states receiving stimulus funds for railroad projects to provide monthly reports to the Federal Railroad Administration (FRA) regarding the number of employees of the prime contractors, all-tier subcontractors and consultants on ARRA funded projects.

The cost for complying with this Notification must be borne by the prime contractor, and all tiers of subcontractors and consultants, as part of their overhead and is deemed to be included in the payments made under this contract.

Within 10 days after the end of each month in which work is performed on this contract, all prime contractors and consultants must provide the Engineer a monthly report on MERS at <https://sso.state.mi.us/> providing employment information on each ARRA project, which will include, for work performed in that preceding month:

- The total number of employees who performed work on this contract
- The total number of hours worked by employees who performed work on this contract
- The total wages of employees who performed work on this contract

Prime Consultants are responsible for reporting on all sub consultants' employment information in MERS, as the subconsultants will not have access to do so.

In addition, the prime contractor must provide a total payment amount made to any subcontractor who is certified DBE in that preceding month.

This Notification shall be included as a part of each subcontract executed by the prime contractor, and all-tiers of subcontractors and consultants.

If necessary to conform to guidance provided by FRA concerning the ARRA reporting requirements, the prime contractor, and all-tiers of subcontractors and consultants will revise their reporting as directed by the Engineer.

Failure to comply with the reporting requirements under ARRA would jeopardize the Department's continued receipt of ARRA funding.

Accordingly, if a contractor or any-tier of subcontractor of consultant fails to comply with this Notification, the Department may withhold contract payments until compliance is achieved. If the Department is compelled to incur costs because of such a breach, the amount of those costs may be deducted from payments otherwise to be made under this contract. Additional sanctions may include reduction or elimination of prequalification ratings and removal of bidding privileges.

Revised: 8-4-2010

K.

03NB41
03-26-09

NOTICE TO BIDDERS
ARRA REQUIREMENTS

As a part of the American Recovery and Reinvestment of 2009 (ARRA), Davis-Bacon prevailing wage requirements apply to all ARRA funded construction projects regardless of location (including projects on local roads or rural minor collectors, and Transportation Enhancement projects outside the highway right-of-way).

L.

03NB42
03-26-09

**NOTICE TO BIDDERS
REQUIRED CONTRACT PROVISIONS TO IMPLEMENT
AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)
SECTIONS 902 AND 1515**

In accordance with requirements under section 902 of the American Recovery and Reinvestment Act of 2009 (ARRA), the following language is made a part of this contract and is to be made a part of all tier subcontracts or consultant contracts:

The U.S. Comptroller General and his representatives have the authority:

- (1) to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) to interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

The Comptroller General and his representatives have the authority and rights provided under Section 902 of the ARRA with respect to this contract. As provided in section 902, nothing in section 902 shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

In accordance with the requirements of section 1515(a) of the ARRA any representatives of the Inspector General have the authority:

- (1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to the contract, subcontract, grant, or subgrant; and
- (2) to interview any officer or employee of the contractor, grantee, subgrantee or agency regarding such transactions.

Nothing set forth in section 1515 of the ARRA shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

M. Whistleblower Poster to be Displayed

Know Your Rights Under the Recovery Act!

Did you know?

The American Recovery and Reinvestment Act of 2009¹ provides protections for certain employees of non-federal employers who make specified disclosures relating to possible fraud, waste and/or abuse of Recovery Act funds.

Who is protected?

Employees of non-federal employers receiving recovery funds. This includes State and local governments, contractors, subcontractors, grantees or professional membership organizations acting in the interest of recovery fund recipients.

How are Whistleblowers Protected?

You cannot be discharged, demoted or otherwise discriminated against as a reprisal for making a protected disclosure.

What types of disclosures are protected?

The disclosure must be made by the employee to the Recovery Accountability and Transparency Board, an Inspector General, the Comptroller General, a member of Congress, a state or federal regulatory or law enforcement agency, a person with supervisory authority over the employee, a court or grand jury, or the head of a federal agency or his/her representatives.

The disclosure must involve information that the employee believes is evidence of:

- gross mismanagement of an agency contract or grant relating to recovery funds;
- a gross waste of recovery funds;
- a substantial and specific danger to public health or safety related to the implementation or use of recovery funds;
- an abuse of authority related to the implementation or use of recovery funds; or
- a violation of law, rule, or regulation related to an agency contract or grant awarded or issued relating to recovery funds.

Take Action!

Log on to Recovery.gov for more information about your rights and details on how to report at www.recovery.gov.

¹ Section 1553 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5

APPENDIX A
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised June 2011

APPENDIX B
TITLE VI ASSURANCE

During the performance of this contract, the contractor, for itself, its assignees, and its successors in interest (hereinafter referred to as the "contractor"), agrees as follows:

1. **Compliance with Regulations:** For all federally assisted programs, the contractor shall comply with the nondiscrimination regulations set forth in 49 CFR Part 21, as may be amended from time to time (hereinafter referred to as the Regulations). Such Regulations are incorporated herein by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed under the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection, retention, and treatment of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices, when the contractor covers a program set forth in Appendix B of the Regulations.
3. **Solicitation for Subcontracts, Including Procurements of Materials and Equipment:** All solicitations made by the contractor, either by competitive bidding or by negotiation for subcontract work, including procurement of materials or leases of equipment, must include a notification to each potential subcontractor or supplier of the contractor's obligations under the contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and facilities as may be determined to be pertinent by the Department or the United States Department of Transportation (USDOT) in order to ascertain compliance with such Regulations or directives. If required information concerning the contractor is in the exclusive possession of another who fails or refuses to furnish the required information, the contractor shall certify to the Department or the USDOT, as appropriate, and shall set forth the efforts that it made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Department shall impose such contract sanctions as it or the USDOT may determine to be appropriate, including, but not limited to, the following:
 - a. Withholding payments to the contractor until the contractor complies; and/or
 - b. Canceling, terminating, or suspending the contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor shall include the provisions of Sections (1) through (6) in every subcontract, including procurement of material and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Department or the USDOT may direct as a means of enforcing such provisions, including sanctions for non-compliance, provided, however, that in the event a contractor becomes involved in or is threatened with litigation from a subcontractor or supplier as a result of such direction, the contractor may request the Department to enter into such litigation to protect the interests of the state. In addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Revised June 2011

(Revised October 1, 2005)

APPENDIX C

Assurances that Recipients and Contractors Must Make (Excerpts from US DOT Regulation 49 CFR § 26.13)

- A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

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

- B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

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

Appendix E – FRA/MDOT Attachments

Attachment 5: FRA Worksheets

Detailed Work Plan - Budget & Schedule Instructions (Planning/PE/NEPA Projects)

One of the first deliverables required by a grant/cooperative agreement (herein referred to as grant) for high-speed and intercity passenger rail projects is a Detailed Work Plan. The Detailed Work Plan provides additional levels of granularity to the information contained in the approved Statement of Work that accompanies the grant agreement. Specifically, the Detailed Work Plan describes – *in detail* – the steps that will be taken to implement the project and provides an updated budget and schedule that is commensurate with the scope of work to be accomplished.

This document provides instructions and templates for completing the budget and schedule components of the Detailed Work Plan (see the FRA document titled "Detailed Work Plan Outline" for a description of the other components of the Detailed Work Plan).

Budget

Grantees are required to submit two variations of the budget - one version that aligns costs to OMB's Cost Categories and one version that aligns costs to FRA's Standard Cost Categories. Budget line items should directly correspond to the tasks and subtasks identified in the Description of Work section of the Detailed Work Plan. The budgets should also identify the allocation of Federal and non-Federal funding for each task and subtask.

1. Budget by OMB Cost Categories - Costs for budget line items should align with the OMB Cost Categories for non-construction projects. [Tab 1 of this spreadsheet contains a description of the OMB Cost Categories for non-construction projects.](#) [Tab 3 contains the corresponding budget template.](#) Grantees should also submit a budget narrative that describes how the figures in each cost category were derived.

2. Budget by FRA Standard Cost Categories - Costs for budget line items should align with FRA's Standard Cost Categories. FRA developed this separate set of cost categories to better account for activities unique to railroad projects. [Tab 2 of this spreadsheet contains a description of FRA's Standard Cost Categories.](#) [Tab 4 contains the corresponding budget template.](#) FRA recognizes that in many instances the majority of costs associated with planning/PE/NEPA projects will align under the "Professional Services" cost category.

Schedule

Grantees are required to submit two variations of the schedule - one version that provides a schedule at the task level and one version that provides a more detailed schedule by subtasks and related processes, milestones, and deliverables. The tasks and subtasks in both versions of the schedule should directly correspond to the tasks and subtasks identified in the Description of Work section of the Detailed Work Plan.

1. Summary Task Schedule - The Summary Task Schedule should identify the start date, end date, and duration for completing the task. [Tab 5 of this spreadsheet contains the Summary Task Schedule template.](#)

2. Detailed Task Schedule - The Detailed Task Schedule should further develop the Summary Task Schedule by including timeframes for completing major processes, reaching milestones, and finalizing work products/deliverables within each task. For each process, milestone, and deliverable, identify the start date, end date, and duration for completion. For deliverables (or other processes or milestones as appropriate), indicate the timeframe for each relevant stakeholder to review the deliverable. [Tab 6 of this spreadsheet contains the Detailed Task Schedule.](#)

Overview of OMB Cost Categories - Non-Construction

This document provides a description of the OMB Cost Categories for non-construction projects. A budget narrative describing how the costs for each category were derived should accompany the budget template on Tab 3.

OMB Cost Category	Notes
Personnel	List each position by title and name of employee, if available, and show the annual salary rate and the percentage of time to be devoted to the project. Compensation paid for employees engaged in grant activities must be consistent with that paid for similar work within the applicant organization.
Fringe Benefits	Fringe benefits should be based on actual known costs or an established formula. Fringe benefits are for personnel listed in the "Personnel" budget category and only for the percentage of time devoted to the project.
Travel	Itemize travel expenses of project personnel by purpose (training, interviews, and meetings). Show the basis of computation (e.g., X people to Y-day training at \$A airfare, \$B lodging, \$C subsistence).
Equipment	List non-expendable items that are to be purchased. Non-expendable equipment is tangible property having a useful life of more than two years and an acquisition cost of \$5,000 or more per unit. (Note: Organization's own capitalization policy may be used for items costing less than \$5,000.) Expendable items should be included either in the "Supplies" category or in the "Other" category. Applicants should analyze the cost benefits of purchasing versus leasing equipment, especially high cost items and those subject to rapid technical advances. Rented or leased equipment should be listed in the "Contractual" category. Explain how the equipment is necessary for the success of the project. Attach a narrative describing the procurement method to be used.
Supplies	List items by type (office supplies, postage, training materials, copying paper, and expendable equipment items costing less than \$5,000) and show the basis for computation. (Note: Organization's own capitalization policy may be used for items costing less than \$5,000). Generally, supplies include any materials that are expendable or consumed during the course of the project.
Consultants/Contracts	Indicate whether applicant's written procurement policy (see 49 CFR 18.36) or the Federal Acquisition Regulations (FAR) are followed. Consultant Fees: For each consultant enter the name, if known, service to be provided, hourly or daily fee (8-hour day), and the estimated time on the project. Consultant Expenses: List all expenses to be paid from the grant to the individual consultants in addition to their fees (travel, meals, and lodging). Contracts: Provide a description of the product or service to be procured by contract and an estimate of the cost. Applicants are encouraged to promote free and open competition in awarding contracts. A separate justification must be provided for sole source contracts in excess of \$100,000.
Other	List items (rent, reproduction, telephone, janitorial or security services) by major type and the basis of the computation. For example, provide the square footage and the cost per square foot for rent, or provide the monthly rental cost and how many months to rent.
Indirect Costs	Indirect costs are allowed only if the applicant has a Federally-approved indirect cost rate. A copy of the rate approval (a fully executed, negotiated agreement) must be attached. If the applicant does not have an approved rate, one can be requested by contacting the applicant's cognizant Federal agency, which will review all documentation and approve a rate for the applicant organization.

Federal Railroad Administration

Overview of FRA Standard Cost Categories

FRA developed the following Standard Cost Categories to better account for activities unique to railroad projects. Categories 10 - 70 are primarily reserved for construction and equipment acquisition/refurbishment. Category 80 captures the professional services related to categories 10 -70, as well as pre-construction activities. In many instances, the majority of costs related to planning, preliminary engineering, and NEPA projects will fall under the professional services category.

FRA Standard Cost Categories		Notes
10 TRACK STRUCTURES & TRACK		
10.01	Track structure: Viaduct	Include elevated track structure of significant length consisting of multiple spans of generally equal length
10.02	Track structure: Major/Movable bridge	Include all elevated track structures with a movable span, and/or with a span of significant length (generally of approximately 400' or longer)
10.03	Track structure: Undergrade Bridges	Include elevated track structure of greater than 20 feet that does not fall into 10.01 and 10.02
10.04	Track structure: Culverts and drainage structures	Include all minor undergrade passageways (generally of 20 feet or less in width)
10.05	Track structure: Cut and Fill (> 4' height/depth)	Include grading and subgrade stabilization of roadbed
10.06	Track structure: At-grade (grading and subgrade stabilization)	All grading and subgrade stabilization of roadbed not included under cost categories 10.01 through 10.05 and 10.07
10.07	Track structure: Tunnel	Definition self-explanatory
10.08	Track structure: Retaining walls and systems	Definition self-explanatory
10.09	Track new construction: Conventional ballasted	Include all ballasted track construction on prepared subgrade, on new or existing rights-of-way
10.10	Track new construction: Non-ballasted	Include all slab, direct fixation, embedded, and other non-ballasted track construction on prepared subgrade, on new or existing rights-of-way
10.11	Track rehabilitation: Ballast and surfacing	Include undercutting, ballast cleaning, tamping, and surfacing not associated with new track construction
10.12	Track rehabilitation: Ditching and drainage	Definition self-explanatory
10.13	Track rehabilitation: Component replacement (rail, ties, etc)	Definition self-explanatory
10.14	Track: Special track work (switches, turnouts, insulated joints)	Include minor turnouts and interlocking, such as crossovers and turnouts at the ends of passing tracks
10.15	Track: Major interlockings	Significant interlockings at major stations and where routes converge from three or more directions
10.16	Track: Switch heaters (with power and control)	Include cost of power distribution equipment from commercial power source to interlocking location
10.17	Track: Vibration and noise dampening	Definition self-explanatory
10.18	Other linear structures including fencing, sound walls	Definition self-explanatory

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20 STATIONS, TERMINALS, INTERMODAL		As associated with stations, include costs for rough grading, excavation, station structures, enclosures, finishes, equipment; mechanical and electrical components including HVAC, ventilation shafts and equipment, station power, lighting, public address/customer information systems; safety systems such as fire detection and prevention, security surveillance, access control, life safety systems, etc. Include all construction materials and labor regardless of who is performing the work.
20.01	Station buildings: Intercity passenger rail only	Definition self-explanatory
20.02	Station buildings: Joint use (commuter rail, intercity bus)	Definition self-explanatory
20.03	Platforms	Definition self-explanatory
20.04	Elevators, escalators	Definition self-explanatory
20.05	Joint commercial development	Construction at station sites intended to support non-transportation commercial activities (shopping, restaurants, residential, office space). Do not include cost of incidental commercial use of station space intended for use by passengers (newsstands, snack bar, etc). Costs may not be allowable for Federal reimbursement
20.06	Pedestrian / bike access and accommodation, landscaping, parking lots	Include sidewalks, paths, plazas, landscape, site and station furniture, site lighting, signage, public artwork, bike facilities, permanent fencing
20.07	Automobile, bus, van accessways including roads	Include all on-grade paving
20.08	Fare collection systems and equipment	Include fare sales and swipe machines, fare counting equipment
20.09	Station security	Definition self-explanatory
30 SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS		
30.01	Administration building: Office, sales, storage, revenue counting	Definition self-explanatory
30.02	Light maintenance facility	Include service, inspection, and storage facilities and equipment
30.03	Heavy maintenance facility	Include heavy maintenance and overhaul facilities and equipment
30.04	Storage or maintenance-of-way building/bases	Definition Self-explanatory
30.05	Yard and yard track	Include yard construction and track associated with yard
40 SITEWORK, RIGHT OF WAY, LAND, EXISTING IMPROVEMENTS		Include all construction materials and labor regardless of who is performing the work.
40.01	Demolition, clearing, site preparation	Include project/program-wide clearing, demolition and fine grading
40.02	Site utilities, utility relocation	Include all site utilities-storm, sewer, water, gas, electric
40.03	Hazardous material, contaminated soil removal/mitigation, ground water treatments	Include underground storage tanks, fuel tanks, other hazardous materials and treatments, etc.
40.04	Environmental mitigation: wetlands, historic/archeology, parks	Include other environmental mitigation not listed
40.05	Site structures including retaining walls, sound walls	Definition self-explanatory
40.06	Temporary facilities and other indirect costs during construction	Definition self-explanatory

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40.07	Purchase or lease of real estate	If the value of right-of-way, land, and existing improvements is to be used as in-kind local match to the Federal funding of the project/program, include the total cost on this line item. In backup documentation, separate cost for land from cost for improvements. Identify whether items are leased, purchased or acquired through payment or for free. Include the costs for permanent surface and subsurface easements, trackage rights, etc.
40.08	Highway/pedestrian overpass/grade separations	Definition self-explanatory
40.09	Relocation of existing households and businesses	In compliance with Uniform Relocation Act
50 COMMUNICATIONS & SIGNALING		
50.01	Wayside signaling equipment	Definition Self-explanatory
50.02	Signal power access and distribution	Definition Self-explanatory
50.03	On-board signaling equipment	Include on-board cab signal, Automatic Train Control (ATC), and Positive Train Control (PTC) related equipment
50.04	Traffic control and dispatching systems	Definition self-explanatory
50.05	Communications	Definition self-explanatory
50.06	Grade crossing protection	Definition self-explanatory
50.07	Hazard detectors: dragging equipment high water, slide, etc.	Definition self-explanatory
50.08	Station train approach warning system	Definition self-explanatory
60 ELECTRIC TRACTION		
60.01	Traction power transmission: High voltage	Definition self-explanatory
60.02	Traction power supply: Substations	Definition self-explanatory
60.03	Traction power distribution: Catenary and third rail	Definition self-explanatory
60.04	Traction power control	Definition self-explanatory
70 VEHICLES		
		Include professional services associated with the vehicle component of the project/program. These costs may include agency staff oversight and administration, vehicle consultants, design and manufacturing contractors, legal counsel, warranty and insurance costs, etc.
70.00	Vehicle acquisition: Electric locomotive	Definition self-explanatory
70.01	Vehicle acquisition: Non-electric locomotive	Definition self-explanatory
70.02	Vehicle acquisition: Electric multiple unit	Definition self-explanatory
70.03	Vehicle acquisition: Diesel multiple unit	Definition self-explanatory
70.04	Veh acq: Loco-hauled passenger cars w/ ticketed space	Include cars with coach space, sleeping compartments, etc.
70.05	Veh acq: Loco-hauled passenger cars w/o ticketed space	Include dedicated food service, lounge, baggage and other service support cars
70.06	Vehicle acquisition: Maintenance of way vehicles	Definition self-explanatory
70.07	Vehicle acquisition: Non-railroad support vehicles	Include hi-rail bucket trucks, and other highway vehicles
70.08	Vehicle refurbishment: Electric locomotive	Definition self-explanatory
70.09	Vehicle refurbishment: Non-electric locomotive	Definition self-explanatory
70.10	Vehicle refurbishment: Electric multiple unit	Definition self-explanatory
70.11	Vehicle refurbishment: Diesel multiple unit	Definition self-explanatory
70.12	Veh refurb: Passeng. loco-hauled car w/ ticketed space	Include coaches, sleeping cars, etc.
70.13	Veh refurb: Non-passeng loco-hauled car w/o ticketed space	Include food service, lounge, baggage and other service support cars
70.14	Vehicle refurbishment: Maintenance of way vehicles	Definition self-explanatory

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70.15	Spare parts	Definition self-explanatory
80 PROFESSIONAL SERVICES (applies to Cats. 10-60)		Cat. 80 applies to Cats. 10-60. Cat. 80 includes all professional, technical and management services related to the design and construction of infrastructure (Cats. 10 - 60) during the preliminary engineering, final design, and construction phases of the project/program (as applicable). This includes environmental work, design, engineering and architectural services; specialty services such as safety or security analyses; value engineering, risk assessment, cost estimating, scheduling, ridership modeling and analyses, auditing, legal services, administration and management, etc. by agency staff or outside consultants.
80.01	Service Development Plan/Service Environmental	
80.02	Preliminary Engineering/Project Environmental	
80.03	Final design	
80.04	Project management for design and construction	
80.05	Construction administration & management	
80.06	Professional liability and other non-construction insurance	
80.07	Legal; Permits; Review Fees by other agencies, cities, etc.	
80.08	Surveys, testing, investigation	
80.09	Engineering inspection	
80.10	Start up	Definition self-explanatory
90 UNALLOCATED CONTINGENCY		Includes unallocated contingency, project/program reserves. Document allocated contingencies for individual line items on Detailed Capital Cost Budget.
100 FINANCE CHARGES		Include finance charges expected to be paid by the project/program sponsor/grantee prior to either the completion of the project or the fulfillment of the FRA funding commitment, whichever occurs later in time. Finance charges incurred after this date should not be included in Total Project Cost. Derive finance charges from the project's financial plan, based on an analysis of the sources and uses of funds.

Insert Date

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Detailed Work Plan - Summary Task Schedule

Award Number: _____
FRA Program: _____
Recipient Name: _____
Project Name: _____

Task #	Task Name/Description	Start Date	End Date	Duration
1	Task 1			
2	Task 2			
3	Task 3			
4	Task 4			
5	Task 5			
6	Task 6			
7	Task 7			

Detailed Work Plan - Detailed Task Schedule

Award Number: _____

FRA Program: _____

Recipient Name: _____

Project Name: _____

Task #	Task Name / Subtask #	Subtask Name/Activity	Start Date	End Date	Duration
1	Task 1				
	####	Subtask 1.1			
2	Task 2				
	####	Subtask 2.1			
3	Task 3				
	####	Subtask 3.1			
	####	Subtask 3.2			
	####	Subtask 3.3			
4	Task 4				
	####	Subtask 4.1			
	####	Subtask 4.2			
	####	Subtask 4.3			
	####	Subtask 4.4			
5	Task 5				
	####	Subtask 5.1			
	####	Subtask 5.2			
6	Task 6				
	####	Subtask 6.1			
7	Task 7				
	####	Subtask 7.1			
	####	Subtask 7.2			

Appendix F – Technical Assurances

1. American Recovery and Reinvestment Act of 2009.

The contractor shall comply with all applicable provisions of the ARRA. (Appendix E, Attachment 3, page 6).

2. Procurement

The contractor shall comply with the cargo preference requirements of 46 USC 1241(b), the regulations issued thereunder, 46 CFR Part 381, and the Grant/Cooperative Agreement (Appendix E, Attachment 3).

3. Americans with Disabilities Act

The contractor shall comply with the requirements of the Americans with Disabilities Act.

4. Nondiscrimination

The City and MDOT will comply with the fair employment and equal opportunity practices of Executive Order 11246, as amended by Executive Order 11375, and as supplemented by 41 CFR Part 60.

5. Participation by Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals

The contractor will comply with the requirements of General Provisions, Attachment 2, Section 11.f of the Grant/Cooperative Agreement between FRA and MDOT (Appendix E, Attachment 3, page 18).

6. Patent Rights

If any invention, improvement, or discovery of the contractor is conceived or first actually reduced to practice in the course of or under this Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the contractor shall notify the City and provide a detailed report. The rights and responsibilities of the contractor, City, MDOT, FRA, and others with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws.

If the contractor secures a patent with respect to any invention, improvement, or discovery conceived or first actually reduced to practice in the course of or under this Project, the contractor agrees to grant the City, MDOT, and FRA a royalty-free, non-exclusive, and irrevocable license to use and to authorize others to use the patented device or process for Federal Government purposes.

7. Rights in Data and Copyrights

The contractor shall be subject to the rights and obligations concerning data set forth in General Provisions, Attachment 2, Section 14 of the Grant/Cooperative Agreement (Appendix E, Attachment 3, page 19).

8. Environmental Protection

The contractor shall comply with the Environmental Protection requirements of General Provisions, Attachment 2, Section 21 of the Grant/Cooperative Agreement (Appendix E, Attachment 3, page 22).

9. Unfair Labor Practices

The contractor shall comply with the Unfair Labor Practices requirements of Section 14 of the MDOT/City of Ann Arbor Agreement (Appendix E, Attachment 4, page 10).

10. Assignment of Antitrust Rights

The contractor shall be required to irrevocably assign to the State of Michigan or MDOT as a third-party beneficiary any rights to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or MDOT with regard to claims based on goods or services that were used in this Project due to any violation of 15 USC, §§ 1-15 and/or 1984 PA 274, MCL 445.771-.788, excluding Section 4a.

Appendix G
NON-COLLUSION AFFIDAVIT

I, _____, am the _____ of
(Name) (Owner, Partner, Officer, Representative, Agent)
_____, the respondent that has submitted the
(Name of Organization)

attached proposal. I am fully informed respecting the preparation and contents of the attached RFP and all pertinent circumstances respecting such bid. Such proposal is genuine and is not a collusive or sham proposal.

Neither the said respondent nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affidavit, has in any way colluded, conspired, connived, or agreed, directly or indirectly, with any other respondent, firm or person to submit a collusive or sham proposal in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by other respondent, firm or person to fix the price or prices in the attached proposal or any other respondent, or to fix any overhead, profit or cost element of the proposal price of the other respondent, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the owner or any person interested in the proposed contract.

The price or prices quoted in the attached proposal are fair and proper, and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the respondent or any of its agents, representatives, owners, employees, or parties in interest, including this affidavit.

Signed: _____ Title: _____

Sworn or affirmed before me this _____ day of _____, 2013

Appendix H

DISCLOSURE STATEMENT

In accordance with 40 CFR § 1506.5(c), section 8(b) of the Federal Railroad Administration's "Procedures for Considering Environmental Impacts" (64 FR 28545), and the guidance provided in section 17 of the Council on Environmental Quality's "NEPA's Forty Most Asked Questions" memorandum (46 FR 18026; available at <http://ceq.hss.doe.gov/nepa/regs/40/40p3.htm>), I hereby certify that the entity for which I sign has no financial or other interest in the outcome of the environmental review or conceptual design project described in City of Ann Arbor RFP 866.

Appendix I

DEBARMENT AND DRUG-FREE WORKPLACE CERTIFICATIONS

PART A: Certification Regarding Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions (Pursuant to 2 CFR Part 180)

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

PART B: Certification Regarding Drug-Free Workplace Requirements (Pursuant to 49 CFR Part 32)

- (1) The respondent certifies that it will or continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about—
 - (1) The dangers of drug abuse in the workplace;
 - (2) The respondent's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the contract for this Project be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the City in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee is so convicted—

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (e) and (f).

I understand that a false statement on this certification may be grounds for the rejection of this proposal or the termination of the award. In addition, under 18 U.S.C. §1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to five years, or both.

Name and Title of Authorized Representative

Name of Respondent Firm

Signature of Authorized Representative

Date

I am unable to certify to the above statement. Attached is my explanation.