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Northwestern Indiana Regional Planning Commission



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REQUEST FOR PROPOSALS

(RFP 15-15)

CITY OF HOBART TRANSIT FEASIBILITY STUDY

June 22nd, 2015

Requests for alternate formats available upon request. TTY users may also dial
Relay Indiana at 711.

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2. NOTICE OF REQUEST FOR PROPOSALS

2.1 Description

The Northwestern Indiana Regional Planning Commission (Commission), desires to engage a qualified transportation consulting firm who will be responsible for producing a technical document that assesses the feasibility of developing a public transit service for the City of Hobart, Indiana.

2.2 Method of Procurement

The method of procurement will be Competitive Negotiation.

2.3 Solicitation Schedule

Release date: Monday, June 22rd, 2015

Pre-submittal conference: Tuesday, July 7th, 2015 at 1:00 p.m. CST

Pre-submittal conference location: Construction Advancement Foundation, 6050 Southport Road, Portage, In. 46368

Deadline for inquiries: Thursday, July 16th, 2015 at 12:00 p.m. CST

Deadline for submittals: Thursday, July 23rd, 2015 at 12:00 p.m. CST

Interview date: Wednesday, August 12th, 2015

Interview location: Hobart Chamber of Commerce, 1001 Lillian Street, Hobart, Indiana 46342

2.4 Contact

Kathleen Honl, Accounting and Procurement Coordinator

Northwestern Indiana Regional Planning Commission

6100 Southport Road

Portage IN 46368

P: 219-763-6060 ext. 161

F: 219-762-1653

khonl@nirpc.org

3 INSTRUCTION TO PROPOSERS

3.1 Deadline

All Proposal(s) must be received at the Northwestern Indiana Regional Planning Commission by **Thursday, July 23rd, 2015 at 12:00pm CST**. No Proposal(s) will be accepted after this time and date. The Commission reserves the right to reject any or all Proposal(s) received for any reason.

3.2 Evaluation and Vendor Selection

3.2.1 Proposal Evaluation

Proposal(s) will be subject to an initial review by the NIRPC Accounting and Procurement Coordinator. Interested Proposers shall be deemed responsive if they conform to the essential requirements of this solicitation which includes the specifications, terms, and conditions to be met.

All submitted Proposal(s) will then be reviewed by the Hobart Transit Advisory Committee (Advisory Committee) and a short list of Proposal(s) scoring highest on the criteria (through application of the evaluation criteria) will be developed. Where there are apparent deficiencies, ambiguities and uncertainties present in the Proposal(s), the Commission may engage in discussions, in the manner most appropriate (either via writing or verbally), with interested Proposers for the sole purpose of addressing these deficiencies, ambiguities, and uncertainties.

Notwithstanding the above, the Commission reserves the right to select one Proposer based on the original submission of the Proposal(s), without negotiations with any Proposers or without oral presentations.

3.2.2 Evaluation Criteria

The contract for this engagement shall be awarded to the Proposer that exhibits excellent price competitiveness and qualifications. The Commission expects the Proposer to provide cost-effective and knowledgeable service in carrying out the Scope of Work.

The following criteria will be used in evaluating responsive Proposal(s) submitted in response to this Solicitation. The relative importance is shown in ascending order:

		Score	Of Total
	Existing Qualifications		
1	<i>Expertise in transit planning in a medium-sized community</i>		25
2	<i>Expertise in public transit development</i>		20
3	<i>Capability and experience of the firm in working with multiple partners</i>		15
4	<i>Expertise in public transit finance and familiarity with Indiana transit law.</i>		10
5	<i>Disadvantaged Business Enterprise</i>		5
	Quality of Proposal		
6	<i>Quality of Response to Scope of Work Tasks Demonstrates Clear Comprehension of RFP</i>		20

7	<i>Clear and responsible project work plan and calendar</i>		15
8	<i>Appropriateness of the consultant's budgeting of man hours</i>		5
9	<i>Proposal Cost</i>		10
			125

3.2.3 Interviews, if necessary

After evaluating the Proposal(s), the Hobart Transit Advisory Committee may wish to interview the top scoring respondents. ***IF interviews are to be held, they will be scheduled for Wednesday, August 12th, 2015 beginning at 10:00 a.m., at the Hobart Chamber of Commerce office.***

The Hobart Transit Advisory Committee reserves the right to not interview a Proposer for any reason.

Notwithstanding the above, the Commission reserves the right to select one Proposer based on the recommendation of the Hobart Transit Advisory Committee using the original submittals, without negotiations with any Proposers or without interviews.

3.3 Inquiries

Any question related to this solicitation shall be directed to the Accounting and Procurement Coordinator contact whose name appears here in this document. ***The Proposer shall not contact or ask questions of the Commission staff, nor the Hobart Transit Advisory Committee.***

Questions shall be submitted in writing or by e-mail to the contact identified above. Any correspondence related to the solicitation should refer to the appropriate Solicitation number, page and paragraph number. Oral interpretations or clarifications will be without legal effect. Only questions answered by **formal written solicitation** will be binding. All questions and answers will be shared with the mail/e-mail list of potential bidders used in the solicitation.

It is the Proposer's responsibility to contact the person whose name appears here in this document and get added to the mail/e-mail list. If the Proposer is not on that mail/e-mail list, they will not be sent any addendums, questions, answered, and etc. This can be done by submitting an email to the Accounting and Procurement Coordinator with the subject line: **RFP 15-15 – Add Vendor to List.**

IF YOU WANT ADDENDUMS, QUESTIONS, AND/OR ANSWERS TO QUESTIONS FOLLOW THESE INSTRUCTIONS!

All questions and requests for clarification are due by 12:00 p.m. CST on **July 17th, 2015** with subject line: **RFP 15-15 Hobart Transit Feasibility Study**

3.4 Instructions for Submittal

Proposers must include the following information in the order outlined below in their submission of Proposal(s). If there are items that are not covered below use your own discretion and add those items on a separate page. The Proposal(s) must include and are to be evaluated on the basis of:

1. Name of Proposer;

2. Full address of Proposer's principal office;
3. Proposer's telephone number;
4. Name(s) telephone number(s) fax number(s) and addresses if different from above, of primary contact(s) in the Proposer's organization with responsibility for responding to this solicitation and to whom matters regarding this solicitation should be directed;
5. Indicate whether the Proposer is an individual, partnership, corporation, or joint venture. If the Proposer is a consortium, joint venture, or team, indicate the entity responsible for the Proposal(s);
6. If a partnership, list the names and addresses of the partners; if a corporation, list the names of the officers and directors, and the state of incorporation; if a joint venture, list the names and addresses of the ventures and, if any venture is a corporation, partnership, or joint venture, list the same information for each corporation, partnership, and joint venture;
7. Description of resources committed to this project. Provide resume and information regarding the experience for the principal planners to be assigned to this project. Also describe all other staff resources that may be assigned to this effort.
8. References. Provide complete contact information for at least three prior public agency clients that the firm has worked with on similar projects within the past five years. Provide a comprehensive list of public sector clients.
9. Narrative description of qualifications detailing expertise in demographics analysis, community surveying, transit demand estimation, scheduling and operational considerations, financial planning and analysis, and any pertinent training or certifications;
10. Narrative description of qualifications detailing extensive understanding of Federal Transit Administration and other federal regulations regarding public transit, especially the Americans with Disabilities Act (ADA).
11. Completed form for Non-Collusion;
12. Completed form for Government-Wide Debarment and Suspension;
13. Completed form for Certification Regarding Lobbying
14. Completed DBE certification
15. Other miscellaneous attachments.

Eight (8) copies of the Proposal(s) and one (1) flash drive need to be submitted to facilitate review by the Advisory Committee. All material must be placed in an envelope(s) and marked as follows:

RFP 15-15 HOBART Transit Feasibility Study

Bids received and opened may not be withdrawn for a period of sixty (60) days from the opening of bids.

Failure to comply with any of these general submittal requirements, other requirements set forth within this document, or meet the technical specifications as provided herein will be considered non responsive and will be sufficient reason for the Advisory Committee and Commission to refuse to consider the proposal.

3.5 Exclusionary of Discriminatory Specifications:

Apart from inconsistent requirements imposed by Federal Statute or regulations, the Commission agrees to comply with the requirements of 49 U.S.C § 5323(h)(2) by refraining from using any federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

3.6 Pricing:

The price to be quoted in any bid submitted shall include all items of labor, materials, tools, equipment, delivery and other costs necessary to fully complete the scope of the work specified in this solicitation. Any additions, deletions or variations from the specifications must be noted when the proposal is submitted. If a proposer does not specifically identify a deviation from the specifications, it will be assumed that all requirements are either met or exceeded. The proposer guarantees that the bid submitted is not a product of collusion with any other individual or group of individuals, and further guarantees that no effort has been made to fix the bid price of any bidder or to fix any overhead, profit or cost element of any bid.

3.7 Single Proposal Response:

If only one responsive proposal is received in response to the solicitation request, the Commission shall conduct a cost analysis in order to facilitate a determination of the fairness and reasonableness of the proposal price. The single bidder shall be requested to submit cost information.

3.8 Pre-Submittal Conference

A pre-submittal conference will be held at the Construction Advancement Foundation, 6050 Southport Road, Portage **at 1:00 p.m. CST on July 7th, 2015**. If not able to appear for the meeting, Proposers may request to be added to the mail/e-mail list by sending a notice to the contact person listed in this proposal.

The purpose of this Pre-Submittal meeting is to allow Proposer(s) to ask for clarifications and to get a better understanding of the project that might not be immediately clear in the solicitation. If there are any details which are unclear in this solicitation they will be discussed at this meeting. However, questions still must be submitted in writing or by e-mail to be binding. Any correspondence related to a solicitation should refer to the appropriate Solicitation number, page and paragraph number. Oral interpretations or clarifications from this meeting will be without legal effect. Only questions answered by formal written solicitation amendment will be binding.

4. GENERAL CONDITIONS

4.1 Proposer Responsibility

The Proposer shall have the responsibility of satisfying all parts of this solicitation. It is the desire of the Commission to procure goods and services of the finest quality. No advantage shall be taken by the Proposer in the omission of any part of detail that would be necessary to fully satisfy all work required in this solicitation.

4.2 Definitions

Proposal(s): Proposal(s) may refer to a quote, proposal, sealed Proposal, or set of qualifications that is to be submitted by the Proposer.

Proposer: Proposer shall refer to a firm, agent, company, or person submitting a Proposal(s) to the Commission.

Contract: Refers to an agreement between the Proposer and the Commission in which a set of terms and conditions and a scope of work are agreed upon after evaluations have determined a competitive Proposer.

The Commission: The Commission refers to the Northwestern Indiana Regional Planning Commission.

The Advisory Committee: The Advisory Committee refers to the Hobart Transit Advisory Committee appointed by the Mayor of Hobart to represent the City's interest.

Solicitation: Refers to this document.

4.3 Disadvantaged Business Enterprises

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

The Commission's current DBE goal requires that all vendors make a good faith effort to meet the goal of at least 0.695% participation.

4.4 Eligibility

Proposers must not be on the U.S. Comptroller General's list of ineligible firms. The successful Proposer will be required to comply with all applicable Equal Employment Opportunity laws and regulations.

4.5 Code of Ethics

No employee, officer, agent, family member, or Board member of the Commission shall participate in the selection, award, or administration of a contract supported by FTA funds if a

conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following has financial or other interest in the firm selected for award:

1. the employee, officer, agent, or Board member
2. any member of his/her immediate family
3. his/her partner, or
4. an organization that employs, or is about to employ, any of the above.

The Commission's officers, employees, agents, or Board members will neither solicit, nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

4.6 Familiarization of Scope of Work

Before signing a contract, each Proposer shall familiarize itself with the Scope of Work, laws, regulations, and other factors affecting performance of work. It shall carefully correlate its observations with requirements of the solicitation and contract and otherwise satisfy itself as to the expense and difficulties attending the performance of the work. The signing of a contract will constitute a representation of compliance by the Proposer. There will be no subsequent financial adjustment, other than that provided by the contract, for lack of such familiarization.

4.7 Protest Procedures

Proposal protests based upon restrictive specifications or alleged improprieties in a solicitation that are apparent prior to Proposal opening must be received by the Commission, in writing, three (3) working days prior to the deadline date for submission of Proposals.

Protest of a decision concerning a contract award made by the Commission must be received by the Contracting Officer in writing within five (5) working days after the date of the contract award.

A protest shall include the name and address of the protestor, the Proposal/proposal number, the grounds for the protest, and any supporting documentation. The Commission shall notify the protestor, in writing and in a timely manner, of its receipt of the protest.

If the protest is received prior to the Proposal/proposal opening, all interested parties may be notified and the opening of Proposals/proposals may be postponed. If the protest is received after a contract award, the award may be withheld until a local decision is rendered concerning the protest.

The Contracting Officer will review the protest with any supporting documents submitted. The Contracting Officer shall perform an investigation of the protest. The Contracting Officer then presents the results of the investigation to the Finance and Personnel Committee of the NIRPC Board. The Finance and Personnel Committee will review the results and provide a recommendation to the Board. The Board shall make a decision regarding the protest and notify the Contracting Officer of the result. The Contracting Officer shall notify all affected parties of such decision in writing.

4.8 Responsive Proposal(s)

The Commission shall award contracts only to responsible/responsive Proposers who possess the potential to perform successfully under the terms and conditions of the solicitation. The Proposer shall affirmatively demonstrate its responsibility and, when necessary, the responsibility of any proposed Sub-Contractors.

If information obtained by the Commission clearly indicates that the Proposer is not responsive and the Commission has doubts about the productive capability or financial strength of a Proposer that cannot be resolved affirmatively, a determination that the Proposer is non-responsive shall be rendered.

4.9 Right of Rejection

The Commission reserves the right to postpone the closing/opening date for its own convenience and to reject any or all Proposal(s) for any reason.

5. SCOPE OF WORK

5.1 Project Background/Overview

This project seeks to establish the potential for creating a public transit service for the City of Hobart, Indiana. The City is located in Lake County at the southern tip of Lake Michigan, in the northwest corner of the state. Hobart is a medium-sized city with a 2013 population of 28,894.

Public transit available in the City of Hobart currently consists of very limited fixed-route service in corridors at the corporate fringe (US 30, 61st. Avenue), and demand response transit by a human services provider. Fixed- route service, though connected to other regional transit service, does not currently serve residential areas, other key Hobart corridors (State Route 51, Ridge Road), the area with medical facilities, or the Hobart central business district. The demand response service is partially supported with a grant from a local foundation. Limited capacity and insufficient operating subsidy are resulting in less than optimal performance. The South Shore commuter rail service is several miles north of the City of Hobart and is accessible via automobile.

The City of Hobart is located in the north end of Lake County, the first county west of the City of Chicago and the Illinois state line. As the steel industry developed along the lakeshore, public transit grew out of the former Gary Railways company and covered the cities and towns in the northern portions of Lake and Porter Counties, including the City of Hobart. That early regional system collapsed in the early 1970's due to the lack of financial support from all of the communities served.

Today the City of Hobart is a thriving medium-sized city with recognized concentrations of jobs, commercial centers and medical services. Over 50% of the city's workforce is in manufacturing (18%), education, health care and social services (23%), and retail (11%). Its businesses and medical facilities attract workers and customers from other communities, and its residents have good car access to surrounding communities. What is not keeping pace is access for residents who do not drive, for whatever reasons.

5.2 Project Tasks

(1) Timeline

Task 1: Timeline with dates for all expected activities, work products, and public participation.

Task Product: Timeline from start to completion.

(2) A Travel Market Analysis of the City.

Task 2: An analysis of the population including socio-economic characteristics focused on size, location and travel needs of potential transit dependent population based on age and income.

Task 3: An analysis of the current and forecasted locations of transit generators (employment centers, health service centers, shopping centers, and recreational opportunities). This should include all generators within the City of Hobart, as well as regional generators (commuter, retail, educational, etc.) outside of the City of Hobart.

Task Product: Analysis of current and potential markets and destinations. (Report on who lives in the City of Hobart and where the jobs and services are located).

(3) Public/Community Leadership Involvement

Task 4: Provide a detailed public participation plan for receiving input and reporting back on the initial findings and final recommendations, including regular workshops/meetings and Internet/social media outlets.

Task 5: Develop and implement community survey instrument to determine community interest in new service.

Task 6: Develop and implement survey or interview methodology to conduct in-depth interviews with community leadership in disability services, senior citizens, health and human services, employment, education, faith-based organizations, nursing homes and other not-for-profits that do private transit, and elected officials on the perceived transportation needs in the City of Hobart.

NOTE: Commission staff will facilitate meetings with area transit providers whose services could or already do impact the City of Hobart. Commission and the City of Hobart staff will also assist with identifying appropriate parties to be interviewed and will provide contact information.

Task 7: Develop and disseminate fact sheets, graphics, and information for public consumption. The City of Hobart staff and the Commission Public Involvement Coordinator will assist with facilitating press access.

Task 8: Develop and disseminate periodic news articles for distribution to the area's papers and community newsletter to inform and update the public on the study's findings.

The Commission also owns keypad polling equipment and will make it available and assist with its use if the City of Hobart and Consultant deem it appropriate.

Task Product: Report identifying outreach efforts, community needs, interest in and support for public transit in the City of Hobart.

(4) Identification of potential service structure to meet needs.

Task 9a: Identify type(s) of service structure(s) to meet community needs. This identification should include transit mode(s), generators, markets, and service model(s), i.e., independent operation, partnership, and/or contractual.

Task 9b: Identify cost estimates including annual operating and maintenance costs, and capital needs.

Task 9c: Identify potential funding including grant sources, existing grant opportunities, and methodologies involved in securing funding.

Task Product: Peer comparisons and practices, analysis of potential routes and feeders, review of land use demands and activity generators, review of growth scenarios, and analysis of the financial implications of providing a public transit system in the City of Hobart.

(5) Recommendations

Task 10: Develop a recommended operations plan for creating and financing an appropriate transit service for the City of Hobart. Alternatively, provide detailed analysis of why public transit is not a solution for the City of Hobart.

Task Product: Recommended service and implementation plan, or explanation of why the City of Hobart should not pursue a transit service.

5.3 Partners & Associated Agencies

This study has been commissioned through a partnership between the Northwestern Indiana Regional Planning Commission and the City of Hobart. The Commission shall serve as the lead agency in this effort.

5.3.1 Project Advisory Committee

In addition, there are a number of agencies and organizations that stand as affected stakeholders on this issue. These groups will be connected to the progress of this study through the formulation and execution of an Advisory Committee, where they will be asked to provide guidance on the plan's scope and direction, participate in the selection of a preferred consultant, and provide feedback on drafts of the document. This committee will be composed of elected officials, transit officials, health and human services' agencies, potential riders, and city planners and economic development officials.

5.4 *Current Documents Related to this Project*

Research for Task 1 of this study can begin with a review of studies that have been previously authored by other agencies. This includes:

- 2040 Comprehensive Regional Plan – Northwestern Indiana Regional Planning Commission, 2011 and 2015 Update
- City of Hobart Economic Development Master Plan
- City of Hobart Comprehensive Plan and subarea plans and studies
- Hobart Senior Transportation Action Focus Group Findings Report 3.24.15
- City of Hobart Senior Transportation Needs Assessment, Indiana University Northwest, Center of Urban and Regional Excellence, 2013
- Livable Broadway Regional Study
- Hobart Community Bus Survey 2010, Valparaiso University, The Community Research and Service Center
- City of Hobart Neighborhood Spotlight Project
- City of Gary Choice Neighborhoods Project
- Regional Livable Centers Project

6 GENERAL TERMS AND CONDITIONS ASSOCIATED WITH FTA CONTRACTS

The following general terms and conditions will govern the basic Agreement and are a part thereof.

1. FINANCIAL ASSISTANCE:

The work provided for in this Contract (Agreement) is financed, in part, through financial assistance received from the Federal Transit Administration (FTA) of the U.S. Department of Transportation under the authority provided by the Surface Transportation Act of 1982, as amended, the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991, the Transportation Efficiency Act for the 21st Century (TEA-21), and Safe, Accountable, Flexible, and Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU). As such it is subject to a grant agreement between FTA and the Commission, which will be furnished to Contractor upon request. The Contractor is required to comply with all terms and conditions prescribed for third party contracts in the grant agreement between FTA and the Northwestern Indiana Regional Planning Commission.

2. CONTRACTS AMENDMENTS:

Any proposed change in this Agreement shall be submitted to the Commission for its prior approval, and when approved Commission will make the change by a written contract modification. The Commission may at any time by written order, and without notice to the sureties, make changes, within the general scope of this contract in one or more of the following: (1) drawings, designs, or specifications; (2) methods of shipment or packing; and (3) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both; and the contract shall be modified in writing accordingly. The Contractor must request an adjustment under this clause within 15 days from the date of receipt of the notification change. The Lead Agency may decide to act upon the Contractor's request for adjustment at any time prior to final payment under the contract, provided the facts warrant such action.

Change Order Procedures: Within 15 days after receipt of the written change order to modify the contract, the Contractor shall submit to the Contracting Officer a detailed price and schedule proposal for the work to be performed. This proposal shall be accepted or modified by negotiations between the Proposer and Contracting Officer. At that time, both parties shall execute a detailed contract modification in writing. All changes in the contract that either increase or decrease the cost of, or the time required for the performance of any part of the work under this contract, thereby affecting the contract price or delivery schedule, shall be resolved by mutual agreement between the Proposer and the Commission. Disagreements that cannot be resolved through negotiations shall be resolved in accordance with the contract disputes provisions of FTA Guidelines. Regardless of any disputes, the Contractor shall proceed with the work ordered, provided the Commission has obtained the prior concurrence of FTA.

Notice of the acceptance of the change order will be made by the issuance of a NIRPC change order form to the Contractor. The Contractor will be required to evidence its acceptance of the change order by endorsing and returning to Commission the change order form within 10 days of its receipt thereof. The acceptance of the change order will bind the Contractor on his part to finish and deliver at his adjusted proposal price in accordance with conditions of said accepted proposal and specifications. The contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting, and specification or other change not properly ordered by written modification to the contract.

Price Adjustment for Regulatory Changes: If a price adjustment is indicated, either upward or downward, it shall be negotiated between Commission and the Contractor for changes that are mandatory as a result of legislation or regulations that are promulgated and become effective between the date of proposal acceptance and the date of manufacture. Such price adjustment may be audited, where required.

3. **CONTRACT TERMINATION PROVISIONS:**

The following provisions have been developed by Commission in accordance with 49 CFR Part 18 and FTA Circular 4220.1F

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

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

Termination for Default: If the Contractor does not deliver the goods or services provided by this solicitation in accordance with the provisions contained herein, or if the Contractor fails to perform in the manner called for with regard to other provisions of a contract awarded in conjunction with this solicitation, the Commission may notify the Contractor of its intention to terminate this contract for default. The Proposer shall be allowed fifteen (15) calendar days after receipt of the notice of intent to terminate for default in which to rectify the problems that were cause for such notice. Termination shall be effected by serving a final notice of termination on the Contractor setting forth the manner in which the Contractor may be paid for only items delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the Commission that the Contractor had an excusable reason for not performing, such as a strike, fire, flood, or other events which are not the fault of, or are beyond the control of the Proposer, the Commission after setting up a new

delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

Opportunity to Cure: The Commission in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 30 days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

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

4. **BREACHES AND DISPUTE RESOLUTION:**

The following provisions have been developed by the Commission in accordance with 49 CFR Part 18 and FTA Circular 4220.1F

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

Performance during Dispute: Unless otherwise directed by the Commission, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

Remedies: Unless this Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between the Commission and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Indiana.

Rights and Remedies: The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Commission or the Contractor shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any

such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

5. ACCESS TO RECORDS AND REPORTS:

The following access to records requirements apply to this Agreement:

Where the Purchaser is not a State but a local government and is the FTA Recipient or a Subgrantee of the FTA Recipient in accordance with 49 CFR 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor also agrees, pursuant to 49 CFR 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a) 1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

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

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

6. FEDERAL CHANGES:

Pursuant to 49 CFR Part 18, Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (6) dated October, 1999) between the Northwestern Indiana Regional Planning Commission and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.

7. NO GOVERNMENT OBLIGATION TO THIRD PARTIES:

The Commission and Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the federal government, the federal government is not a party to this contract and shall not be subject to any obligations or liabilities to the Commission, the Contractor, or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from the Agreement. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

8. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS:

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

9. CIVIL RIGHTS REQUIREMENTS:

Civil Rights - Pursuant to 29 U.S.C. § 623, 42 U.S.C. § 2000; 42 U.S.C. § 6102, 42 U.S.C. § 12112; 42 U.S.C. § 12132, 49 U.S.C. § 5332; 29 CFR Part 1630, 41 CFR Parts 60 et seq.; the following requirements apply to the underlying contract:

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

Race, Color, Creed, National Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees

are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

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

10. DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS:

The contractor 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 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.

The (prime) contractor shall not terminate a DBE subcontractor for convenience and then perform that work with its own forces or its affiliate.

Prime contractors must make payment to subcontractors for satisfactory performance of their contracts no later than 30 days from the receipt of each payment made by the Commission to the prime contractor.

If retainage is withheld by from the subcontractor, prompt and full payment must be made by the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Commission. When the Commission has made an incremental acceptance of a portion of a prime contract or a progress payment, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

Any delay or postponement of payment to subcontractors may only take place for good

cause. Any such delay or postponement requires the prior written approval of the Commission.

If any of these conditions are not met, the Commission reserves the right to withhold payment until the Commission is satisfied that these conditions are met.

The contractor agrees to place this clause in all subcontracts.

11. ENERGY CONSERVATION REQUIREMENTS:

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. These requirements are set forth in 42 U.S.C 6321 et . seq. and 49 CFR Part 18.

12. FLY AMERICA REQUIREMENTS:

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

13. INTELLIGENT TRANSPORTATIONS SYSTEM REQUIREMENTS:

The Contractor agrees that in the course of implementing any project involving any aspects of an intelligent transportation system it will be compliant with Section VII of the FTA Notice “FTA National ITS Architecture Policy on Transit Projects” at 66 Fed. Reg. 1459, January 8, 2001.

14. STATE AND LOCAL LAW DISCLAIMER:

State and Local Law Disclaimer – The Contractor hereby agrees to comply with all applicable statutes, ordinances, and regulations of the United States, the U.S. Department of Transportation, the State of Indiana and local governments.

15. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS:

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

16. SUSPENSION AND DEBARMENT PROVISIONS:

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to Executive Order 12549, as implemented by 49 CFR Part 29, regarding government-wide debarment and suspension of contractors. The Contractor agrees to sign required certifications. The Contractor agrees to pass this requirement on to sub-contractors seeking subcontracts over \$25,000.

By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, (Recipient) may pursue available remedies, including suspension and/or debarment.
2. The prospective lower tier participant shall provide immediate written notice to (Recipient) if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact (Recipient) for assistance in obtaining a copy of those regulations.
4. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by (Recipient).
5. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.

7. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, (Recipient) may pursue available remedies including suspension and/or debarment.

"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"

1. The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

17. LOBBYING:

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]:

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

18. CLEAN WATER REQUIREMENTS:

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

19. CLEAN AIR REQUIREMENTS:

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

20. RECOVERED MATERIALS:

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA) as amended (42 U.S.C. 6962), including, but not limited to, the regulatory provisions of 40 CFR Part 247 and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

7 **EXHIBITS**

7.1 NON-COLLUSION AFFIDAVIT

NON-COLLUSION AFFIDAVIT

The undersigned Proposer, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person from Proposing not to induce anyone to refrain from Proposing, and that this Proposal is made without reference to any other Proposal and without any agreement, understanding or combination with any other person in reference to such Proposing. He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.

Proposer

Signature of Proposer

**7.2 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION
(NONPROCUREMENT):**

49 CFR Part 29 - Executive Order 12549

Instructions for Certification

1. **By signing and submitting this Proposal or proposal, the prospective lower tier participant is providing the signed certification set out below.**

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

3. The prospective lower tier participant shall provide immediate written notice to NIRPC if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact NIRPC for assistance in obtaining a copy of those regulations.

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

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

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.

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

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, NIRPC may pursue available remedies including suspension and/or debarment.

"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"

(1) The prospective lower tier participant certifies, by submission of this Proposal or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

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

_____ Signature of Proposer's Authorized Official

_____ Name and Title of Proposer's Authorized Official

_____ Date

CERTIFICATION REGARDING LOBBYING

49 CFR Part 20 - Appendix A

Certification For Contracts, Grants, Loans, And Cooperative Agreements

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

7.3 DBE PROGRAM COMPLIANCE

49 CFR PART 26

The following Proposal conditions apply to this United States Department of Transportation assisted contract. Submission of a proposal by a prospective Contractor shall constitute full acceptance of these Proposal conditions.

REQUIRED CONTRACT CLAUSES (49 CFR 26.13) UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES

Northwestern Indiana Regional Planning Commission will ensure that the following clauses are included in each DOT assisted contract and subcontract:

- I) Policy - It is the policy of the Northwestern Indiana Regional Planning Commission that Disadvantaged Business Enterprises shall have the maximum practicable opportunity to participate in the performance of contracts. Consequently, the DBE requirements of 49 CFR Part 26, do apply to this agreement. Proposers shall use sufficient and reasonably good faith efforts to carry out this policy in the award of their subcontracts to the fullest extent, consistent with the efficient performance of this contract.
- II) DBE Obligation - The contractor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, Subpart D, have the maximum opportunity to participate in the performance of contracts and subcontracts. In this regard, all contractors shall take necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin or sex.
- III) Contract Goal - If the contractor is not a DBE, then the Proposer/proposer agrees that the DBE goal for this Contract will be met by subcontracts or by joint ventures with DBE's. The goal set forth for this Contract is 7.13% of the final Contract price, including amendments and modifications. The amount of DBE participation will be determined by the dollar value of the work performed and/or supplies furnished by DBE firms as compared to the total value of all work performed and/or supplies furnished under this Contract. The contractor shall have met this goal if the contractor's DBE participation meets or exceeds this goal.

In cases where work is added to the contract by modification such that additional DBE participation is necessary to meet this goal, the Contractor shall increase the participation of one or more firms listed on the —Schedule of DBE Participation‖ or submit additional DBE firms to meet the goal. In cases where work is deleted from the Contract, the goal shall be applicable to the new Contract amount. The Contractor shall be permitted to meet the goal by revising its DBE participation, provided, however, that the revision shall not result in DBE participation that is less than the original goal.

- IV) Compliance - All Proposers, potential contractors, or sub-contractors for this contract are hereby notified that failure to carry out the policy and the DBE obligation, as set forth above, shall constitute a breach of contract which may result in non-selection; termination of the contract; or such other remedy as deemed appropriate by Northwestern Indiana Regional Planning Commission. Agreements between a Proposer/proposer and a DBE, in which the DBE promises not to provide sub-contracting quotations to other PROPOSERS/PROPOSERS, are prohibited.

- V) Sub-contract Clauses - All Proposers and potential contractors hereby assure that they will include the above clauses in all sub-contracts which offer further sub-contracting opportunities.
- VI) Acceptable Good Faith Efforts - "Good faith efforts" means efforts to achieve a DBE goal or other requirements of the Northwestern Indiana Regional Planning Commission's DBE Program Plan which by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the goal program requirement. If any Proposer fails to meet the DBE goals for this solicitation, the Proposer shall submit, with the Proposal, proof of good faith efforts, using the guideline listed in Appendix A of 49 CFR 26, along with a written statement of efforts made and reasons for not meeting said goals.

7.2.1 General Instructions

IMPORTANT! READ CAREFULLY!

All Proposers/contractors shall complete and submit, with their Proposals, DBE Forms 1, 2, and 3.

Each subcontractor listed on DBE Form 1 shall complete and sign DBE Form 2 and DBE Form 3 as a DBE Subcontractor.

Business Contractors seeking to participate as DBEs must be certified at the time of Proposal submittal. Northwestern Indiana Regional Planning Commission does not certify DBEs. Please check with your state's DBE office.

Proposers who fail to achieve the contract goal(s) stated in the Proposal document must provide (with the Proposal) an explanation as to why the goal was not achieved and documentation demonstrating that a "Good Faith Effort" was made by the Proposer as outlined in DBE Form 4.

Contractors may duplicate as many forms as needed. All DBE Program questions should be directed to the Northwestern Indiana Regional Planning Commission, the DBE Officer, Allen Hammond, 6100 Southport Road, Portage, Indiana 46368, 219-763-6060 x141.

DBE Forms 1, 2, and 3 must be submitted with the Proposal in order to be eligible to receive a contract award. If there are sub-contractors listed, the sub-contractor must fill out DBE Form 3.

The Proposer must provide documentation and explanation as to why the DBE goal as was not achieved by filling out DBE Form 4.

7.3 DBE FORM 1 - SCHEDULE OF DBE PARTICIPATION

SCHEDULE OF DBE PARTICIPATION

Name of Proposer: _____

Project: Hobart Transit Feasibility Study

Project No.: _____

Proposal No: 15-15

Total Proposal Amount: _____

NAME OF DBE SUBCONTRACTOR	ADDRESS (COUNTY, STATE)	TYPE OF WORK SUBCONTRACTED	DBE	SUBCONTRACT VALUE
				\$
				\$
				\$
				\$
				\$
				\$
				\$

DBE PARTICIPATION TOTAL VALUE _____ \$

The attainment of DBE participation goals for this contract will be measured as a percentage of the total dollar value of the contract.

The undersigned will enter into a formal agreement with the DBE Subcontractors identified herein for work listed in this schedule conditioned upon execution of a contract with

7.4 DBE FORM 2 - DBE SUBCONTRACTOR IDENTIFICATION

DBE SUBCONTRACTOR IDENTIFICATION

(Reproduce as necessary)

I HEREBY DECLARE AND AFFIRM THAT I AM THE _____

(Title - Owner, President, etc.) and duly authorized representative of

_____ (Name of Firm) and I hereby declare and

affirm that I am a certified DBE.

(Signed)

(Printed)

This firm has current DBE certification from the following agencies and/or state(s):

A copy of the current certification letter notifying the firm that it has been DBE certified must be attached to this form.

7.5 DBE FORM 3 - LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR

LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR

TO: _____
(Name of General Contractor Proposing)

PROJECT: Error! Reference source not found.

The undersigned intends to perform work in connection with the above project.

The status of the undersigned is confirmed on the attached DBE Contractor Identification (DBE FORM 2).

The undersigned is prepared to perform the following described work in connection with the above project:

(Specify in detail, work items or parts thereof to be performed)

at the following price: \$ _____.

The undersigned agrees to enter into a contract with you to perform the above work, if you are awarded the prime contract.

_____	_____	_____
(Date)	(Telephone No.)	(Name of DBE Subcontractor)
_____		By: _____
(Firm Address)		(Signature)
_____		Name: _____
(City and State)		(Typed)
		Title: _____

7.6 DBE FORM 4 - DBE UNAVAILABILITY CERTIFICATION

DBE UNAVAILABILITY CERTIFICATION

I, _____, _____
of _____, certify that on the dates below,

I invited the following DBE Subcontractor(s) to Proposal work items to be performed on *Error! Reference source not found.*

<u>DATE OF REQUEST</u>	<u>DBE</u>	<u>NAME OF SUBCONTRACTOR</u>	<u>ITEMS SOUGHT</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

The following Subcontractors submitted Proposals, which were not the low responsible Proposal:

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

End of DBE Forms

END OF DOCUMENT