

REQUEST FOR PROPOSALS
MARKETING/DESIGN SERVICES
FOR THE
COUNTY OF LEBANON TRANSIT AUTHORITY

**REQUEST FOR PROPOSALS
MARKETING/DESIGN SERVICES**

The County of Lebanon Transit Authority (COLT) is seeking proposals from qualified professionals to perform Marketing/Design Services. Proposals will be accepted at the COLT office located at 200 Willow Street, Lebanon PA, 17046 until 3:00 P.M., prevailing time, on Monday, January 11, 2010.

Proposals and agreements are subject to all applicable state and federal laws and to a financial assistance between the County of Lebanon Transit Authority, Commonwealth of Pennsylvania and the Federal Transit Administration.

Proposers will be required to comply with all applicable non-discrimination, integrity and lobbying laws and regulations and to certify they are not on the Comptroller General's list of ineligible contractors.

COLT solicits and encourages Disadvantaged Business Enterprise (DBE) participation. DBE's shall be afforded full consideration of their response and will not be subject to discrimination.

COLT reserves the right to postpone determination, to accept or reject any and all proposals in whole or in part, or to waive informalities as it deems to be in its best interest.

Copies of the Request for Proposals are available by contacting Ms. Cindy Binner, Office Manager, COLT, 200 Willow Street, Lebanon, PA, 17046 or by calling 717.274.3664.

Theresa L. Giurintano, Executive Director
County of Lebanon Transit Authority

I. INTRODUCTION/PROJECT DESCRIPTION

The County of Lebanon Transit Authority, hereinafter referred to as COLT, is a public transportation authority serving Lebanon County, Pennsylvania, with a service area population of roughly 128,934.

COLT is involved in many exciting projects including the construction of a Park n' Ride at Indiantown Gap, the establishment of Fixed Route Express service to the State Capitol in Harrisburg, and the upgrading of the IT capabilities of our entire Fixed Route Fleet that will provide real time transit information to all citizens of our county.

A Business Plan completed in 2008 identified the need for a general, system wide reallocation of our resources in order to better serve the riding public. Our decision to build the Park n' Ride and provide express service to Harrisburg was predicated on the findings of the Plan. Adjusting schedules for inter-county routes, better signage and stop location, increased use of IT applications and extensive marketing efforts were additional identified needs that we are addressing.

In our drive to satisfy the identified requirements of the Plan, as well as our desire to meet needs identified by public input, COLT is seeking the services from a professional design/marketing firm to aid in the development of a comprehensive, high impact campaign to better educate and inform the citizens of Lebanon County about their transit authority and what we have to offer. Branding discussions will be welcome, though we have recently begun a program to improve the visual appeal of our Fixed Route and Paratransit vehicles.

II. SCOPE OF WORK

The Scope of Work for this project will consist of three (3) separate tasks as follows:

TASK 1- MARKETING OF COLT SERVICES

Upon determination of COLT staff concerning changes to our logo or color schemes, the successful firm shall develop a Marketing Plan meant to firmly establish COLT's image and identify our services to the community. The Plan should be multifaceted and include options for different media presentations and advertisements as well as an upgrade to internal publications such as schedules and pamphlets. The Plan should identify options that are service specific, i.e. for Fixed Route or for Paratransit service, and also for system wide, general application.

This task is to be completed by June 22, 2010

TASK 2– DESIGN OF NEW LOGO

COLT has not determined as yet if it will go with new branding and vehicle color/design schemes. However, we solicit proposals from qualified professionals to develop a new corporate logo that can be used on all Authority printed materials and vehicles. The firm shall work with COLT staff in the development of concepts for the new logo with a minimum of five meetings with staff required for this stage. The firm shall develop no less than five (5) logo designs to be presented to the COLT staff. The logo shall be developed in both a color and a black and white version. The firm shall be responsible for providing a computerized version of the final selection in color and in black and white that can be used by COLT as it sees fit. The final product, if any, becomes the sole property of COLT.

This task is to be completed by February 23, 2010

TASK 3 – COLOR SCHEME FOR VEHICLES

The existing color scheme on COLT Fixed Route and Paratransit vehicles was established in the past four or five years, and is most probably the scheme that will continue. However, as part of the marketing scheme, we solicit input on potential color and design changes. The firm shall present a minimum of four (4) potential exterior designs for COLT staff to review for each of the two divisions (Fixed Route and Paratransit). If COLT staff decides to consider the designs, they shall narrow the possibilities to two (2) designs in each division. The firm shall refine the final two concepts and present them to the COLT staff for final selection. The firm shall provide COLT with a final mockup of the exterior color scheme on a poster board (3'X4') and a computerized file that COLT can provide to vehicle manufacturers for either Fixed Route or Paratransit vehicles. COLT has in the past maintained efforts to keep the two divisions separate in appearance, but will consider suggestions that would provide similar design and color to both vans and buses.

If an exterior design is chosen, the firm shall develop an interior color scheme that complements the exterior design. COLT can provide contact information about vendors who provide seating and flooring materials that are available in the industry. The firm shall present three (3) mock-ups of options on the interior design to COLT for review. If COLT chooses an interior design for either or both divisions, the firm shall provide COLT with a final mock-up of the interior color scheme(s) on a poster board (3' X4').

This task shall be completed by March 23, 2010.

III. PROPOSAL REQUIREMENTS

One (1) original and three (3) copies of the proposal shall be submitted no later than 3:00 P.M., prevailing time, Monday, January 11, 2010 and should be addressed to:

Ms. Theresa L. Giurintano, Executive Director
County of Lebanon Transit Authority
200 Willow Street
Lebanon, PA 17046

Envelopes should be clearly marked “Marketing/Design Services”.

Proposals should be brief, but concise and include the following elements:

1. Firm name, business address, telephone number, name of contact person.
2. Description of the firm's history, size and specialty area, if any.
3. The description of the proposed technical approach to the project utilizing the Scope of Work as a base. This portion of the proposal shall be specific and detailed enough to illustrate that the firm has knowledge of the necessary and appropriate tasks required for this project.
4. A statement of qualifications of the firm, its ability to perform the requested services, its specific experience in developing corporate logos and color schemes for corporate identities.
5. An organization chart and brief resumes of the primary individuals assigned to perform services to COLT. Describe staff to be assigned to the project, their positions within your firm, their experience in design work and other relevant information. Attach biographies of resumes if available.
6. A description of work to be performed outside of the firm including a list of subcontractors and consultants and qualifications of the staff to be assigned work on this project.
7. A list of five (5) references that can be contacted. References should be of firms that have conducted similar projects.
8. The cost proposal should include a breakdown of hourly fees for all services provided, including a budget by each Task as described in the Scope of Work.
9. Hourly costs for other services that may be requested during this project if different from those included above should be included in the “COST PROPOSAL”.
10. Certifications must be provided as part of the proposal as included in Section VI.

11. The proposal must be signed by an official authorized to bind the offer. Proposal must be valid for a period of ninety (90) days.

IV. **GENERAL PROVISIONS**

A. Schedule

The following is the expected schedule of activities associated with this RFP:

1.	Proposals Due	January 11, 2010
2.	Interviews with Selected Firms	To be determined
3.	Award of Contract	January 27, 2010
4.	Initial kick-off meeting	To be determined
5.	Task 1 Complete	June 23, 2010
6.	Task 2 Complete	February 23, 2010
7.	Task 3 Complete	March 23, 2010

B. Contract and Compensation Method

The services being provided are funded with PennDot and Federal funds. Required 3rd party contract clauses are contained in Attachment 9.

All projects and materials to be developed must be pre-approved by COLT before incurring reimbursable time and costs. COLT should be invoiced monthly and include a detailed breakdown of billable hours by employee and direct costs incurred. Invoices are due by the tenth (10th) day of each month, unless otherwise approved by COLT.

C. Disclaimer

COLT shall not assume any costs for the preparation of this proposal. The material and concepts presented in the proposal may or may not be used as part of this project. All materials, written, printed, or otherwise developed as part of this project become the property of COLT and can be used by COLT at any time as part of its regular business activities.

D. The firm will begin work upon signing the contract. COLT will issue a Notice to Proceed work on each phase of the work program.

V. EVALUATION AND SELECTION

A. PROCESS FOR SELECTION

1. Written proposals will be evaluated on the basis of the evaluation criteria shown in Section B.
2. Based on scores and rankings of the selection committee, two to three firms **may be selected to be interviewed by COLT.**
3. Oral presentations will be evaluated on the basis of criteria shown below in addition to the quality of the presentations and responses to questions from the interviewing committee.
4. If suitable proposals are received, negotiations with the highest ranked firm will be pursued leading to the award of the contract. Negotiations may be opened with the next highest ranked firm until the contract is awarded.
5. COLT reserves the right to accept or reject any or all proposals and to negotiate separately with any firm in a manner deemed appropriate to serve the best interests of COLT.

B. EVALUATION CRITERIA

The following evaluation criteria will be used by the selection committee in their review of the proposals received:

1. Qualifications of the firm with respect to its ability to perform the work requested based on its proposal, interview responses and references.
2. Qualifications of the proposed project manager.
3. Project approach in interpreting the Project objectives and in describing the services in the Scope of Work.
4. Capacity to accomplish the services in the required time considering the project team and its organization and the man-hour estimates.
5. Cost of Services shall be a factor for consideration.
6. Completeness and overall quality of the proposal.

C. PROTEST PROCEDURES

1. Protests Prior to Submittal of Proposals

Any protests, prior to submittal of proposals, must be submitted in writing and received by COLT at least seven (7) calendar days prior to the submission date for the proposal. Each protest must be in writing and supported by sufficient information to enable the protest to be considered. A protest will not be considered by COLT if it is insufficiently supported or if it is not received within the specified time frame. COLT's response will be in writing and set forth the reasons for its response. The decision of COLT is final, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.

2. Protests After Submission of Proposals

Protests after bid opening will be considered only as to issues which were not apparent before submission of proposals. After proposal submission, no protests of technical specifications, drawings, scope of work or evaluation criteria will be considered.

Any protest after proposal submission, including a protest of contract award, must be in writing and received by COLT within five (5) calendar days of the action being protested. No other form of protest will be considered. After the time for protest award has expired, these protest procedures will be considered to be inapplicable, and any disputes will be resolved by COLT under contract provisions or other remedies, if available. Protest submitted to COLT shall:

- (a) Include the name and address of protester.
- (b) Identify clearly the procurement under which the protest is being submitted.
- (c) Identify the action being protested and provide sufficient detailed documentation to support the protest action.
- (d) Indicate the action, ruling or relief desired from COLT.

COLT will review the protest and render its decision in writing fifteen (15) calendar days of receipt of the protest, setting forth the reasons for its decision.

COLT is responsible, in accordance with good administrative practice and sound business judgement, for the settlement of all contractual and administrative issues arising out of the procurement, including protests, contract defaults, disputes or breaches. The decision of COLT as to protests shall be final and conclusive.

SECTION VI

ATTACHMENTS

SUMMARY OF ITEMS TO BE SUPPLIED WITH PROPOSAL

The following items are to be furnished by the bidder AS PART OF THE PROPOSAL.

FAILURE TO SUBMIT ANY OF THESE ITEMS MAY LEAD TO DISQUALIFICATION OF THE PROPOSAL.

1. Completed Proposal Form
2. Completed Non-collusion affidavit.
3. Completed Lower-Tier Participant Certification form.
4. Completed DBE Certification form.
5. Completed Commonwealth Non-Discrimination Clause form.
6. Completed Debarment Certification form.
7. Completed ADA Compliance Certification form.
8. Completed Title VI (Civil Rights) Certification form.
9. Completed Lobbying Certification form.
10. Completed Notice of Federal Requirements form.
11. Environmental, Resource Conservation and Energy Requirements
12. Consultant Integrity form
13. Proposer/Consultant Information Sheet
14. Budget Guidelines

ATTACHMENTS

PROPOSAL FORM
County of Lebanon Transit Authority
200 Willow Street
Lebanon, Pa. 17046

Gentlemen/Ladies:

In conformity with and acceptance of the specifications and the Contract Documents, including all the clauses attached to this document, the undersigned submits this Proposal and guarantees the validity of same for a period of ninety (90) days after date hereof. It is understood that this Proposal Form and all attached clauses, specifications, and documents, constitutes a legal and binding contract when accepted and signed by the Authority, to proceed with the purchase of the goods and services intended by this proposal.

It is hereby certified that the undersigned is the only person(s) interested in this Proposal as principal, and that the proposal is made out without collusion with any person, firm, or corporation.

Bidder agrees that, if awarded the contract, bidder will furnish and deliver all materials, and will execute the contract in accordance with the specifications to the complete satisfaction and acceptance of the Authority.

It is understood that the Authority reserves the right to reject any or all bids or part thereof or items therein and to waive technicalities required for the interest of COLT. it is further understood that competency and responsibility of bidders will receive consideration before the award of the contract, and that the judgment of COLT shall be binding on these considerations.

The bidder agrees that bidder will not assign the bid or any of bidder's rights or interests thereunder without the written consent of COLT.

THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF THE FOLLOWING ATTACHMENTS
TO THE RFP:

SIGNATURE OF AUTHORIZED PERSON

TITLE AND DATE

(FAILURE TO COMPLETE THIS FORM AND SUBMIT IT WITH YOUR PROPOSAL WILL
RENDER THE PROPOSAL NON-RESPONSIVE)

NON-COLLUSION AFFIDAVIT

It is hereby certified that the undersigned is the only person(s) interested in this proposal as principal, and that the proposal is made without collusion with any person, firm, or corporation.

NAME OF INDIVIDUAL, PARTNERSHIP, OR CORPORATION

ADDRESS

AUTHORIZED PERSON

SIGNATURE

TITLE

DATE

**(FAILURE TO COMPLETE THIS FORM AND SUBMIT IT WITH YOUR PROPOSAL WILL
RENDER THE PROPOSAL NON-RESPONSIVE)**

Attachment 2

CERTIFICATION OF LOWER-TIER PARTICIPANTS REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

The Lower Tier Participant (potential sub-recipient under an FTA project, potential third party contractor, or potential subcontractor under a major third party contract),

(Name of Firm)_____

certifies, by submission of this proposal, that neither it nor its “principals” as defined at 49 CFR, Part 29105(p), are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(If the Lower Tier Participant (potential sub-recipient under an FTA project, potential third party contractor, or potential subcontractor under a major third party contract),

(Name of Firm)_____

is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.)

THE LOWER-TIER PARTICIPANT (potential sub-recipient under an FTA project, potential third party contractor, or potential subcontractor under a major third party contract),

(Name of Firm)_____

CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 USC SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official:_____

The undersigned chief legal counsel for the

(Name of Firm)_____

hereby certifies that the

(Name of Firm)_____

has authority under State and Local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Applicant’s Attorney:_____

Date_____

(FAILURE TO COMPLETE THIS FORM AND SUBMIT IT WITH YOUR PROPOSAL WILL RENDER THE PROPOSAL NON-RESPONSIVE)

DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATION

(1) Policy. It is the policy of the Department of Transportation that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 applies to this agreement.

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

The Contractor hereby agrees to subcontract a minimum of _____% of the contract to Disadvantaged Business Enterprises.

Date: _____

Signature: _____

Title: _____

(FAILURE TO COMPLETE THIS FORM AND SUBMIT IT WITH YOUR BID WILL RENDER THE PROPOSAL NON-RESPONSIVE)

Attachment 4

COMMONWEALTH NON-DISCRIMINATION CLAUSE

1. Contractor shall not discriminate against any employee, applicant for employment, independent contractor or any other person because of race, color, religious creed, ancestry, national origin, age, sex, handicap, or disability.

Contractor shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, sex, handicap, or disability. Such affirmative action shall include, but is not 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.

Contractor shall post in conspicuous places, available to employees, agents, applicants for employment and other persons, a notice to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.

2. Contractor shall in advertisements or requests for employment placed by it or on its behalf state all qualified applicants will receive consideration for employment without regard to race, color religious creed, ancestry, national origin, age, sex, handicap, or disability.
3. Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this non-discrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.
4. It shall be no defense to a finding of noncompliance with the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this non-discrimination clause that Contractor has delegated some of its employment practices to any union, training program or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
5. Where the practices of a union or of any training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under the Contractor Compliance Regulations issued by Pennsylvania Human Relations Commission, or this non-discrimination clause. Contractor shall then employ and fill vacancies through other non-discriminatory employment procedures.
6. Contractor shall comply with the Contract Compliance Regulations of the Pennsylvania Human Relations Commission, 16 PA Code Chapter 49 and with all laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor's non-compliance with the non-discrimination clause of this contract or with any such laws, this contract may, after hearing and adjudication, be terminated or suspended, in whole or in part, and Contractor may be declared temporarily ineligible for further Commonwealth contracts, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations.

7. Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by, the contracting agency and the Human Relations Commission, for purposes of investigation to ascertain compliance with the provisions of the Contract Compliance Regulations, pursuant to PA Code Chapter 49.35 of these Regulations. If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency or the Commission.
8. Contractor shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees.
9. Contractor shall include the provisions of this non-discrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor.
10. The terms used in this non-discrimination clause shall have the same meaning as in the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, 16 PA Code Chapter 49.
11. Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania or where the contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

Wherever herein above the word Contractor is used it shall also include the word Engineer, Consultant, Researcher, or other Contracting Party as may be appropriate

DATE: _____ FIRM NAME: _____

BY

SIGNATURE AND TITLE: _____

(FAILURE TO COMPLETE THIS FORM AND SUBMIT IT WITH YOUR PROPOSAL WILL RENDER THE PROPOSAL NON-RESPONSIVE)

Attachment 5

DEBARMENT CERTIFICATION

The bidder hereby certifies to the best of its knowledge and belief that its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by the Commonwealth of Pennsylvania, the Federal Government or other states.
- 2) Have not within the preceding three-year period 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 or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- 4) Have not within the preceding three-year period had one or more public transactions (Federal, State or local) terminated for cause or default.

THE BIDDER CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION.

DATE: _____

FIRM NAME: _____

BY

SIGNATURE & TITLE: _____

(FAILURE TO COMPLETE THIS FORM AND SUBMIT IT WITH YOUR PROPOSAL WILL RENDER THE PROPOSAL NON-RESPONSIVE)

AMERICANS WITH DISABILITIES ACT COMPLIANCE

The undersigned agrees to comply with, and assure that any third party contractor under this Project complies with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC && 12101 et seq. and 49 USC & 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC & 794; Section 16 of the Federal Transit Act, as amended, 49 USC app. & 1612; and the following regulations and any amendments thereto:

- 1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- 2) U.S. DOT regulations, "Nondiscrimination on the basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- 3) U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 C.F.R. Part 38;
- 4) Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- 5) DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- 6) General Services Administration regulations, "Construction and Alteration of Public Buildings," "Accommodations for the Physically Handicapped," 41 C.F.R. Part 101-19;
- 7) Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- 8) Federal Communications Commission regulations,
"Telecommunications Relay Services and Related Customer
Premises Equipment for the Hearing and Speech Disabled,"
47 C.F.R. Part 64, Subpart F; and
- 9) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609.

SIGNATURE OF AUTHORIZED PERSON

TITLE AND DATE

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Attachment 7

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

The undersigned agrees to comply with, and assure the compliance by its third party contractors and subcontractors under this project, with all requirements of Title VI of the Civil Rights Act of 1964, 42 USC & 2000d; U.S. DOT regulations, “nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act,” 49 C.F.R. Part 21.

SIGNATURE OF AUTHORIZED PERSON

TITLE AND DATE

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Attachment 8

LOBBYING CERTIFICATE

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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, 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, as amended by "Government wide Guidance for New Restrictions on Lobbying", 61 Fed. Req. 1413 (1/19/96).
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and 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.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A3801, *et. seq.*, apply to this certification and disclosure, if any.

DATE: _____ FIRM NAME: _____

BY

SIGNATURE & TITLE: _____

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NOTICE OF FEDERAL REQUIREMENTS

The undersigned understands that Federal laws, regulations, policies, and related administrative practices applicable to this Agreement on the date the Agreement was executed may be modified from time to time. The undersigned 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 the Agreement of a contrary intent. Such contrary intent might be evidenced by express language in Part I of the Federal Transit Administration Agreement, or a letter signed by the Federal Transit Administrator the language of which modifies or otherwise conditions the text of a particular provision of Part II of the Federal Transit Administration Agreement. 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 undersigned agrees to include in all sub-assistance agreements and third party contracts financed with Government (FTA) assistance specific notice that Federal requirements may change and the changed limits or standards set forth in this Agreement to be observed in the performance of the Project are minimum requirements.

DATE: _____ FIRM NAME: _____

BY

SIGNATURE & TITLE: _____

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**ENVIRONMENTAL, RESOURCE CONSERVATION, AND ENERGY
REQUIREMENTS**

The undersigned recognizes that many Federal and State statutes imposing environmental, resource conservation, and energy requirements may apply to the Project. Some, but not all, of the major Federal laws that may affect the Project include: the National Environmental Policy Act of 1969, 42 USC && 4331 et seq.; the Clean Air Act, as amended, 42 USC && 7401 et seq. and scattered sections of 29 USC; the Clean Water Act, as amended, scattered sections of 33 and 12 USC; the Resource Conservation and Recovery Act, as amended, 42 USC && 6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC && 9601 et seq.

The undersigned also recognizes that the Environmental Protection Agency (EPA), the Federal Highway Administration (FHWA), and other agencies of the Federal Government have issued and are expected in the future to issue requirements in the forms of regulations, guidelines, standards, orders, or other directives that may affect the Project.

Accordingly, the undersigned agrees to adhere to, and impose on its subcontractors, any such Federal requirements, as the Government may now or in the future promulgate. Listed below are the requirements of particular concern to the FTA. the undersigned expressly understand that this list does not constitute his or hers entire obligation to meet Federal requirements.

- a. Environmental Protection. To the extent applicable, compliance with the requirements of the National Environmental Policy Act of 1969, as amended, 42 USC && 4321 et seq.; Section 14 of the Federal Transit Act, as amended, 49 USC app.&& 1610; the Council on Environmental Quality regulations, 40 C.F.R. Part 1500 et seq.; and the joint FHWA/FTA regulations “Environmental Impact and Related Procedures,” at 23 C.F.R. Part 771 and 49 C.F.R. Part 622.
- b. Air Pollution. Compliance with the joint FHWA/FTA regulations, “Air Quality Conformity and Priority Procedures for Use in Federal-Aid Highway and Transit Projects” 49 C.F.R. Part 623. This includes satisfactory assurances that any facilities or equipment acquired, constructed, or improved as a part of the Project are or will be designed and equipped to limit air pollution as provided in accordance with the following EPA regulations: “Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines,” 40 C.F.R. Part 85; “Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures,” 40 C.F.R. Part 86; and “Fuel Economy of Motor Vehicles,” 40 C.F.R. Part 600;; in accordance with applicable Federally-approved State Implementation Plan(s) (in particular, the Transportation Control Measures); and in accordance with applicable Federal regulations, directives and other standards.

C. Energy Conservation. The undersigned and its third party contractors shall comply with mandatory standards and policies relating to energy efficiency that are contained in applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 USC && 6321 et seq.

SIGNATURE OF AUTHORIZED PERSON

TITLE AND DATE

(FAILURE TO COMPLETE THIS FORM AND SUBMIT IT WITH YOUR BID WILL RENDER THE BID NON-RESPONSIVE)

CONTRACTOR INTEGRITY

_____ ,hereinafter referred to as the Contractor, agrees to and certifies that:

1. DEFINITIONS

- a. "Confidential information" means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth of Pennsylvania or COLT.
- b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth or COLT, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, COLT shall be deemed to have consented by virtue of execution of this agreement.
- c. "Contractor" means the individual or entity that has entered into this agreement with the Owner, including directors, officers, partners, managers, key employees, and owners of more than five percent (5%) interest.
- d. "Financial Interest" means:
 - (1) Ownership of more than five (5%) percent interest in any business; or
 - (2) Holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
- e. "Gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

2. The Contractor shall maintain the highest standards of integrity in the performance of this agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth of Pennsylvania and/or COLT.
3. The Contractor shall not disclose to others any confidential information gained by virtue of this agreement.
4. The Contractor shall not, in connection with this or any other agreement with the Owner or the Commonwealth of Pennsylvania, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Owner or the Commonwealth of Pennsylvania.
5. The Contractor shall not, in connection with this or any other agreement with the Owner or the Commonwealth, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of COLT or the Commonwealth.
6. Except with the consent of COLT and the Commonwealth, neither the Contractor nor anyone in privity with the Contractor shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this agreement except as provided therein.
7. Except with the consent of COLT and Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.
8. The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify COLT in writing.
9. The Contractor, by execution of this agreement and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that the Contractor has not violated any of these provisions.
10. The Contractor shall, upon request of the Office of State Inspector General or County Controller, reasonably and promptly make available to that office and its representatives, for inspection and copying, all business and financial

records of the Contractor of, concerning, and referring to this agreement with COLT or which are otherwise relevant to the enforcement of these provisions.

- 11. For violation of any of the above provisions, COLT (or Commonwealth, if applicable) may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim liquidated damages for all expenses incurred in obtaining another contractor to complete performance hereunder, and debar and suspend the Contractor from doing business with COLT or Commonwealth. These rights and remedies are in addition to those the Commonwealth or COLT may have under law, statute, regulations, otherwise.
- 12. The Contractor is not currently and/or has not been debarred or suspended from doing business with the Commonwealth, the Federal Government, or COLT except in the following instances:

(if None write NONE)

- 1.
- 2.

CONTRACTOR:

BY: _____

WITNESS:

State of County of

Sworn and subscribed to before me this date of ,19

Notary Public:

My Commission Expires:

(FAILURE TO COMPLETE THIS FORM AND SUBMIT WITH YOUR PROPOSAL WILL RENDER THE PROPOSAL NON-RESPONSIVE)

Attachment 12

BIDDER/CONSULTANT INFORMATION

The following information must be provided.

Name of Individual, Partnership, or Corporation.

Mailing Address

City	State	Zip Code
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Business Address(if different from Mailing Address)

City	State	Zip Code
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Contact Person

Area Code & Telephone

Area Code & Fax Number

Authorized Person and Title (please print)

Signature of Authorized Person and Date

(FAILURE TO COMPLETE THIS FORM AND SUBMIT IT WITH YOUR BID WILL RENDER THE BID NON-RESPONSIVE)

Budget Guidelines

Basis of Compensation . Invoices will be submitted to COLT once per month by the Consultant for services and Expenses incurred during the previous month. The invoice shall itemize direct salaries and non-salary direct costs, computer costs and sub-consultant costs according to the following:

- A. **Direct Salaries**. Report actual number of hours performed on the project during the billing period. Specify employee classification and actual salary rates for those employees who worked on the project. Consultant multipliers and profit shall be reported separately.

- B. **Non-Salary Direct Costs**. Direct costs shall be reimbursed at full value. Eligible costs shall include such items as travel, meals, lodging, rentals, postage, telephone, printing and any reasonable cost necessary for the performance of the work on the project. Adequate documentation shall be submitted in support of all direct costs.

- C. **Computer Costs**. Computer costs for all technical computations for the project performed by the Consultants shall be charged as a separate item at an hourly rate.

- D. **Subcontractors Costs**. Cost of time and expenses applied and charged directly to the project for the services of outside consultants and subcontractors shall be itemized separately on the monthly invoice according to Sections A, B, C.

- E. **Audit**. COLT reserves the right to audit any and all requests for payment submitted by the Consultant.

SECTION VII

FEDERAL THIRD PARTY CONTRACT PROVISIONS

The following clauses are part of this and all contracts.

1. Notice of Federal Requirements

This procurement is subject to a financial assistance contract between the Federal Transit Administration (FTA) and COLT. The contractor shall at all time comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed herein, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1D, dated April 15, 1996, as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any COLT requests which would cause COLT to be in violation of the FTA terms and conditions.

2. No Government Obligation to Third Parties

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

3. Civil Rights

- a. Equal Employment Opportunity – The Contractor agrees to comply with all applicable EEO requirements of the U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor", 41 CFR, Parts 60 et. seq., which implement Executive Order No. 11246, "EEO", as amended by Executive Order 11375 Relating to EEO, 42 U.S.C. Section 2000 (e), and any Federal statutes, executive orders, regulations, and Federal policies pertaining to construction undertaken as part of this project.

The contractor shall take affirmative actions to insure that applicants employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, or national origin. Such actions 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."

1. Nondiscrimination on the Basis of Sex – The Contractor agrees, to the extent applicable, to comply with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C., Section 1681, 1683, and 1685 through 1687, which prohibit discrimination on the basis of sex, and any Federal requirements that may be promulgated.

2. Nondiscrimination on the Basis of Age – The Contractor agrees to comply with the applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C., Section 6101 through 6107, and implementing regulations, which prohibits discrimination on the basis of age.

b. Disadvantaged Business Enterprise

- (1) Policy - It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 26, as amended, shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26, as amended, applies to this agreement. COLT has established an annual goal of 10% participation by DBE firms for all expenditures utilizing federal funds.
- (2) DBE Obligation - The supplier or contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, 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, creed, color, national origin, age or sex in the award and performance of DOT-assisted contracts.

Where the contractor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBE's in the work provided, COLT may declare the contractor non-compliant and in breach of contract.

The contractor will keep records and documents for a reasonable time following performance of this contract to indicate compliance with COLT's DBE Program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of COLT and will be submitted to COLT upon request.

COLT will provide affirmative assistance as may be reasonable and necessary to assist the prime contractor in implementing their program for DBE participation.

- (3) DBE Non-Discrimination - The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract or agreement. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the Contractor or Subcontractor to carry out these requirements is a material breach of the contract or agreement, which may result in the termination of this contract or agreement or such other remedy as COLT deems appropriate.
- (4) Prompt Payment Clause – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment the prime contractor receives from COLT. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of COLT. This clause applies to both DBE and non-DBE subcontractors.

If the prime contractor seeks a delay or postponement of payments to its subcontractor(s), in accordance with the above requirement, it must first submit its request in writing to, and receive written approval from, COLT. The request for delay or postponement must list the reason or reasons for the request in sufficient detail as to permit COLT to make a determination. The decision to allow a delay or postponement shall rest solely and exclusively with COLT.

Absent written approval from COLT for a delay or postponement, and upon receipt by COLT of written notification from the subcontractor that the requirements for prompt payment have not been met, COLT may withhold reimbursement from future prime contractor invoices for amounts due to subcontractors for satisfactory work unless and until the prime contractor takes corrective action by paying its subcontractors any past due amounts promptly in accordance with this requirement and also assuring, in writing, that future will be so made. Any prime contractor who does not take such corrective action when required to do so will not be permitted to bid on future projects that involve subcontractors unless and until a written assurance of compliance with the prompt payment provisions is provided to COLT. COLT reserves the right to determine that a prime contractor who has not met the prompt payment provisions is not a responsible bidder for future contracts.

c. Title VI of the Civil Rights Act of 1964

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

Compliance with Regulations: The Contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.

Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection and retention of subcontractors, including procurement 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 contract covers a program set forth in Appendix B of the Regulations.

Solicitations for Subcontractors, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.

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, account, other sources of information, and its facilities as may be determined by the Recipient or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such Regulations, orders and instructions.

Where any information is required or a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Recipient, or the

Federal Transit Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the Recipient shall impose such contract sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to:

- (1) Withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
- (2) Cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provision: The Contractor shall include the provisions of paragraph (1) through (6) of this section in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, or directives issues pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the Recipient or the Federal Transit Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided however, that in the event a Contractor becomes involved in, or is treated with, litigation with a Subcontractor or Supplier as a result of such direction, the Contractor may request the Recipient, and in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

d. Access Requirements for Individuals with Disabilities

COLT agrees to comply with, and assure that any subrecipient, or third party contractor under the Project complies with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC 12101 et seq. and 49 USC 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794; Section 16 of the Federal Transit Act, as amended, 49 USC ap. 1612; and the following regulations and any amendments thereto:

- (1) U.S. DOT Regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37;
- (2) U.S. DOT Regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Pat 27;
- (3) U.S. DOT Regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 CFR Part 38;
- (4) Department of Justice (DOJ) Regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 CFR Part 36;
- (5) DOJ Regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;
- (6) General Services Administration regulations, "Construction and Alteration of Public Buildings," "Accommodations for the Physically Handicapped," 41 CFR Part 101-19;
- (7) (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630; Equal Employment Opportunity Commission;

- (8) Federal Communications Commission Regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR Part 64, Subpart F; and
 - (9) FTA Regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR part 609.
4. Commonwealth of Pennsylvania Non-Discrimination Clause - COLT is a contract recipient of funds from the Commonwealth of Pennsylvania. As a condition for the receipt of the funds, COLT must certify its compliance with the Non-Discrimination Clause and COLT must require all subcontractors certify their compliance with the Non-Discrimination Clause.
5. Termination (For contracts of \$10,000 or greater)
- a. Termination for Convenience (General Provision): COLT may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to COLT to be paid the Contractor. If the Contractor has any property in its possession belonging to COLT, the Contractor will account for the same, and dispose of it in the manner COLT directs.
 - b. Termination for Default (Breach or Cause) (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, COLT may terminate this contract for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by COLT that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, COLT, 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.
 - c. Opportunity to Cure (General Provision): COLT in its sole discretion may, in the case of a termination for breach or default, allow the Contractor (an appropriately short period of time) 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 COLT'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 COLT setting forth the nature of said breach or default, COLT 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 COLT from also pursuing all available remedies against Contractor and its sureties for said breach or default.
 - d. Waiver of Remedies for any Breach: In the event that COLT elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by COLT shall not limit COLT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

- e. Termination for Convenience (Professional or Transit Service Contracts): COLT, by written notice, may terminate this contract, in whole or part, when it is in the Government's interest. If this contract is terminated, COLT shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- f. Termination for Convenience of Default (Cost-Type Contracts): COLT may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of COLT or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from COLT, or property supplied to the Contractor by COLT. If the termination is for default, COLT may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to COLT and the parties shall negotiate the termination settlement to be paid the Contractor.

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

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

6. Breaches and Dispute Resolution (Relevant to Contracts in Excess of \$100,000)

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

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 COLT. 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 Board of Directors. 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 Board of Directors shall be binding upon the Contractor and the Contractor shall abide by the decision.

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

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between COLT 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 Commonwealth of Pennsylvania.

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

7. Lobbying (For Contracts of \$100,000 or Greater) - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to COLT.
8. Interest of Members of Congress - "No member of or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising therefrom."
9. Interest of Public Officials: "No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."
10. Debarred Bidders - "Neither Contractor nor any officer or controlling interest holder of Contractor is currently, or has been previously, on any debarred bidders list maintained by the U.S. Government."
11. Cargo Preference - Pursuant to 46 CFR Part 381, the following clauses are in effect for any contracts under which equipment, materials or commodities may be transported by ocean vessel in carrying out the contract:

The Contractor agrees:

- a. 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 section, to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels.
 - b. 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 (a) above to the Recipient (through the prime Contractor in the case of Subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, maritime Administration, 400 Seventh St. S.W., Washington, D.C. 20590, marked with appropriate identification of the Project.
 - c. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.
12. Buy American Procurements of \$100,000 or more for Iron, Steel or Manufactured Products and Rolling Stock (Service Type Contracts are Exempt) - Procurements of \$100,000 or more are subject to the Federal Transit Administration (FTA) Buy American Requirements in 49 CFR 661. A Buy America

Certificate must be completed and submitted with a bid. A bid which does not include the certificate will be considered non-responsive. A waiver from the Buy American Provision may be sought by COLT if grounds for a waiver exist. The Contractor agrees to comply with 49 U.S.C. 5323 (j) and 49 CFR Part 661, which provide that Federal Funds may not be obligated unless steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver.

13. Debarment and Suspension (Integrity Certification - Contracts of \$100,000) - Federal Regulations prohibit COLT from entering into contracts in excess of \$100,000 for goods and services from contractors which have been suspended or debarred from receiving Federally-assisted contracts. COLT imposes this same regulation upon contractors to require that their subcontractors (in excess of \$100,000) not be suspended or debarred.

Contractors with contracts in excess of \$100,000 and their subcontractors with contracts in excess of \$100,000 shall each certify that they are not debarred or suspended from receiving federally-assisted contracts. It is the Contractor's responsibility to submit the certifications of any of its subcontractors who meet the \$100,000 threshold. The Contractor and subcontractors shall each submit both of the certificates included in the bid document.

- a. Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Lower Tier Covered Transactions (Third Party Contracts over \$100,000).

Instructions for Certification

- (1) By signing and submitting this bid 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, COLT may pursue available remedies, including suspension and/or debarment.
- (3) The prospective lower tier participant shall provide immediate written notice to COLT 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," "debarment," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier cover transaction," "principal," "proposal," and "voluntary 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 COLT for assistance in obtaining a copy of those regulations.
- (5) The prospective lower tier participant agrees by submitting this proposal that, should be 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 COLT.
- (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, COLT may pursue available remedies including suspension and/or debarment.

b. "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions"

- (1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" (or defined at 49 CFR 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.

15. Environmental Requirements

COLT recognizes that many Federal and State Statutes imposing environmental, resource conservation, and energy requirements may apply to the Project. Some, but not all, of the major Federal laws that may affect the Project include: the National Environmental Policy Act of 1969, 42 USC 4321 et seq.; the Clean Air Act, as amended, scattered sections 33 and 12 USC; the Resource Conservation and Recovery Act, as amended, 45 USC 6901 et seq.' and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC 9601, et seq.. COLT recognizes that the Environmental Protection Agency (EPA), the Federal Highway Administration (FHWA), and other agencies of the Federal Government have issued and are expected in the future to issue requirements in the form of regulations, guidelines, standards, orders, or other directives that may affect the Project.

Accordingly, COLT agrees to adhere to, and impose on its sub-recipients, any such Federal requirements, as the Government may now or in the future promulgate. Listed below are requirements of particular concern to the FTA. COLT expressly understands that this list does not constitute COLT's entire obligation to meet Federal requirements.

- a. Environmental Protection - To the extent applicable, the Contractor agrees to comply with the requirements of the National Environmental Policy Act of 1969, as amended, 42, USC 4321 et seq.; Section 14 of the Federal Transit Act, as amended, 49 USC app. 1610; the Council on Environmental Quality regulations, 40 CFR Part 1500 et seq.; and the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR Part 771 and 49 CFR Part 622.

- b. Air Quality - The Contractor agrees to comply with the joint FHWA/FTA regulations. "Air Quality Conformity and Priority Procedures for Use in Federal Aid Highway" and 49 CFR Part 623. The Contractor agrees to obtain satisfactory assurances that any facilities or equipment acquired, constructed, or improved as part of the Project are or will be designed and equipped to limit air pollution as provided in accordance with the following EPA regulations: "Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines, " 40 CFR Part 85; and " Control Air Pollution from New and In-Use Motor Vehicles and New And In-Use Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86; and "Fuel Economy of Motor Vehicles, " 40 CFR Part 600; in accordance with applicable Federally-approved State Implementation Plan(s) (in particular, the Transportation Control Measures); and in accordance with applicable Federal regulations, directives and other standards.
- c. Use of Public Land - No publicly owned land from a park, recreation 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 may be used for the Project unless specific findings required by 49 USC 303 are made by the US DOT.
- d. Historic Preservation - The Recipient agrees to assist the Government to comply with Section 106 of the National Historic Preservation Act, 16 USC 470f, involving historic and archaeological preservation by:
 - (1) Consulting the State Historic Preservation Officer on the conduct of investigation in accordance with Advisory Council on Historic Preservation regulations, "Protection of Historic and Cultural Properties," 36 CFR Part 800, to identify properties and resources listed in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, and notifying the Government (FTA) of the existence of any such properties: and
 - (2) Complying with all Federal requirements to avoid or mitigate adverse effects upon such properties.
- e. Energy Conservation - COLT and its third party contractors shall comply with mandatory standards and policies relating to energy efficiency that are contained in applicable State energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 USC 6321 et seq and 49 CFR Part 18.
- f. Mitigation of Adverse Environmental Effects - Should the proposed Project cause adverse environmental effects, COLT and its third party contractors agree to take all reasonable steps to minimize such effects pursuant to 49 USC app. 1610, all other applicable statutes, and the procedures set forth in 23 CFR Part 771 and 49 CFR Part 622. COLT and its third party contractors agree to undertake all environmental mitigation measures that may be identified as commitments in applicable environmental documents (such as assessments, environmental impact statements, memoranda of agreements, and statements required by 49 USC 303) and with any conditions imposed by the Government as part of a finding of no significance impact or record of decision; all such mitigation measures are incorporated in and made part of this Agreement by reference. If some or all mitigation measures are deferred, as soon as the Government and COLT agree on those measures, those agree-upon measures will be incorporated into this Agreement. Such mitigation measures may not be modified or withdrawn without this express written approval of the Government.
- g. Clean Water Requirements (Relevant to Contracts in Excess of \$100,000)

(1) The Contractor agrees to comply with all applicable standards, order or regulations issued pursuant to the Federal Water Pollution Control Act, As amended, 33 USC 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

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

(3) The Contractor agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. Section 300h et. seq.

(4) The Contractor agrees to comply with the notification of violating facilities provisions of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, Loans," 42 U.S.C. Section 7606.

h. Clean Air Requirements (Relevant to Contracts in Excess of \$100,00)

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

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

i. Recycled Products (Relevant to Recycled Products Contracts in Excess of \$100,000)

(1) The Recycled Products requirements apply to all contracts for items designated by the EPA, when the contractor procures \$10,000 or more of one of these items during the fiscal year or the previous fiscal year with federal funds.

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

16. Privacy Act (Contracts Involving Federal Privacy Act Requirements)

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

a. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC 522a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

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

17. Program Fraud and False or Fraudulent Statements

- a. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended 31 USC 3801 et seq. and US DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or may make, or cause 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 caused 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.
- b. The Contractor also acknowledges that if it makes, or caused to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- c. 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.

18. Contract Work Hours and Safety Standards Act (Non-Construction Contracts in excess of \$2,500)

The following clauses are specifically mandated under Department of Labor regulation 29 CFR Part 5.5.

- a. Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set for in paragraph (a) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the Unites States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.
- . Withholding for unpaid wages and liquidated damages. COLT shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or

subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.

- d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.
- e. Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or case equivalents thereof of the types described in section 1(b)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborer or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices to trainees under approved programs shall maintain written evidence of the registration of apprentice's hip programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

20. AUDIT AND INSPECTION OF RECORDS (To be included in all negotiated contracts and construction contracts entered into without competitive bidding procedures)

The Contractor agrees that COLT, the FTA Administrator, the Comptroller General of the U.S., or any of their duly authorized representatives, shall, for the purpose of audit and examination be permitted to inspect all work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records, and accounts with regard to the project. Further, the Contractor agrees to maintain all required records for at least three years after COLT makes its final payments and all other pending matters are closed. Contractor also agrees, pursuant to 49 CFR Part 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 programs described at 49 U.S.C. 5307, 5309 or 5311.

21. FLY AMERICA

The Contractor understands and agrees that it will not participate in the costs of international air transportation of any persons involved in or property acquired for this project unless that air transportation is provided by U.S. flag air carrier to the extent service by these carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 CFR Section 301-3.61(b), and any later regulations at 41 CFR Section 301-10.131, et. seq.

22. YEAR 2000 COMPLIANCE

The Contractor warrants that any equipment, internal or external component, device, or software product(s) supplied under this project that process any date-time data will continue to accurately process the date-time from, into, and between the years 1999 and 2000 and beyond, including leap year calculations. The Contractor further warrants that other product(s) purchased under this project must perform as a package or system, the product(s) will be Year 2000 Compliant as a system. In the event of any breach of this warranty, the Contractor shall restore the product(s) with conforming product(s) so as to minimize interruption to COLT's ongoing business process, time being of the essence, at Contractor's sole cost and expense.

For "Third Party Product(s)" manufactured or developed by a corporate entity independent from Contractor and provided by Contractor on a non-exclusive licensing or other distribution agreement with the third party manufacturer, the Contractor has obtained a warranty of Year 2000 Compliance from the Third Party Manufacturer and shall pass through said Third Party Manufacturer's warranty of Year 2000 Compliance to COLT.

23. Rights in Data (Planning, Research, Development and Demonstration Projects Only)

- a. The term "subject data" used in this section means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this agreement. The term includes graphic or pictorial delineation's in media such as drawings or photographs; test in specifications or related performance or design-type documents; machine forms such as punch 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 Recipient may not publish or reproduce such data in whole or in part, or in any manner or form, or may the Recipient authorize others to do so, without the written consent of the Government, until such time as the Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to agreements with academic institutions.
 - (2) As authorized by 49 CFR Section 18.34, the Government 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 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 copyrights to which a Recipient, sub-recipient, or third party contractor purchases ownership with Federal assistance.

When the FTA provides assistance to a Recipient for a Project involving planning, research, development, or a demonstration, it is generally the FTA's intent to increase the body of mass transit knowledge, rather than to limit the benefits of the Project to those parties that have participated therein. Therefore, unless the FTA determines otherwise, the Recipient of FTA

assistance to support planning, research, development, or a demonstration financed under the Federal Transit Act, as amended, understands and agrees that, in addition to the rights set forth in (2) above, the FTA may make available to any FTA Recipient, Sub-recipient, Third Party Contractor, or Third Party Subcontractor, either the FTA'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, is not completed, for any reason whatsoever, all data developed under that Project shall become subject data as defined in (a) of this agreement and shall be delivered as the Government may direct. This subsection, however, does not apply to adaptations of automatic data processing equipment or programs of for the Recipients use which costs are financed wit capital funds (Section 3, 9, 16, 18 of the Federal Transit Act, as amended, or Title 23 funds).

- d. Unless prohibited by State law, the Recipient agrees to indemnify, save and hold harmless the Government, 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 Recipient 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 Recipient shall not be required to indemnify the Government for any such liability arising out of the wrongful acts of employees or agents of the Government.
- e. Nothing contained in this section on rights in data shall imply a license to the Government under any patent to be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.
- f. The requirements of subsections (b), (c) and (d) of the above do not apply to material furnished to the Recipient by the Government and incorporated in the work carried out under the agreement; provided that such incorporated material is identified by the Recipient at the time of delivery of such work.

24. Privacy Act (Contracts Involving Federal Privacy Act Requirements)

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

- a. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC 522a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- b. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

Signature and Date