



**River Valley Transit Authority  
Request for Proposal/RFP**

**Bus Shelter and Solar Lighting Project  
Williamsport, PA**

**Proposal Submission Deadline: April 14, 2023**

**Question Submission Deadline: April 7, 2023**



## **INTRODUCTION**

River Valley Transit Authority (known henceforth as “RVTA”) invites and welcomes Proposals for their Bus Shelter addition and Solar Lighting upgrade project. Please take a moment to read and become familiar with the proposal requirements. All proposals submitted for consideration must be received by the time specified above under the “Proposal Submission Deadline.”

## **PROJECT MANAGER CONTACT INFORMATION**

For all questions regarding this RFP, contact either,

Christopher Clark  
Fleet Manager/Capital Projects Manager  
River Valley Transit Authority  
1500 West 3<sup>rd</sup> St  
Williamsport, PA 17701  
570-326-2500  
[cclark@ridervt.com](mailto:cclark@ridervt.com)

**OR**

Heather Beaver  
Procurement Officer  
River Valley Transit Authority  
1500 West 3<sup>rd</sup> St  
Williamsport, PA 17701  
570-326-2500  
[RVTAProcurement@ridervt.com](mailto:RVTAProcurement@ridervt.com)

## **PROJECT OBJECTIVE**

The objective and ultimate goal for this project is to determine a low bid rate for a five (5) Bus shelters and thirty (30) Solar light add-ons, twenty-four (24) of which will retro fit our already established Shelter areas for added safety and security. This will leave one (1) light for spare and five (5) for the new incoming shelters.



## **PROJECT SCOPE AND SPECIFICATIONS**

Contractor will provide a firm fixed price for five (5) 5' x 8' category bronze colored aluminum shelter assembly with a 4' bench and backrest, ¼" clear tempered glass panels, ¼ white translucent acrylic domed roof with freight to Williamsport PA. Also, to be included Quantity thirty (30) Solar light kit Assemblies to be placed on the shelters to included all mounting hardware, batteries, light fixtures, chargers, controllers and solar panel to provide at least 24 hours of light as needed. Also, to be seasonally operational at winter temperature in the north central zone of Pennsylvania. This is an all or nothing proposal, if contractor cannot supply all requested equipment, will void proposal from review.

## **SCHEDULED TIMELINE**

The following timeline has been established to ensure that our project objective is achieved.

RFP sent out March 14, 2023

Questions Submission deadline April 7, 2023 4:00 PM EST

Proposal Submission deadline April 14, 2023 4:00pm EST

Proposal Award by April 28, 2023

## **PROPOSAL BIDDING REQUIREMENTS**

### **Project Proposal Expectations**

River Valley Transit Authority shall award the contract to the proposal that best accommodates all of the project requirements. RVTA reserves the right to: (i) award any contract prior to the proposal deadline or prior to the receipt of all



proposals, (ii) award the contract to more than one bidder, and (iii) refuse any proposal or contract.

## **DEADLINE TO SUBMIT PROPOSAL**

All proposals must be received by email to [cclark@ridervt.com](mailto:cclark@ridervt.com) no later than 4pm April 14, 2023 for consideration in the selection process.

## **PROPOSAL SELECTION CRITERIA**

Only those proposals received by the stated deadline will be considered. All proposals, submitted by the deadline, will be reviewed and evaluated based upon information provided in the submittal proposal. In addition, consideration will be given to cost and performance projections, Furthermore, then following criteria will be given considerable weight in the proposal selectin process:

- 1 Proposals received by the stipulated deadline must be in the correct format
- 2 Bidders alleged performance effectiveness of their proposal's solution
- 3 Bidders performance history and alleged ability to timely deliver proposed services
- 4 Overall cost effectiveness of the proposal

## **PROPOSAL SUBMISSION FORMAT**

The following is a list of information that the bidder should include in their proposal submission:

### **Summary of Bidder Background**

- 1 Bidder Name and Company
- 2 Bidder Address
- 3 Bidder contact information(preferred)
- 4 Description of bidder's company in terms of size, range, types of services offered and clientele
- 5 Evidence of established track record for providing the services and deliverables subject to the proposal



- 6 Evidence of legal authority to conduct business in Pennsylvania (i.e. business license numbers and FEIN)

### **Financial Information**

- 1 State whether the Bidder or its parent company (if any) has ever filed for bankruptcy or any form of reorganization under the bankruptcy code
- 2 State whether the Bidder or its parent company (if any) has every received sanction or is currently under investigation by any regulatory or governmental body.

### **Equipment or Service**

- 1 List any and all equipment or services required for this proposed project
- 2 Detailed estimated cost of each piece of equipment or service.
- 3 List any or equipment or services required of a subcontractor, along with a brief explanation
- 4 List any accommodation, services, or space required from River Valley Transit Authority, along with a brief explanation

### **Cost Proposal Summary and Breakdown**

- 1 Detailed list of any and all expected costs or expenses related to the proposed project.
- 2 Summary and explanation of any other contributing expenses to the total cost
- 3 Brief summary of the total cost of the proposal.
- 4 Brief Summary of the total cost of Shipping or Freight



## **DISCLAIMER**

\*RVTA expressly reserves the right to reject any and all Proposals and/or to negotiate separately with any firm in any manner deemed appropriate to serve its best interest. If any award of Agreement is made as a result of these Proposals, it will be made on the basis of the Proposal which best satisfies the intent of the RFP and other factors considered in the best interest of RVTA. RVTA is not liable for any expenses incurred by Proposer(s) in the development of its Proposal nor any subsequent activity related to the Proposal. Any Agreement to be entered into pursuant to this RFP is subject to financial assistance grants between RVTA, the United States Department of Transportation, Federal Transit Administration (FTA), and the Pennsylvania Department of Transportation, and must conform to the requirements thereof. If an award of Agreement is made as a result of this RFP, the proposed form of Agreement, which the Proposer will be required to execute, is included in this RFP, and the Proposers are urged to review the Agreement carefully. RVTA may, at its sole discretion consider minor modifications to the terms of the proposed Contract. The Proposer must specifically request such modifications by providing the proposed language within the Questions & Answers phase. Any minor modifications submitted will be reviewed and either denied or accepted by RVTA. Any subsequent requests for modifications may result in the proposal being deemed nonresponsive and may lead to canceling any recommendation to award to a Proposer that makes such a request outside of the allotted period.



**Federal Transit Administration (FTA) and Commonwealth of Pennsylvania Third Party Agreement/Contract Provisions**

**December 2016**

**RIVER VALLEY TRANSIT AUTHORITY**

**a.k.a. RVTA**

**FLY AMERICA**

The contractor understands and agrees that the Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation is provided by U.S. flag air carriers to the extent service by U.S.-flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. §40118 (the "Fly America" Act), and with U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. Parts §§301-10.131 through 301-10.143.

**ENERGY EFFICIENCY AND CONSERVATION**

Vendors/Contractors shall recognize and comply with mandatory standards and policies relating to energy efficiency contained in State energy conservation plans issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §6321 *et seq.*).

**CLEAN WATER**

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251 *et seq.* The contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to Federal Transit Administration and the appropriate U.S. EPA Regional Office. *Applies to all contracts/agreements exceeding \$150,000.*

**LOBBYING**

Section 1352 of Title 31, U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan or cooperative agreement to pay 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, an employee of a Member of Congress or a member or employee of a State legislature in connection with any of the following covered Federal actions: 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.

The contractor and its subcontractors shall certify that no federal appropriated funds have been expended for the lobbying activities described in Section 1352 of Title 31, U.S. Code. The contractor and its subcontractors 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 the covered Federal actions as described by 31 U.S.C. §1352. For any contract and subcontract exceeding \$100,000, the contractor and subcontractor(s) will submit a Lobbying Certificate. (See Certificate 3). Contractors who engage in lobbying activities are required to file Standard Form—LLL, “Disclosure of Lobbying Activities” in accordance with Section 1352 of Title 31, U.S. Code.

### **ACCESS TO RECORDS AND REPORTS, AUDITS AND INSPECTION**

Audit and Inspection. The contractor shall permit the authorized representatives of RVTA, U.S. Department of Transportation, the Pennsylvania Department of Transportation, and the Comptroller General of the United States to inspect and audit all data and records of the agreement/contract or relating to its performance and its subcontracts under this agreement/contract from the date of the agreement/contract and for three (3) years after completion or termination of the agreement/contract.

Record Retention. The contractor further agrees to include in all their subcontracts hereunder a provision to the effect that the subcontractor agrees that RVTA, the U.S. Department of Transportation, the Pennsylvania Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of each subcontractor, involving transactions related to the subcontractor. The term “subcontractor” as used in this clause excludes: (1) Purchase Orders not exceeding \$10,000; and (2) subcontracts or Purchase Orders for public utility services at rates established for uniform applicability to the general public.

### **FEDERAL CHANGES**

The contractor shall at all times 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 agreement/contract, unless the Federal Government determines otherwise. The contractor’s failure to so comply shall constitute a material breach of this agreement/contract. 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 RVTA requests which would cause RVTA to be in violation of the FTA terms and conditions.





### **CLEAN AIR**

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§7401 *et seq.* The contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to Federal Transit Administration and the appropriate U.S. EPA Regional Office. *Applies to all contracts/agreements exceeding \$150,000.*

### **RESERVED**

### **NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

- The Federal Government is not a Party to this agreement/contract and shall not be subject to any obligations or liabilities to the contractor or any other Party (whether or not a Party to that agreement/contract) pertaining to any matter resulting from the underlying agreement/contract.
- The contractor agrees to include the above clause in each subcontract financed in whole or in Part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS**

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

### **TERMINATION**

Termination for Convenience: RVTA may terminate this agreement/contract in whole or in part, at any time by written notice to the contractor or as detailed in the RFP. The contractor shall be paid its costs, including agreement/contract close-out costs, and profit on work performed up to the time of termination. "Close-out costs" is defined as, "site deactivation costs, scrap and waste disposal costs only". Close out costs do not include labor, direct material or overhead. Within thirty (30) days of the date of the written Notice of Termination, the contractor shall promptly submit its termination claim to



RVTA to be paid to the contractor. If the contractor has any property in its possession belonging to RVTA, the contractor will, within thirty (30) days of the date of the Notice of Termination, account for the same, and dispose of it in a manner directed by RVTA.

Termination for Default: If the contractor does not deliver supplies in accordance with the contract delivery schedule or if the agreement/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 agreement/contract, RVTA may terminate this agreement/contract for default. Termination shall be affected 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 agreement/contract price for supplies delivered and accepted or services performed in accordance with the manner of performance set forth in the agreement/contract.

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

RVTA in its sole discretion may, in the case of a termination for default, allow the contractor a reasonably 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.

Termination for Cost Type Agreements/Contracts: RVTA may terminate this agreement/contract or any portion of it, by serving a notice of termination on the contractor. The notice shall state whether the termination is for the convenience of RVTA 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 agreement/contract. The contractor shall account for any property in its possession paid for from funds received from RVTA or property supplied to the contractor by RVTA. If the termination is for default, RVTA may fix the fee, if the agreement/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 RVTA and the parties shall negotiate the termination settlement to be paid the contractor.

If the termination is for the convenience of RVTA, the contractor shall be paid its agreement/contract close-out costs, and a fee, if the agreement/contract provides for a fee, in proportion to the work performed up to the time of termination. The agreement/contract does not provide for an additional fee.

If, after serving notice of termination of default, RVTA determines that the contractor has an excusable



reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, RVTA, after setting up a new work schedule, may allow the contractor to continue work or treat the termination as termination for convenience.

### **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT)**

The contractor agrees to comply, and assures the compliance of its subcontractors or a Participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, “Debarment and Suspension,” U.S.C. §6101 note, and U.S. DOT regulations, “Non-procurement Suspension and Debarment,” 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement),” 2 C.F.R. Part 180. The contractor agrees to and assures that its subcontractors for any lower tier Participant will, review the “Excluded Parties Listing system at <http://sam.gov/> before entering into any contractual arrangement in connection with this Project. For any contract and subcontract exceeding \$25,000, the Contractor and subcontractor shall submit a debarment and suspension certificate or an explanation as to why the signed certification cannot be provided. (See Certificate 5) The certification is a material representation of fact upon which reliance was placed when the transaction was entered into. If it is later determined that the contractor or subcontractors knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, RVTA may pursue available remedies, including suspension and/or debarment. The contractor or subcontractors shall provide immediate written notice to RVTA if at any time the contractor or subcontractors learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

### **PRIVACY ACT**

The contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the contractor agrees to obtain the express consent of the Federal Government before the contractor or its employees operate a system of records on behalf of the Federal Government. The contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

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.

### **CIVIL RIGHTS**

#### **TITLE VI:**

During the performance of this agreement/contract, the contractor and its subcontractors shall comply with all requirements prohibiting discrimination against any employee or applicant for employment on the basis of race, color, creed, sex, age, disability or national origin in accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000 (d); Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§1681-1683, 1685-88, with implementing U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R.



Part 25; Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102; Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §623 and Federal transit law at 49 U.S.C. §5332; Section 202 of the American With Disabilities Act of 1990, 42 U.S.C. §12132; Federal transit law at 49 U.S.C. §5332; and 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, and any implementing requirements FTA may issue.

### **EQUAL EMPLOYMENT OPPORTUNITY**

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000, and Federal transit laws at 49 U.S.C. §5332, the contractor and its subcontractor agree to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 *et seq.* and any implementing requirements the FTA may issue. The contractor and its subcontractors agree that it shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age or national origin. The contractor and its subcontractors shall take affirmative action to ensure that applicants are employed, and the employees are treated during employment, without regard to their race, color, creed, sex, disability, age or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.

### **AMERICANS WITH DISABILITIES ACT COMPLIANCE**

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

- U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA)”, 49 C.F.R. Part 37;
- U.S. DOT regulations, “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from the Federal Financial Assistance”, 49 C.F.R. Part 27;
- U.S. DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles”, 49 C.F.R. Part 38;
- Department of Justice (DOJ) regulations, ‘Nondiscrimination on the Basis of Disability in State and Local Government Services’, “28 C.F.R. Part 35
- DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities”, 28 C.F.R. Part 36;
- General Services Administration regulations, “Construction and Alteration of Public Buildings”, “Accommodations for the Physically Handicapped”, 41 C.F.R. Part 101-19;
- Equal Employment Opportunity Commission (EEOC) “Regulations to Implement the Equal Employment Provisions of the American with Disabilities Act”, 29 C.F.R. Part 1630;
- Federal Communications Commission regulations, “Telecommunications Relay Services



and Related Customer Premises Equipment for the Hearing and Speech Disabled,” 47 C.F.R. Part 64 (F) and

- FTA regulations “Transportation for Elderly and Handicapped Persons” 49 C.F.R. Part 609.

### **BREACHES AND DISPUTE RESOLUTION**

Disputes – Disputes arising in the performance of this agreement/contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of RVTA. 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 RVTA, contractor shall continue performance under this agreement/contract while matters in dispute are being resolved.

Claims for Damages – Should either party to the agreement/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 therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies – Unless this agreement/contract provides otherwise, all claims, counterclaims, disputes and other matters in question between RVTA and the contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agreed or in Tioga County Court of Common Pleas.

Rights and Remedies – The duties and obligations imposed by the agreement/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 RVTA or its representative shall constitute a waiver of any right or duty afforded any of them under the agreement/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.

### **DISADVANTAGED BUSINESS ENTERPRISES (DBE)**

DBE Assurance: RVTA shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted agreement/contract or in the administration of RVTA’s DBE Program or the requirements of 49 C.F.R. Part 26. RVTA shall take all necessary and reasonable steps under 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts/agreements. RVTA’s DBE Program, as required by 49 C.F.R. Part 26 and as approved by DOT, is incorporated by reference into this solicitation and any resulting agreement/contract. Implementation



of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to RVTA of its failure to carry out its approved program, the Department of Transportation may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, (31 U.S.C. §3801 *et seq*).

DBE Contract Clause: The contractor or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement/contract. The contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in award and administration of DOT assisted contracts/agreements. Failure by the contractor to carry out these requirements is a material breach of this agreement/contract, which may result in the termination of this agreement/contract or such other remedy as RVTA deems appropriate.

Prompt Payment Clause: The prime contractor agrees to pay each subcontractor (whether DBE or non-DBE) under this prime agreement/contract for satisfactory performance of its agreement/contract no later than thirty (30) calendar days from its receipt of each payment from RVTA. 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 these time frames may occur only for good cause following written approval of RVTA of the prime contractor's written request for such a delay or postponement. The request for delay or postponement must state the reasons for the request in sufficient detail as to permit RVTA to make a determination. The decision to allow a delay or postponement shall rest solely and exclusively with RVTA.

Absent written approval from RVTA for a delay or postponement, and upon receipt by RVTA of written notification from the subcontractor that prompt payment requirements have not been met, RVTA 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 payments will be so made. A prime contractor who does not take such corrective action when required to do so will not be permitted to bid on future projects involving subcontractors unless and until a written assurance of compliance with prompt payment provisions is provided to RVTA. RVTA reserves the right to determine that a prime contractor who has not met prompt payment provisions is not a responsible bidder for future contracts/agreements.

The contractor must submit Certificate 4-1 "Disadvantaged Business Enterprise", with its proposal and the Affidavit requested on Certificate 4-2 if the Proposer is a Disadvantaged Business Enterprise.

**RESERVED:**

**INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

The contractor agrees that the definitions and terminology included in FTA Circular 4220.1F (March 2013) and the FTA Master Agreement shall be incorporated into the agreement/contract by reference.



## **RVTA BID PROTEST PROCEDURES:**

### **1.0 PURPOSE**

1.1 The policies and procedures governing the receipt and resolution of protests in connection with an Invitation for Bid (IFB) or Request for Proposal (RFP) are outlined below. This procedure is applicable to all IFBs or RFPs. These procedures are in compliance with FTA Circular 4220.1F (March 2013).

### **2.0 DEFINITIONS**

2.1 "Interested Party" means any Bidders/Proposers.

2.2 "Days" means business days.

2.3 "Filed" means the date of receipt by the Office of the Executive Director or his/her designee.

2.4 "Federal/State Law or Regulation" means any valid requirement imposed by Federal, State or other statute or regulation.

2.5 "Presumptive Contractor" means the Bidder/Proposer that is in line for award of the agreement/contract in the event that the protest is denied.

2.6 "Protestant" is an Interested Party who is aggrieved in connection with the solicitation or award of a agreement/contract and who files a protest.

### **3.0 TYPES OF PROTESTS/ TIME LIMITS**

3.1 Pre-Bid/Proposal Protest are based upon alleged restrictive specifications or alleged improprieties in RVTA's (RVTA) procurement process. A protestant must file a pre-bid/proposal protest no later than five (5) days prior to bid opening date by 4:00 P.M., RVTA, Pennsylvania prevailing time.

3.2 Pre-Award Protest is based upon alleged improprieties of a Bid/Proposal. A protestant must file a pre-award protest no later than five (5) days after the protestant knows or should have known of the facts giving rise thereto by 4:00 P.M. RVTA, Pennsylvania prevailing time.

3.3 Post-Award Protest is based upon the award of a agreement/contract. A protestant must file a post-award protest no later than five (5) days after the notification to the unsuccessful firms of LT's intent to award or no later than five (5) days after an unsuccessful firm becomes aware of LT's intent to award a agreement/contract, whichever comes first, by 4:00 P.M. RVTA, Pennsylvania prevailing time.

### **4.0 CONTENTS OF PROTEST**

4.1 Protests must be in writing, and filed directly with the Office of the Solicitor at:

Jill E. Nagy  
200 Spring Ridge Drive, Suite 202  
Wyomissing, PA 19610

and must contain the following information:

- a. The name, address and telephone number of the protestant;
- b. Identity of the IFB or RFP (by number and description);
- c. A detailed factual statement of the grounds for protest; and
- d. The desired relief, action or ruling.





## 5.0 ACTION BY RVTA

### 5.1 Procurement Process Status

Upon timely receipt of a protest, RVTA will delay the opening of bids until after resolution of the protest for protests filed prior to the bid opening or withhold award until after resolution of the protest for protests filed after bid opening. However, RVTA may open bids or award an agreement/contract whenever RVTA, at its sole discretion, determines that:

- a. The items or work to be procured are urgently required;
- b. Delivery or performance will be unduly delayed by failure to make the award promptly; or
- c. Failure to make prompt award will otherwise cause undue harm to RVTA or a funding source.

If the protest is filed before the award of the agreement/contract, RVTA will advise the presumptive contractor of the pending protest.

5.2 If deemed appropriate, RVTA may conduct an informal conference on the merits of the protest with all interested parties invited to attend.

### 5.3 Response to the Protest

RVTA's Solicitor, RFP committee, will respond in detail to each substantive issue raised in the protest within a reasonable time after the protest is filed. RVTA's response shall address only the issues raised originally by the protestant. When, on its face a protest does not state a valid basis for protest or is untimely, the Solicitor/RFP committee may summarily dismiss the protest without requiring a detailed response.

### 5.4 Rebuttal to RVTA Response

The protestant may submit a written rebuttal to RVTA's response, addressed to the Solicitor, but must do so within five (5) days after receipt of the original RVTA response. RVTA will not address new issues raised in the rebuttal. After receipt of the protestant's rebuttal, the Solicitor/RFP committee will review the protest and notify the protestant of his/her final decision.

### 5.5 Request for Additional Information

Failure of the protestant to comply with a request for information as specified by RVTA may result in determination of the protest without consideration of the additional information if subsequently produced. If any interested party requests information from another interested party, the request shall be made to RVTA's Solicitor, and, if RVTA so directs, shall be complied with by the other party within five (5) days.

### 5.6 Request for Reconsideration

If data becomes available that was not previously known or there has been an error of law, a protestant may submit a request for reconsideration of the protest. RVTA's Solicitor/RFP committee will again review the protest considering all currently available information. The Solicitor's determination will be made within a reasonable period of time, and his/her decision will be considered final.

### 5.7 Decision

Upon review and consideration of all relevant information the determination as issued by RVTA will be final.

### 5.8 Confidentiality\_of Protest





Material submitted by a protestant will not be withheld from any interested party, except to the extent that the withholding of information is permitted or required by law or regulation. If the protestant considers that the protest contains proprietary material which should be withheld, a statement advising of this fact must be affixed to the front page of the protest submission and the allegedly protected information must be so identified whenever it appears.

#### 5.9 Federal Transit Administration (FTA) Involvement

Where procurements are funded by the FTA, RVTA will notify the Regional Office of any known or pending protests. RVTA will notify FTA again within five (5) business days from receipt of RVTA's final decision, the protestant may file a protest with the FTA only where the protest alleges that RVTA failed to have or failed to adhere to its protest procedures or there was a violation of Federal Law or Regulation. Any protest to the FTA must be filed in accordance with FTA Circular 4220.1F.

#### **ENVIRONMENTAL PROTECTION**

The contractor and its subcontractors agree to comply with all applicable requirements and implementing regulations of the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. §§4321 through 4335 (as restricted by 42 U.S.C. §5159, if applicable), Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. §4321 note; FTA statutory requirements on environmental matters at 49 U.S.C. §5324(b). U.S. Council on Environmental Quality regulations on compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622; and other applicable Federal environmental protection regulations that may be promulgated at a later date.

#### **PROHIBITED INTEREST**

No member, officer, or employee of RVTA, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in this agreement/contract or the proceeds therefrom. RVTA's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

#### **INTEREST OF MEMBERS OR DELEGATES TO CONGRESS**

No member or delegate to the Congress of the United States shall be admitted to any share or part of this agreement/contract or receive any benefit arising therefrom.

#### **INSURANCE**

At a minimum, the contractor shall comply with the insurance requirements imposed by the Commonwealth of Pennsylvania and RVTA or as otherwise required or defined in the specifications for the project.



### **SEAT BELT USE**

Pursuant to Executive Order No. 13043, April 16, 1997, 23 U.S.C. §402, the contractor and its subcontractors are encouraged to adopt on-the-job seat belt use policies and programs for its employees when operating company-owned, rented or personally operated vehicles.

### **PROTECTION OF SENSITIVE SECURITY INFORMATION**

The contractor shall protect, and take measures to ensure its subcontractors at each tier protect, "sensitive security information" made available during the administration of a third party contract or subcontract to ensure compliance with 49 U.S.C. §40119(b) and implementing DOT regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 15, and with 49 U.S.C. §114(s) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information", 49 C.F.R. Part 1520. In accordance with 49 U.S.C. §40119(b) (1), "sensitive security information" is information obtained or developed in the conduct of security activities, including research and development. The information, and records containing such information, that constitute "sensitive security information" is further defined in 49 C.F.R. Part 15.5.

### **TRAFFICKING IN PERSON**

The contractor, its subcontractors and the employees of the contractor and its subcontractors that are participating in the Project that is the subject of this Contract and during the period this agreement/contract is in effect may not engage in severe forms of trafficking in persons, procure a commercial sex act or use forced labor in the performance of the agreement/contract. RVTA may unilaterally terminate the agreement/contract for the Project, without penalty to RVTA, if the contractor, its subcontractors and the employees of the contractor and its subcontractors are determined to have violated this prohibition. This provision implements the requirements of subsection 106(g) of the Trafficking Victims Protection Act of 2000, as amended, 22 U.S.C. §7104(g) and U.S. OMB guidance, "Trafficking in Persons: Grants and Cooperative Agreements," 2 C.F.R. Part 175.

### **TEXT MESSAGING WHILE DRIVING**

In accordance with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C.A. §402 note, and DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009, the recipient is encouraged to comply with the terms of the following Special Provisions:

Definitions. As used in this Special Provision:

"Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because



of traffic, a traffic light, stop sign or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

"Text Messaging" means reading from or entering data into any handheld or other electronic device including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

### Safety

The Contractor is encouraged to:

Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving;

Contractor-owned or contractor-rented vehicles or Government-owned, leased or rented vehicles;

Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or

Any vehicle, on or off duty, and using an employer supplied electronic device.

Conduct workplace safety initiatives in a manner commensurate with the contractor's size, such as:

Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging

while driving; and

Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

Include this Special Provision in its sub-agreements with its subcontractors and also encourage its subcontractors to comply with the terms of this Special Provision, and include this Special Provision in



any sub-agreement they entered into for the Project.

**CONFORMITY TO CURRENT LAW**

All statutes and regulations cited herein include any existing amendments thereto.

**VETERANS PREFERENCE**

As provided in U.S.C. § 5325 (k), the extent practicable, BeST agrees and assures that each of its sub-recipients:

- Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third-party contact/agreement in connection with a capital project supported with Federal Assistance appropriated or made available for 49 U.S.C. Chapter 53; and
- Will not be required to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability or a former employee.

---

Signature



**NON-COLLUSION STATEMENT**  
**RIVER VALLEY TRANSIT AUTHORITY**  
**a.k.a. RVTA**

---

TO: **RIVER VALLEY TRANSIT AUTHORITY a.k.a. RVTA**

The Undersigned, having examined the Specifications, Standard Requirements and other documents and being familiar with the various conditions under which these services, equipment and/or supplies are to be used, agrees to furnish all labor, materials, tools, equipment and services called for in the proposal for the prices stated.

The Undersigned hereby certifies that this proposal is genuine and not a sham, collusive or fraudulent or made in the interest of or in behalf of any person, firm or corporation not herein named, and that the Undersigned has not, directly induced or solicited any Proposer to submit a sham proposal or any other person, firm or corporation to refrain from submitting a proposal and that the Undersigned has not, in any manner, sought by collusion to secure for themselves an advantage over any other Proposer.

Company Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

TRADING AND DOING BUSINESS AS (CHECK ONE)

Individual     Partnership     Corporation

(Seal)

**Failure to Complete This Form and Submit With Proposal Will Render the Proposal  
Non-Responsive.**



**CERTIFICATE 2**

**COMMONWEALTH NON-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE**

The Proposer Agrees:

- a. In the hiring, recruitment, placement or promotion of any employee(s) for the manufacture of supplies, compensation and benefits performance of work or any other activity required under the contract or subcontract, the Contractor, a subcontractor or any person acting on behalf of the contractor shall not, by reason of gender, race, creed or color, discriminate against any citizen of the Commonwealth of Pennsylvania who is qualified and available to perform the work to which the employment relates.
- b. The Contractor or any subcontractor or any person acting on their behalf shall not in any manner discriminate against or intimidate any of its employees on account of gender, race, creed or color.
- c. The Contractor or any subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- d. The Contractor or any subcontractor shall not discriminate by reason of gender, race, creed or color against any contractor, subcontractor or supplier who is qualified to perform the work to which the contracts/agreements relates.
- e. The Contractor or any subcontractor shall, within the time periods requested by the Commonwealth of Pennsylvania, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the Pennsylvania Department of Transportation and the Bureau of Minority and Women Business Opportunities (BM/WBO), for the purpose of ascertaining compliance with provisions of this Non-discrimination/ Sexual Harassment Clause.
- f. The Contractor or any subcontractor shall include the provisions of this Nondiscrimination/ Sexual Harassment Clause in every contract or subcontract so that those provisions applicable to Contractors or subcontractors will be binding upon each Contractor or subcontractor.
- g. RVTA may cancel or terminate the contract/agreement and all money due or to become due under the contract/agreement may be forfeited for a violation of the terms and conditions of this Non-discrimination/Sexual Harassment Clause. In addition, RVTA may proceed with debarment or suspension and may place the Contractor or subcontractor in the Contractor Responsibility File.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
FIRM NAME

BY:

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

**Failure to Complete This Form and Submit With Proposal Will Render the Proposal Non-Responsive.**



### **CONTRACTOR INTEGRITY**

It is essential that those who seek to contract/agreement with RVTA observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the RVTA procurement process. In furtherance of this policy, Contractor agrees to the following:

- Contractor shall maintain the highest standards of integrity during the performance of this agreement and shall take no action in violation of state or federal laws or regulations or other requirements applicable to the Contractor or that govern contracting with the Commonwealth of Pennsylvania (“Commonwealth”) and/or RVTA.
- Contractor, its affiliates, agents and employees shall not influence or attempt to influence, any RVTA or Commonwealth employee to breach the standards of ethical conduct for employees or to breach any other state or federal law or regulation.
- Contractor, its affiliates, agents and employees shall not offer, give or agree or promise to give any gratuity to a RVTA or Commonwealth official or employee or to any other person at the direction or request of any RVTA or Commonwealth official or employee.
- Contractor, its affiliates, agents and employees shall not offer, give or agree or promise to give any gratuity to a RVTA or Commonwealth official or employee, the acceptance of which would violate the applicable code of conduct or any statute, regulation, statement of policy, management directive or any other published standard of RVTA or the Commonwealth.
- Contractor, its affiliates, agents and employees shall not, 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 official or employee of RVTA or the Commonwealth.
- Contractor, its affiliates, agents, employees or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract/agreement.
- Contractor shall not have financial interest in any other contractor, subcontractor or supplier providing services, labor or material on this project, unless the financial interest is disclosed to RVTA in writing at the time of proposal submission and RVTA consents to the Contractor’s financial interest prior to RVTA execution of the contract/agreement.
- Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data or records provided to or prepared by, Contractor under this contract/agreement or secured by Contractor from a third party in connection with the performance of this contract/agreement, without the prior approval of RVTA, except as required by the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104; necessary for purposes of Contractor’s internal assessment and review; or otherwise required by law.
- Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with or convicted of the commission of embezzlement, theft, forgery, bribery or destruction of public records; commission of fraud or other improper conduct associated with obtaining, attempting to obtain or performing a public contract; violation of any federal or state law regulating campaign contributions; violation of any federal or state environmental law; violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards, discrimination in wage or child labor violations; violation of any federal or state law prohibiting discrimination in employment; debarment by any agency or department of the federal government or by any other state. Contractor acknowledges that RVTA may, in its sole discretion, terminate the contract/agreement for cause



upon such notification or when RVTA otherwise learns that RVTA has been officially notified, charged or convicted.

- Contractor shall comply with requirements of the Lobbying Disclosure Act, 65 PA.C.S. § 13A01 *et seq.*, and the regulations promulgated pursuant to that law.
- When Contractor has reason to believe that any breach of ethical standards as set forth in law or in these provisions has occurred or may occur, Contractor shall immediately notify the RVTA contracting officer in writing.
- Contractor, by submission of its proposal and/or execution of this agreement and by the submission of any bills or invoices for payment pursuant to the contract/agreement, certifies and represents that it has not violated any of these contractor integrity provisions with the submission of the bid or proposal, during any contract/agreement negotiations or during the term of the contract/agreement.
- Contractor shall cooperate with the Office of State Inspector General in its investigation of any alleged RVTA or Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the request of the Controller or the Inspector General, shall provide or make promptly available for inspection and copying, any information of any type or form deemed relevant by the Controller or the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract/agreement.
- For violation of any of the above provisions, RVTA (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 damages for all additional costs and expenses incurred to debar and suspend the Contractor from doing business with RVTA or Commonwealth. These rights and remedies are cumulative, and the use or no-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those RVTA and the Commonwealth or RVTA may have under law, statute or regulations.
- For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this paragraph:
  - a. "Confidential information" means information that is not already in the public domain; is not available to the public open request; is not or does not become generally known to the Contractor from a third party without an obligation to maintain its confidentiality; has not become generally known to the public through an act or omission of the Contractor; or has not been independently developed by Contractor without the use of confidential information of the Commonwealth of Pennsylvania or RVTA.
  - b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth or RVTA, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal or contractual terms, RVTA shall be deemed to have consented by virtue of execution of this contract/agreement.
  - c. "Contractor" means the individual or entity that has entered into this agreement with RVTA, including those directors, officers, partners, managers and owners having more than five percent (5%) interest in the Contractor.
  - 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 holding any position of management;
  - e. "Gratuity" means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans., subscriptions, advances, deposits of money, services, employment or contracts/agreements of any kind;





- f. "Immediate family" means a spouse and ~~any~~ emancipated child;
- g. "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

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

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

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**Failure to Complete This Form and Submit With Proposal Will Render the Proposal Non-Responsive.**



**CERTIFICATE 4**

**LOBBYING CERTIFICATE**

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

- No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
- 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.
- 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 (as amended by the Lobbying Disclosure Act of 1995). 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.

Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

The Proposer, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED OFFICIAL

\_\_\_\_\_  
TITLE OF AUTHORIZED OFFICIAL



(Applies to contracts/subcontracts with a contract sum of \$100,000 and over.)

**Failure to Complete This Form and Submit With 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 (DBE) as defined in 49 C.F.R. Part 26 shall have the opportunity to participate in the performance of contracts/agreements financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 C.F.R. Part 26 apply to this agreement.
- (2) DBE Obligation- The Proposer agrees to ensure that Disadvantaged Business Enterprises as defined in 49 C.F.R. Part 26 have the opportunity to participate in the performance of contracts/agreements and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all Proposers shall take necessary and reasonable steps in accordance with 49 C.F.R. Part 26 to ensure that disadvantaged business enterprises have the opportunity to compete for and perform contracts/agreements. Proposer shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement.

Failure by the Proposer to carry out these requirements is a material breach of the Agreement which may result in the termination of this Agreement or such other remedy as RVTA deems appropriate.

\_\_\_\_\_ DATE

\_\_\_\_\_ SIGNATURE

\_\_\_\_\_ TITLE

**Failure to Complete This Form and Submit With Proposal Will Render the Proposal Non-Responsive.**

**CERTIFICATE 5 - 2**

**AFFIDAVIT OF DISADVANTAGED BUSINESS ENTERPRISE (AS NEEDED)**

I HEREBY DECLARE AND AFFIRM that I am the \_\_\_\_\_ and the duly authorized representative of (the firm of) \_\_\_\_\_  
\_\_\_\_\_ doing business at \_\_\_\_\_  
\_\_\_\_\_(include address, city, state and zip code).

I HEREBY DECLARE AND AFFIRM that the above business is: (check as appropriate)

- \_\_\_\_\_ A firm that is at least 51% owned by one or more individuals who are disadvantaged as defined in 49 C.F.R. Part 26, (D) or
- \_\_\_\_\_ A corporation in which at least 51% of the stock is owned by one or more disadvantaged individuals as defined in 49 C.F.R. Part 26 (D).

And that such firm or corporation has been organized/incorporated since \_\_\_\_\_, 20\_\_\_\_ and is controlled by one or more individuals defined as disadvantaged in 49 C.F.R. Part 26, (D).

FURTHERMORE, I HEREBY DECLARE AND AFFIRM that I will provide such additional information as requested by RVTA to document this fact as provided for in 49 C.F.R. Part 26, (D) and (E).

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

AFFIANT: \_\_\_\_\_

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, known to me to be the person described in the foregoing Affidavit and acknowledged that he/she executed the same in the capacity therein stated and for the purposes therein contained.

In witness thereof, I hereunto set my hand and official seal.

\_\_\_\_\_  
(Notary Public)

My Commission Expires \_\_\_\_\_ (SEAL)

STATE OF: \_\_\_\_\_

COUNTY/CITY OF: \_\_\_\_\_



**CERTIFICATE 6**

**CERTIFICATION OF PARTICIPANTS REGARDING  
DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY  
EXCLUSION**

The participant (a potential sub-recipient under an Federal Transit Administration project, a potential third party contractor or a potential subcontractor under a major third party contractor), certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal Department or agency.

If the participant (sub-recipient under a Federal Transit Administration project, a potential third party contractor or a potential subcontractor under a major third party contract) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.

THE PARTICIPANT (A POTENTIAL RECIPIENT OR SUB-RECIPIENT UNDER AN FTA PROJECT, A POTENTIAL THIRD PARTY CONTRACTOR OR A POTENTIAL SUBCONTRACTOR UNDER A MAJOR THIRD PARTY CONTRACT) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C.. §§3801 *et seq.* ARE APPLICABLE THERETO.

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

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

\_\_\_\_\_  
Date

(Applies to contracts/agreements and sub-contracts over \$25,000)

**Failure to Complete This Form and Submit With Proposal Will Render the Proposal  
Non-Responsive.**



**CERTIFICATE 7**

**PROPOSER INFORMATION SHEET**

**The following information must be provided.**

\_\_\_\_\_  
Name of Individual, Partnership or Corporation

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Business Address (if different from mailing address)

\_\_\_\_\_  
Contact Person

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Fax Number

\_\_\_\_\_  
Authorized Person and Title

\_\_\_\_\_  
Signature of Authorized Person and Date

**Failure to Complete This Form and Submit With Proposal Will Render the Proposal  
Non-Responsive.**



**CERTIFICATE 8**  
**PROPOSAL FORM**

In conformity with and acceptance of the specifications and the Proposal 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 the date hereof. It is understood that this Proposal Form and all attached clauses, specifications and documents constitutes a legal and binding contract/agreement when accepted and signed by the Authority to proceed with the purchase of 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 without collusion with any person, firm or corporation. Proposer agrees that, if awarded the contract/agreement, Proposer will execute the contract/agreement in accordance with the specification to the complete satisfaction and acceptance of the Authority.

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

The Proposer agrees that Proposer will not assign the proposal or any Proposer's rights, interest thereunder without the written consent of RVTA.

THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF THE FOLLOWING ATTACHMENTS TO THE REQUEST FOR PROPOSAL (RFP)

\_\_\_\_\_  
Signature of Authorized Person

\_\_\_\_\_  
Title and Date

**Failure to Complete This Form and Submit With Proposal Will Render the Proposal Non-Responsive.**





1. **FLY AMERICA:**

The contractor understands and agrees that the Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation is provided by U.S. flag air carriers to the extent service by U.S.-flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. §40118 (the “Fly America” Act), and with U.S. GSA regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. Parts §§301-10.131 through 301-10.143.

2. **ENERGY EFFICIENCY AND CONSERVATION:**

Vendors/Contractors shall recognize and comply with mandatory standards and policies relating to energy efficiency contained in State energy conservation plans issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §6321 *et seq.*).

3. **CLEAN WATER:**

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251 *et seq.* The contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to Federal Transit Administration and the appropriate U.S. EPA Regional Office. *Applies to all contracts/agreements exceeding \$150,000.*

4. **LOBBYING:**

Section 1352 of Title 31, U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan or cooperative agreement to pay 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, an employee of a Member of Congress or a member or employee of a State legislature in connection with any of the following covered Federal actions: 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.

The contractor and its subcontractors shall certify that no federal appropriated funds have been expended for the lobbying activities described in Section 1352 of Title 31, U.S. Code. The contractor and its subcontractors 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 the covered Federal actions as described by 31 U.S.C. §1352. For any contract and subcontract exceeding \$100,000, the contractor and subcontractor(s) will submit a Lobbying Certificate. (See Certificate 3). Contractors who engage in lobbying activities are required to file Standard Form—LLL, “Disclosure of Lobbying Activities” in accordance with Section 1352 of Title 31, U.S. Code.



**5. ACCESS TO RECORDS AND REPORTS, AUDITS AND INSPECTION:**

- a. Audit and Inspection. The contractor shall permit the authorized representatives of RVTA, U.S. Department of Transportation, the Pennsylvania Department of Transportation and the Comptroller General of the United States to inspect and audit all data and records of the contract/agreement or relating to its performance and its subcontracts under this contract/agreement from the date of the contract /agreement and for three (3) years after completion or termination of the contract/agreement.
- b. Record Retention. The contractor further agrees to include in all their subcontracts hereunder a provision to the effect that the subcontractor agrees that RVTA, the U.S. Department of Transportation, the Pennsylvania Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of each subcontractor, involving transactions related to the subcontractor. The term “subcontractor” as used in this clause excludes: (1) Purchase Orders not exceeding \$10,000; and (2) subcontracts or Purchase Orders for public utility services at rates established for uniform applicability to the general public.

**6. FEDERAL CHANGES:**

The contractor shall at all times 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/agreement, unless the Federal Government determines otherwise. The contractor’s failure to so comply shall constitute a material breach of this contract/agreement. 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 RVTA requests which would cause RVTA to be in violation of the FTA terms and conditions.

**7. CLEAN AIR:**

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§7401 *et seq.* . The contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to Federal Transit Administration and the appropriate U.S. EPA Regional Office. *Applies to all contracts/agreements exceeding \$150,000.*

**8. RESERVED:**

**9. NO GOVERNMENT OBLIGATION TO THIRD PARTIES:**

- A. The Federal Government is not a Party to this contract/agreement and shall not be subject to any obligations or liabilities to the contractor or any other Party (whether or not a Party to that contract/agreement) pertaining to any matter resulting from the underlying contract/agreement.
- B. The contractor agrees to include the above clause in each subcontract financed in whole or in Part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.



**10. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS:**

The contractor and its subcontractors acknowledge that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§3801 *et seq.* and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R., Part 31, apply to its actions pertaining to this contract/agreement. The contractor and its subcontractors certify or affirm the truthfulness and accuracy of any statement it has made, it makes, it may make or causes to be made, pertaining to this contract/agreement or the FTA assisted project for which this contract/agreement work is being performed. In addition to other penalties that may be applicable, the contractor further acknowledges that if it makes or causes to be made, a false, fictitious or fraudulent claim, statement, submission or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the contractor or its subcontractors to the extent the Federal Government deems appropriate.

**11. TERMINATION:**

- a. Termination for Convenience: RVTA may terminate this contract/agreement in whole or in part, at any time by written notice to the contractor. The contractor shall be paid its costs, including contract/agreement close-out costs, and profit on work performed up to the time of termination. “Close-out costs” is defined as, “site deactivation costs, scrap and waste disposal costs only”. Close out costs do not include labor, direct material or overhead. Within thirty (30) days of the date of the written Notice of Termination, the contractor shall promptly submit its termination claim to RVTA to be paid to the contractor. If the contractor has any property in its possession belonging to RVTA, the contractor will, within thirty (30) days of the date of the Notice of Termination, account for the same, and dispose of it in a manner directed by RVTA.

- (1) Termination for Default: If the contractor does not deliver supplies in accordance with the contract delivery schedule or if the contract/agreement 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/agreement, RVTA may terminate this contract/agreement 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/agreement price for supplies delivered and accepted or services performed in accordance with the manner of performance set forth in the contract/agreement.

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

RVTA in its sole discretion may, in the case of a termination for default, allow the contractor a reasonably 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.

- (2) Termination for Cost Type Contracts/Agreements: RVTA may terminate this contract/agreement or any portion of it, by serving a notice of termination on the contractor. The notice shall state whether the termination is for the convenience of RVTA 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/agreement. The contractor shall account for any property in its possession paid for from funds received from RVTA or property supplied to the contractor by RVTA. If the termination is for default, RVTA may fix the fee, if the contract/agreement 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 RVTA and the parties shall negotiate the termination settlement to be paid the contractor.

If the termination is for the convenience of RVTA, the contractor shall be paid its contract/agreement close-out costs, and a fee, if the contract/agreement provides for a fee, in proportion to the work performed up to the time of termination. The contract/agreement does not provide for an additional fee.

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

12. **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT):**

The contractor agrees to comply, and assures the compliance of its subcontractors or a Participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, “Debarment and Suspension,” 31 U.S.C. §6101 note, and U.S. DOT regulations, “Non-procurement Suspension and Debarment,” 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement),” 2 C.F.R. Part 180. The contractor agrees to, and assures that its subcontractors for any lower tier Participant will, review the “Excluded Parties Listing system at <http://sam.gov/> before entering into any contractual arrangement in connection with this Project. For any contract and subcontract exceeding \$25,000, the Contractor and subcontractor shall submit a debarment and suspension certificate or an explanation as to why the signed certification cannot be provided. (See Certificate 5) The certification is a material representation of fact upon which reliance was placed when the transaction was entered into. If it is later determined that the contractor or subcontractors knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, RVTA may pursue available remedies, including suspension and/or debarment. The contractor or subcontractors shall provide immediate written notice to RVTA if at any time the contractor or subcontractors learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

13. **PRIVACY ACT:**

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



**14. CIVIL RIGHTS:  
TITLE VI:**

During the performance of this contract/agreement, the contractor and its subcontractors shall comply with all requirements prohibiting discrimination against any employee or applicant for employment on the basis of race, color, creed, sex, age, disability or national origin in accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000 (d); Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§1681-1683, 1685-88, with implementing U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. Part 25; Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102; Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §623 and Federal transit law at 49 U.S.C. §5332; Section 202 of the American With Disabilities Act of 1990, 42 U.S.C. §12132; Federal transit law at 49 U.S.C. §5332; and 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, and any implementing requirements FTA may issue.

**EQUAL EMPLOYMENT OPPORTUNITY:**

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000, and Federal transit laws at 49 U.S.C. §5332, the contractor and its subcontractor agree to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 *et seq.* and any implementing requirements the FTA may issue. The contractor and its subcontractors agree that it shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age or national origin. The contractor and its subcontractors shall take affirmative action to insure that applicants are employed, and the employees are treated during employment, without regard to their race, color, creed, sex, disability, age or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.

**AMERICANS WITH DISABILITIES ACT COMPLIANCE:**

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

- U.S. DOT regulations, “ Transportation Services for Individuals with Disabilities (ADA)”, 49 C.F.R. Part 37;
- U.S. DOT regulations, “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from the Federal Financial Assistance”, 49 C.F.R. Part 27;
- U.S. DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles”, 49 C.F.R. Part 38;
- Department of Justice (DOJ) regulations, ‘Nondiscrimination on the Basis of Disability in State and Local Government Services’, “28 C.F.R. Part 35



- DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities”, 28 C.F.R. Part 36;
- General Services Administration regulations, “Construction and Alteration of Public Buildings”, “Accommodations for the Physically Handicapped”, 41 C.F.R. Part 101-19;
- Equal Employment Opportunity Commission (EEOC) “Regulations to Implement the Equal Employment Provisions of the American with Disabilities Act”, 29 C.F.R. Part 1630;
- Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled,” 47 C.F.R. Part 64 (F) and
- FTA regulations “Transportation for Elderly and Handicapped Persons” 49 C.F.R. Part 609.

15. **BREACHES AND DISPUTE RESOLUTION:**

Disputes – Disputes arising in the performance of this contract/agreement which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of RVTA. 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 RVTA, contractor shall continue performance under this contract/agreement while matters in dispute are being resolved.

Claims for Damages – Should either party to the contract/agreement 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 therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies – Unless this contract/agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between RVTA and the contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agreed or in Tioga County Court of Common Pleas.

Rights and Remedies – The duties and obligations imposed by the contract/agreement 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 RVTA or its representative shall constitute a waiver of any right or duty afforded any of them under the contract/agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.