

GOLDEN EMPIRE TRANSIT DISTRICT
REQUEST FOR PROPOSAL FOR
“SECURITY GUARD SERVICES” RFP # G056

Golden Empire Transit District is seeking proposals for Security Guard Services.

Golden Empire Transit District, (GET) is requesting the submission of proposals by qualified agencies to provide Security Service at our main office located at 1830 Golden State Avenue and two transit terminals located at 2129 Chester Avenue and 1912 Wible Road, Bakersfield, California.

All proposals must be contained in a sealed envelope stating **“Security Guard Services” Attention: Susan Eagle, Purchasing Agent** and filed at the main office located at 1830 Golden State Avenue, Bakersfield, CA. 93301, no later than 4:00 p.m. on Thursday April 4, 2013. Proposals received after the deadline will be returned to the bidder unopened.

Proposals may be obtained on GET's website; www.getbus.org/RFP or by contacting Susan Eagle at (661)324-9874.

GOLDEN EMPIRE TRANSIT DISTRICT

REQUEST FOR PROPOSAL FOR SECURITY GUARD SERVICES

SCOPE OF WORK

1.0 GENERAL INFORMATION/INTRODUCTION

The Golden Empire Transit District is requesting the submission of proposals by qualified security agencies to provide Security Service to the District's two transit centers which are located at (Downtown Transit Center) 2129 Chester Avenue; (Southwest Transit Center) 1912 Wible Road; and the District Office located at 1830 Golden State Avenue in Bakersfield, California.

All submissions must be received in the GET office located at 1830 Golden State Avenue, Bakersfield, CA 93301, no later than 4:00 p.m. on Thursday April 4, 2013.

Please state on outside of envelope-

"SECURITY GUARD SERVICES"

Attention: Susan Eagle, Purchasing Agent

2.0 PROPOSAL CONTENTS

Bidders are required to submit an **original written proposal and one (1) copy** in response to this Request for Proposal. The proposal should be sufficiently detailed to enable District staff to adequately evaluate the bidder's qualifications. Each proposal must adequately address each issue described in this RFP in order to prevent proposal from being rejected for non-compliance, and must also contain the items described below:

2.1 QUALIFICATIONS AND EXPERIENCE:

Qualifications shall provide general information regarding the Security Service's overall qualifications. Information must include size of the company, number of years in business, under the current owner, and a list of references with names, addresses and telephone numbers.

2.2 A COPY OF ALL PERTINENT CERTIFICATES AND/OR LICENSES:

Proposers shall produce all pertinent Insurance Certificates and Licenses to operate in the State of California.

2.3 COST PER HOUR FOR SECURITY SERVICES:

See attached Bid Form:

2.4 COST EFFECTIVE MEANS OF MOBILE SUPPORT:

2.5 EVIDENCE OF INSURANCE:

3.0 SCOPE OF WORK

3.1 INTENT:

The intent of these specifications is that the Security Service shall provide the optimum level of services (full coverage or required guard hours) at all times. The specifications shall be a guide for, rather than a limitation to, the services required to effectively operate the security program. If the District considers the level of services at anytime to be unacceptable, then Security Service shall be required to effect prompt action to overcome such unacceptable condition(s). Any additional costs resulting from such action shall be the sole responsibility and expense of the Security Service.

3.2 SERVICES:

3.2.1 Security Service shall provide trained unarmed, uniformed, security guard personnel and security services to operate, supervise and assist in the administration of the District's security program, for the safety and protection of life, property and the project environment, as determined necessary by the District. Guard(s) shall assist in dealing with unruly customers when requested to do so by District staff. Guard(s) shall enforce District policies regarding loitering, unauthorized vehicles, etc. Guard(s) shall maintain a professional demeanor when interacting with customers.

3.2.2 Option of mobile services during all service hours. This service would be on an as needed basis. Propose cost effective means of mobile support.

3.3 SERVICE LOCATIONS:

Locations where Security Services are to be provided:

District Office, 1830 Golden State Avenue, Bakersfield, CA
Downtown Transit Center, 2129 Chester Avenue, Bakersfield, CA
Southwest Transit Center, 1912 Wible Road, Bakersfield, CA

3.4 SERVICE HOURS:

Following is the breakdown by hours/days/terminals of needed Security Services:

District Office

Sunday:	5:00 PM- 9:00 PM	= 4.00 hrs
Monday-Friday:	5:00 PM- Midnight	= 7:00 hrs
Saturday:	5:00 PM- 9:00 PM	= 4:00 hrs
52 Sundays	@ 4:00 hours	= 208 hrs
261 Weekdays	@ 7:00 hours	= 1,827 hrs
52 Saturdays	@ 4:00 hours	= 208 hrs
	Total	= <u>2,243 hrs</u>

Downtown Transit Center

Sunday:	7:15 AM-7:15 PM	= 12:00 hrs
Monday-Friday:	7:00 AM-11:00 PM	= 16:00 hrs
Monday-Friday:	11:00 AM-7:00 PM	= 8:00 hrs
Saturday:	7:15 AM-7:15 PM	= 12:00 hrs
52 Sundays	@ 12:00 hours	= 624 hrs
261 Weekdays	@ 24:00 hours	= 6,264 hrs
52 Saturdays	@ 12:00 hours	= 624 hrs
	Total	= <u>7,512 hrs</u>

Southwest Transit Center

Sunday:	7:15 AM-7:15 PM	= 12:00 hrs
Monday-Friday:	7:00 AM-11:00 PM	= 16:00 hrs
Saturday:	7:15 AM-7:15 PM	= 12:00 hrs
52 Sundays	@ 12:00 hours	= 624 hrs

261 Weekdays	@ 16.00 hours	= 4,176 hrs
52 Saturdays	@ 12:00 hours	= 624 hrs
	Total	= <u>5,424 hrs</u>

Total Hours=	District Office	= 2,243 hrs
	Downtown Transit Center	= 7,512 hrs
	Southwest Transit Center	= <u>5,424 hrs</u>
Total System Hours		= 15,179 hrs

3.5 SPECIAL MENTION:

The District will **not be** charged for overtime or holiday pay; Security Service shall incur any such pay. Any additional hours worked at the District's request shall be billed and paid at the normal agreed upon hourly rate.

3.6 ACTIVITY REPORTS:

The Security Service shall have its personnel observe and conduct their activity in accordance with the District's approval. All procedures are to be written and developed by the security service with approval by the District. Activity reports shall be updated regularly upon each occurrence of change in duties and account information. The District shall provide final approval and receive a copy of ongoing changes. In so doing and in all matters under this Agreement, the Security Service shall remain and shall be an independent contractor with all of its employees under its direction and that of its management and supervisors and in no event shall such employees be deemed employees or agents of client.

The Security Service shall treat all information and data, regardless of form that is received from the District, as confidential and the Security Service shall take all precautions necessary to prevent disclosure of such information or state verbally or in writing to others except upon the expressed written approval of the District.

3.7 PENALTIES:

Shift Coverage – Failure to provide a replacement officer within two (2) hour(s) of notification shall result in a one hundred dollar (\$100.00) per day penalty on the Security Service for non-compliance, unless waived by the District.

3.8 INSURANCE:

The minimum insurance requirement to be provided and maintained by the Security Service is as follows:

Workers' Compensation is provided under a certificate of Self-Insure, issued by the State of California. Evidence of Workers' Compensation Insurance shall be provided to the District.

Security Service employees must be bonded under a Blanket Third Party Bond.

3.9 CURRENT PERSONNEL:

Bidding Security Services shall not, under any circumstances, contact site personnel prior to or during the bidding process.

3.10 START-UP PLAN:

Security Service is to submit a thirty (30) day start-up plan/timeline outlining the operational steps that will be necessary for the start-up of the account. This plan/timeline is subject to District approval.

3.11 UNIFORMS/APPEARANCE:

Security Officers must maintain professional appearance at all times. For example, but not limited to: clean, pressed uniforms; neatly groomed; hat worn straight (not backwards, or off to the side), if worn at all. Proposals should include the Security Service's standards for grooming and appearance of its security officers.

3.12 EQUIPMENT:

Security Service is to state what equipment security officers will be carrying to fulfill the duties of the security service, i.e., radios, cellular phones, baton, handcuffs etc.

3.13 SPECIAL CONSIDERATIONS:

Security officers may not smoke while in performance of their duties on GET premises. Security Officers must have a radio at all times while on patrol. A security officer must be able to summon police within thirty (30) seconds after the officer determines that he/she needs assistance.

Security officers must maintain a professional and responsible demeanor at all times. For example, but not limited to: must be aware of duties; must be alert; must be reliable (e.g., show-up/depart on time); must be courteous to GET customers and employees; must keep GET Customer Service Representative informed of any suspicious situations; and, must be able to handle any difficult situations without direct supervision. Proposals should include the Security Service's standards for professionalism, demeanor, and reliability of its security officers.

Security officers should not socialize with visitors while on duty.

3.14 SELECTION OF SECURITY PERSONNEL:

Security Service shall screen all personnel employed by Security Service to perform security services, as to their background and previous work records. The Security Service shall insure that only persons of integrity and competence will be utilized in connection with performance of the security services on GET properties.

The Security Service must conduct criminal background checks on each employee that performs duties on GET premises. GET reserves the right to review all background checks. GET also reserves the right to forbid any employee of the Security Service from working on GET property.

The Security Service must drug screen all employees that perform duties on GET premises.

The proposal shall include the Security Service's standards for selection of personnel.

3.15 TRAINING:

Security officer must be adequately trained to deal with difficult and hostile situations (e.g., unruly citizens, fights, terrorism recognition etc.). Security officers should have diversity training. Security officers must also be trained in the use of less-than-lethal weapons including, but not limited to, Oloeresin Capsicum (OC) spray, and baton. Security officers will also be required to carry appropriate restraining devices (handcuffs and/or flexible cuffs). Proposals should include the Security Service's standards for the training of its security officers.

The Security Service must maintain a copy of all certifications and/or licenses required for each guard. These certifications and/or licenses should be made available for review by the District if requested.

3.16 ADDITIONAL PERSONNEL:

The Security Service shall state the ability/resources to provide additional personnel in the event of a shift vacancy.

The Security Service shall state the ability/resources to provide additional personnel in the event of an emergency and also be able to state the quantity of available personnel.

3.17 CONTRACT INCREASES:

Indicate in proposal the set cost for the first year and multiyear pricing for the following four years if the option is chosen to extend contract on a year-to-year basis (see attached Bid Form).

3.18 CORPORATE:

The Security Service shall provide a company organizational chart and resumes/qualifications of any personnel working on account. The Security Service shall provide information/resume/qualifications of training specialist/personnel on staff.

3.19 REFERENCES:

The Security Service shall provide a list of references for current ownership and a list of properties wherein current Security Services in a like quantity are being provided.

GOLDEN EMPIRE TRANSIT DISTRICT

**“PROPOSAL FORM” FOR
SECURITY GUARD SERVICES**

Year 1

**Cost Per Hour
Monthly Cost**

Year 2 (Option Year)

**Cost Per Hour
Monthly Cost**

Year 3 (Option Year)

**Cost Per Hour
Monthly Cost**

Year 4 (Option Year)

**Cost Per Hour
Monthly Cost**

Year 5 (Option Year)

**Cost Per Hour
Monthly Cost**

Signature below signifies that bidder has read, understands and agrees to all terms and conditions as included in the Bid Notice, Scope of work, and Commercial Terms and Conditions Part I.

(Name of Firm)

(Title of Signatory)

(Signature

(Date)

PART I

COMMERCIAL TERMS AND CONDITIONS

Proposals are requested for the Scope of Work enclosed.

1. CONTRACT DOCUMENTS

- a. All terms and conditions included in this solicitation will be incorporated into any resultant contract.
- b. It is the intent of the District to award a firm fixed price contract for this procurement.
- c. The District is exempt from Federal Excise and Transportation Taxes. The District will furnish necessary exemption certificate upon request. Any sales tax, use tax, imposts, revenues, excise or other taxes, which are now or which may hereafter be imposed by Congress, by a state or any political subdivision hereof and applicable to the sale or the material delivered as a result of proposal and which, by the terms of the tax law, must be passed directly to GET and will be paid by GET.

2. FORM OF PROPOSALS

Proposals shall be submitted only on the **Proposal Form**, provided herein. Proposals submitted on any other form will be considered non-responsive and **WILL BE REJECTED**. The only acceptable method of modifying a proposal is by letter, if it is received by the person assigned to open proposals prior to the time set for opening of proposals.

3. RECEIPT OF PROPOSALS

- a. Sealed proposals, an original and three (3) copies will be received by:

Golden Empire Transit District
1830 Golden State Avenue
Bakersfield, CA 93301

The proposal opening may occur at the time and date specified in the Scope of Work.

- b. The District reserves the right to postpone proposal opening for its own convenience, to reject any or all proposals, and to cancel the requirements at any time prior to proposal opening and return all proposals unopened.

4. DISCREPANCIES

If a Contractor becomes aware of any discrepancy, ambiguity, error or omission, it shall be reported immediately to the District Manager, who will determine the necessity for clarification.

5. APPEAL PROCEDURES

Requests for approved equals, clarifications of specifications, and protest of specifications must be received by the District in writing 10 workdays before proposal due date. Requests must be addressed as listed in Item 3 and be clearly marked on the outside of the envelope: "**NOT A PROPOSAL**". Any request for an approved equal or protest of the specifications must be fully supported with technical data, test results, or other pertinent information as evident that the substitute offered is equal to or better than the specification requirements. The burden of proof as to the equality, substitutability, and the compatibility of proposed alternates or equals shall be upon the Contractor, who shall furnish all necessary information at no cost to the District. The District shall be the sole judge as to the quality, substitutability and compatibility of the proposed alternates or equals.

6. ADDENDA

- a. Clarification or any other notice of a change in the Proposal Documents will be issued only by the District Manager and only in the form of written addenda mailed, emailed or otherwise delivered to the address of record of each Contractor. Each addendum will be numbered and dated. Oral statements or any instructions in any form, other than addenda as described above, shall have no consideration.
- b. Each addenda received during the proposal period shall be acknowledged in the designated space on the Proposal Form with the information therein requested. If none are received, the words "**no addenda received**" shall be written in the said space.

7. RECEIVING PROPOSALS

Proposals received will be kept unopened until the time fixed for the proposal opening. The person whose duty it is to open the proposals will determine when the time stated above has arrived and no proposal received thereafter will be considered.

8. WITHDRAWAL OF PROPOSALS

Proposals may be withdrawn only by signature of Contractor, provided the request is received by the person whose duty it is to open proposals prior to the time fixed for proposal opening. Each proposal opened will be considered to be a valid offer, and may not be withdrawn for a period of thirty (30) calendar days following opening of proposals, unless the Contractor is given written notice that the proposal is unacceptable.

9. EVALUATION OF PROPOSALS

Proposals will be evaluated as stated in the Scope of Work.

10. AWARD OR REJECTION OF PROPOSAL

- a. Award will be made to the lowest responsive and responsible Contractor or Contractors whose proposal meets the minimum requirements and conditions set forth in the technical specifications/ Scope of Work.
- b. Discount offered by the Contractor will not be used in the evaluation or award process.
- c. The District reserves the right to REJECT ANY OR ALL proposals or any item or part thereof, or to waive any informality in proposals when it is in the best interest of the District to do so.
- d. The District also reserves the right to award its total requirements to one Contractor or to apportion those requirements among several Contractors, as the District may deem it to be in its best interest.

11. PRE-CONTRACTUAL EXPENSES

Contractors are responsible for all pre-contractual expenses. Pre-contractual expenses are defined as expenses incurred by the Contractor in 1) preparing the proposal in response to this invitation; 2) submitting that proposal to the District; 3) negotiating with the District any matter related to this proposal; or 4) any other expenses incurred by Contractor prior to date of award.

12. PAYMENT

a. Payment Schedule and Invoicing

- 1. Payment for equipment, material, and/or services shall be made 30 days after receipt of invoice.
 - a. Proper and complete billing (including support) is received by District.
 - b. Acceptance by the District of the equipment, materials and / or services in accordance with the Scope of Work.
 - c. Contractual agreements set forth between the District and the Contractor.

b. Prime Contractor and Subcontractor Payments (if applicable)

Prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from receipt of each payment the prime contractor receives from the District. The prime contractor agrees further to return retainage payments to each subcontractor within 30 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 the District.

13. DELAYS

a. Unavoidable Delays

If services under the contract should be unavoidably delayed, the District's Manager shall extend the time for completion of the contract for the determined number of days of excusable delay. A delay is unavoidable only if the delay was not reasonably expected to occur in connection with or during the Contractor's performance, and was not caused directly or substantially by acts, omissions, negligence or mistakes of the Contractor, the Contractors subs, or their agents, and was substantial and in fact caused the Contractor to delay performance dates, and could not adequately have been guarded against by contractual or legal means. Delays beyond control of the District or caused by the District will be sufficient justification for delay of services and Contractor will be allowed a day for day extension.

b. Notification of Delays

The Contractor shall notify the District Staff as soon as the Contractor has, or should have, knowledge that an event has occurred which will delay performance. Within five (5) calendar days, the Contractor shall confirm such notice in writing, furnishing as much detail as available.

c. Request for Extension

The Contractor agrees to supply, as soon as such data are available, any reasonable proofs that are required by the District's Manager to make a decision on any request for extension. The District's Manager shall examine the request and any documents supplied by the Contractor and shall determine if the Contractor is entitled to an extension and the duration of such extension. The District's Manager shall notify the Contractor of his decision in writing. It is expressly understood and agreed that the Contractor shall not be entitled to damages or compensation and shall not be reimbursed for losses on account of delays resulting from any cause under this provision.

14. CHANGE ORDERS

a. Contractor Changes

Any proposed change in this contract shall be submitted to the District's Manager for prior written approval.

b. District Changes

1. No change in this contract shall be made unless the District's Manager issues his prior written approval thereto. Oral change orders are not permitted. The Contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting any specification

change not properly ordered by written modification to the contract and signed by the District's Manager.

2. Contractor is expected to proceed with change and if District is responsible for a delay in delivery of services, a day for day extension to the delivery of services will be allowed.
3. Within seven (7) calendar days after receipt of the written change order to modify the contract, the Contractor shall submit to the District a detailed price and schedule proposal for the work to be performed. This proposal shall be accepted or modified by negotiations between the Contractor and the District. At the time a detailed modification shall be executed in writing by both parties. Disagreements that cannot be resolved with negotiations shall be resolved in accordance with the contract disputes clause. Regardless of any disputes, the Contractor shall proceed with the work ordered.

15. INSURANCE

- a. During the performance hereunder and at Contractor's sole expense, Contractor shall procure and maintain the following insurance and shall not of its own initiative cause such insurance to be cancelled or materially changed during the course of herein contract for proposal.
 1. Workers' Compensation Insurance with the limits established and required by the State of California;
 2. Comprehensive General Liability, Product/Completed Operations Liability, Contractual Liability, Independent Contractors Liability, and Automobile Insurance with at least the following limits of liability:
 - a. Primary Bodily Injury Liability limits of \$1,000,000 per occurrence;
 - b. Primary Property Damage Liability limits of \$1,000,000 per occurrence.
- b. Prior to the District's issuance of a CONTRACT, the Contractor must furnish to the District a **Certificate of Insurance**, which shall certify the Contractor's insurance policy adequately covers the above listed requirements. Documents may be delivered or mailed to said office. Language on the certificate shall confirm the following:
 1. The District is designated as an additional **insured** on the Comprehensive Liability and Automobile Liability Insurance described hereinabove.
 2. The coverage shall be primary as to any other insurance with respect to performance hereunder.
 3. Thirty (30) day's written notice of cancellation or material change to District.

16. LIQUIDATED DAMAGES

The District and Contractor recognize that liquidated damages requirements are appropriate if parties to a contract may reasonably expect to incur damages in the form of increase costs resulting from the late completion of the contract. Therefore, the District will impose a charge of **\$100.00** per day, each day after scheduled completion date.

Part II

General Terms and Conditions Services

1. PROHIBITED INTERESTS

a. Prohibited Interest

The parties hereto covenant and agree that, to their knowledge, no board member, officer, or employee of the District, during his tenure or for one (1) year thereafter has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the contracting party other than the District, and that, if any such interest comes to the knowledge of either party at any time, a full and complete disclosure of all such information will be made in writing to the other parties, even if such interest would not be considered a conflict of interest under Article 4 of Chapter 1 of Division 4 of Title 1 (commencing with Section 1090) or Division 4.5 of Title 1 (commencing with Section 3600) of the Government Code of the State of California.

b. Interest of Members of or Delegates to Congress

No member of or delegate to the Congress of the United States shall be admitted to any share of or part of this contract or to any benefit arising there from.

2. CIVIL RIGHTS.

The following requirements apply to the underlying contract:

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

(2) Equal Employment Opportunity. The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. 2000e, and Federal transit laws at 49 U.S.C. 5332, the Contractor agrees to comply with all applicable equal employment requirements of U.S. Department of Labor (DOL) regulations, "Office of Federal Contract Compliance Programs, Equal

Employment Opportunity, Department of Labor,” 41 C.F.R. parts 60 et seq.,(which implement Executive Order No. 11246, “Equal Employment Opportunity”, as amended by Executive Order No. 11375,” Amending Executive Order 11246 Relating to Equal Employment Opportunity, 42 U.S.C. 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination: rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.

- (b) Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 623 and Federal transit law at 49 U.S.C. 5332, the contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.
- (c) Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. 12112, the contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “ regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act, “ 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (d) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

4. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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 work week in which he or she is employed on such work to work in excess of forty hours in such work week 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 work week.

B. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the requirements of 29 C.F.R., 5.5(b)(1), the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of 29 C.F.R., 5.5(b)(1) in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by 29 C.F.R., 5.5(b)(1).

C. Withholding for Unpaid Wages and Liquidated Damages.

The District 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 (2) of this section.

D. Subcontracts.

The Contractor or subcontractor shall insert in any subcontract the clauses set forth in this section and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The Prime contractor shall be responsible for compliance by any subcontractor to lower tier subcontractor with the clauses set forth in this section.

7. **DISADVANTAGE BUSINESS ENTERPRISE**

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

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

8. LIABILITIES AGAINST PROCURING AGENCY

The Contractor shall indemnify, keep and save harmless the District, its agents, officials, and employees against all injuries, deaths, losses, damages, claims, suits, liabilities, judgements, costs, and expenses, which may accrue against the District arising out of or resulting from the Contractors acts or omissions, including acts or omissions of its employees, servants and agents.

9. OMISSION

Notwithstanding the provision of drawings, technical specifications, or other data by the District, the Contractor shall have the responsibility of supplying all drawings and details required to make the project complete and ready for service even though such details may not be specifically mentioned in the drawings and specifications.

10. PRIORITY

In the event of any deviation between the description of the equipment, materials and/or services in the Scope of Work and other parts of this document, the specifications shall govern.

11. PRICE ADJUSTMENT FOR REGULATORY CHANGE

If price adjustment is indicated, either upward or downward, it shall be negotiated between the District and the Contractor for changes that are mandatory as a result of legislation or regulations that are promulgated and become effective between the date of bid opening and the date of performance. Such price adjustment may be audited where required.

12. REPAIRS AFTER NONACCEPTANCE

a. The District may require the Contractor, or its designated representative to perform the repairs after nonacceptance, or the work may be done by the District's personnel with reimbursement by the Contractor.

b. Repairs by Contractor

1. If the District requires the Contractor to perform repairs after nonacceptance of the equipment, the Contractor's representative must begin work within five (5) working

days after receiving written notification from the District of failure of acceptance tests. The District shall make the equipment available to complete repairs timely with the Contractor repair schedule.

2. The Contractor shall provide, at its own expense, all spare parts, tools, and space required to complete the repairs.

c. Repairs by District

1. Parts Used: If the District decides to perform the repairs after nonacceptance of the equipment, it shall correct or repair the defect and any related defects using Contractor-specified parts available from its own stock or those supplied by the Contractor specifically for this repair. Reports of all repairs covered by this procedure shall be submitted by the District to the Contractor for reimbursement or replacement of parts. The Contractor shall provide forms for these parts.
2. Contractor Supplied Parts: If the Contractor supplies parts for repairs being performed by the District after nonacceptance of the equipment, these parts shall be shipped prepaid to the District from any source selected by the Contractor within 10 working days after receipt of the request for said parts.
3. Return of Defective Components: The Contractor may request that parts covered by this provision be returned to the manufacturing plant. The total cost for this action shall be paid by the Contractor.
4. Reimbursement for Labor: The District shall be reimbursed by the Contractor for labor. The amount shall be determined by multiplying the number of man-hours actually required to correct the defect by a per hour, per technician straight wage rate of \$40.00.
5. Reimbursement for Parts: The District shall be reimbursed by the Contractor for defective parts that must be replaced to correct the defect. The reimbursement shall include taxes where applicable and 25 percent handling costs.

13. **TERMINATION OF CONTRACT**

a. Termination for Convenience

1. The procurement under this CONTRACT may be terminated by the District in accordance with this clause in whole, or from time to time in part, whenever the District shall determine that such termination is in its best interest. Any such termination shall be

effected by delivery to the Contractor of a notice of termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.

2. After receipt of a notice of termination, and except as otherwise directed by the District, the Contractor shall:
 - a. stop work under the contract on the date and to the extent specified in the notice of termination;
 - b. place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;
 - c. terminate all orders and subcontracts as to the extent that they relate to the performance of work terminated by the notice of termination;
 - d. assign to the District, in the manner, at the time, and to the extent directed by the District, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the District shall have the right, in its discretion to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
 - e. settle all outstanding liabilities and all claims arising out of such termination of orders and subcontract, with the approval and ratification of the District, to the extent that may be required, which approval or ratification shall be final for all the purposes of this clause;
 - f. transfer title to the District and deliver in the manner, at the time, and to the extent, if any, directed by the District, the fabricated or unfabricated parts, works in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated, and the completed or partially completed plans, drawings, information and other property which, if the contract had been completed, would have been required to be furnished to the District;
 - g. use its best efforts to sell, in the manner, at the times, to the extent, and at the price(s) directed or authorized by the District, any property of the types referred to above, provided, however, that the Contractor shall not be required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed by and at a price(s) approved by the District, and provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the District to the Contractor under this contract or shall otherwise be

credited to the price or cost of the work covered by this contract or paid in such other manner as the District may direct;

- h. completed performance of such part of the work as shall not have been terminated by the notice of termination; and
- i. take such action as may be necessary, or as the District may direct, for the protection or preservation of the property related to this contract which is in the possession of the Contractor and in which the District has or may acquire an interest.

b. Termination for Default

- 1. The District may, by written notice of default to the Contractor, terminate the whole or any part of this contract, if the Contractor fails to make delivery of the equipment or to perform the services within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the District may authorize in writing) after receipt of notice from the District specifying such failure.
- 2. If the contract is terminated in whole or in part for default, the District may procure, upon such terms and in such manner as the district may deem appropriate, supplies or services similar to those so terminated. The Contractor shall be liable to the District for any excess costs for such similar supplies or services, and shall continue the performance of this contract to the extent not terminated under the provisions of this clause.
- 3. Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and the subcontractor and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance obligations.
- 4. Payment for performance obligations, equipment, materials and/or services accepted by the District shall be at the contract price. The District may withhold from amounts otherwise due the Contractor for such completed equipment such sum as the District

determines to be necessary to protect the District against loss because of outstanding liens or claims of former lien holders.

5. If, after notice of termination of this contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of the District.
6. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

14. DISPUTES

- a. Protests dealing with restrictive specifications or alleged improprieties in the solicitation must be filed no later than eight working days prior to the bid opening or closing. Any other protest must be filed no later than eight working days after award of contract. Protests shall be in writing and addressed to the General Manager.
- b. The protest will contain a statement describing the reasons for the protest and any supporting documentation. Additional materials in support of the initial protest will only be considered if filed within the time limit specified in paragraph a. The protest will also indicate the ruling or relief desired from the District.
- c. Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract, which is not disposed of by agreement shall be decided by the District, who shall reduce this decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the District shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the District's decision.

19. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- a. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In

addition, to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

- b. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- 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.

20. 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 or its employees 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 the FTA.