



North Front Range Metropolitan Planning Organization

419 Canyon Avenue

Suite 300

Fort Collins, CO 80521

REQUEST FOR PROPOSAL # P2017-003 - VEHICLE TRAVEL TIME COLLECTORS

**PROPOSAL DUE DATE: 5:00 PM Mountain Daylight Time (MDT),
Friday, August 25, 2017**

The North Front Range Metropolitan Planning Organization (NFRMPO) is requesting proposals (RFP) from a qualified vendor to provide Vehicle Travel Time Collectors in accordance with the specifications provided within this request.

Proposals may be emailed to mkealy@nfrmpo.org prior to the deadline. If mailed or delivered, they are to be sent to 419 Canyon Avenue, Suite 300, Fort Collins, Colorado, 80521 Attn: Medora Kealy.

The NFRMPO is covered under the Colorado Department of Transportation (CDOT) Disadvantaged Business Enterprise (DBE) program. CDOT has an overall DBE goal of 2.88 percent for FTA-funded projects and 12.15 percent for FHWA-funded projects. There is no specific contract goal for this project, but the NFRMPO encourages proposals from DBE firms.

The NFRMPO encourages all disadvantaged business enterprises to submit a proposal in response to all invitations and they will not be discriminated against on the grounds of race, color, national origin or other protected status.

Questions concerning the scope of the bid, proposal submittal or process should be directed to Medora Kealy at: 970-416-2293 or mkealy@nfrmpo.org. No questions will be accepted after August 23, 2017, two (2) days prior to the bid closing date. Answers to questions received will be posted on RMEPS and <http://nfrmpo.org/rfps-rfqs/> and sent out via email to those who request and provide a valid email address no later than August 23, 2017.

The NFRMPO posts current bid and proposal opportunities on the [Rocky Mountain E-Purchasing System \(RMEPS\) website](#). A copy of the RFP may also be downloaded from the NFRMPO website: <http://nfrmpo.org/rfps-rfqs/>.

Special Instructions

All proposals must be properly signed by an authorized representative of the company with the legal capacity to bind the company to the agreement. Proposals may be withdrawn up to the date and hour set for closing. Once proposals have been accepted by the NFRMPO and closing has occurred, failure to enter into contract or honor the purchase order will be cause for removal of supplier's name from the NFRMPO approved bidders list for a period of 24 months from the date of the opening. The NFRMPO may also pursue any remedies available at law or in equity.

Proposal prices must be held firm for a period of sixty (60) days after proposal openings.

Submission of a proposal is deemed as acceptance of all terms, conditions and specifications contained in the NFRMPO's specifications initially provided to the bidder. Any proposed modification must be accepted in writing by the NFRMPO prior to proposal close date.

Only proposals properly received by the NFRMPO will be accepted. All proposals should be clearly identified by the proposal number and proposal name contained in the RFP.

No proposal will be accepted from, or any purchase order awarded, to any person, firm or corporation in default on any obligation to the NFRMPO.

No proposal will be accepted from or any purchase order awarded, to any person, firm or corporation who has been debarred from doing business with the federal government.

The NFRMPO is tax exempt. Proposals must be furnished exclusive of any federal excise tax, wherever applicable.

Bidders must be properly licensed and secure necessary permits, wherever applicable.

The NFRMPO may elect, where applicable, to award proposals on an individual item/group basis or on a total bid basis, whichever is most beneficial to the NFRMPO. The NFRMPO reserves the right to accept or reject any and all proposals, and to waive any irregularities or informalities.

Sales prohibited/conflict of interest: no officer, employee, or member of the NFRMPO Council shall have a financial interest in the sale to the NFRMPO of any real or personal property, equipment, material, supplies or services where such officer or employee exercises directly or indirectly any decision-making authority concerning such sale or any supervisory authority over the services to be rendered. This rule also applies to subcontracts with the City. Soliciting or accepting any gift, gratuity, favor, entertainment, kickback or any items of monetary value from any person who has done or is seeking to do business with any NFRMPO employee or NFRMPO Council member is prohibited.

Freight terms: Unless otherwise noted, all freight is F.O.B. Destination, Freight Prepaid. All freight charges must be included in prices submitted on proposal.

Discounts: Any discounts allowed for prompt payment, etc., must be reflected in proposal figures and not entered as separate pricing on the proposal form.

Collusive or sham proposals: Any proposal deemed to be collusive or a sham proposal will be rejected and reported to authorities as such. Your authorized signature on this bid assures that such proposal is genuine and is not a collusive or sham proposal.

Proposal results: For information regarding results for individual proposals, send a self-addressed, stamped envelope and a bid tally will be mailed to you. Proposal results will be made available seven (7) days after the proposal opening.

REQUEST FOR PROPOSAL # P2017-003 - VEHICLE TRAVEL TIME COLLECTORS

OVERVIEW

The NFRMPO requires the services of a qualified vendor to provide Vehicle Travel Time Collectors in accordance with the scope of services provided within this RFP.

When responding to this RFP, notice the purpose for this proposal is:

Criteria I

All proposals must include submission pricing for the NFRMPO's requirements for vehicle travel time collectors, per the proposal invitation and any referenced specifications contained within this document. Pricing must include all available incentives, transportation, and delivery fees.

Criteria II

All collectors must be compatible with existing vehicle travel time collectors in use in the NFRMPO region (BlueTOAD and Acyclica).

NOTICE TO OFFERORS

ALL FORMS MUST BE COMPLETED & SUBMITTED AS SPECIFIED BELOW AS PART OF YOUR PROPOSAL.

SPECIFICATIONS

1.0 - Scope

1.1 – This specification establishes the requirements for the purchase of up to 14 vehicle travel time collectors.

1.2 – Should the manufacturer's current published data or specifications exceed specifications, they shall be considered minimum and furnished.

2.0 – Clarification of specifications

2.1 – Clarification regarding these specifications may be obtained from Medora Kealy prior to the proposal closing date. Any specification changes must be made by a written addendum issued by Medora Kealy and shall be provided to all suppliers who have provided an email and intent to bid by August 23, 2017.

2.2 – For questions concerning specifications contact: Medora Kealy at: 970-416-2293 or mkealy@nfrmpo.org.

3.0 – Delivery

3.1 – Delivery of equipment shall be made to:

North Front Range MPO
419 Canyon Avenue, Suite 300
Fort Collins, CO 80521

All NFRMPO employees are authorized to sign delivery documents.

3.2 – The word “delivery” encompasses delivery of the actual equipment, as specified, complete with all necessary papers such as Manufacturer’s Statement of Origin, invoice, warranty, operator’s manuals, and software as applicable.

3.3 – All units to be new and of the manufacturer’s latest model in production at the time of delivery, complete with all standard equipment and options specified herein, unless otherwise agreed upon in writing. Time is of the essence. The NFRMPO shall be kept advised of any anticipated delay in delivery.

3.4 – If delivery of each vehicle travel time collector is delayed because of strike, injunctions, governmental controls, or by reason of any cause or circumstances beyond the control of the manufacturer or supplier, the time of completion of delivery may be extended upon written request for a time extension from the bidder. This request must be received by the purchaser prior to the scheduled delivery date. The request for an extension must include detailed justification for the time extension and its length. The supplier shall provide a proposed new delivery date, not to exceed 45 days, as part of the extension request. The delivery date will be delayed by the number of days agreed upon by the purchaser and the supplier. In the absence of such an extension being requested and granted, which shall not be unreasonably denied, the purchase price of each vehicle travel time collector will be reduced by \$10 (per vehicle travel time collector) for each day beyond the delivery deadline as liquidated damages if the extension was not requested or the delay cannot be justified as being beyond the bidder’s control.

4.0 - Warranty

The manufacturer shall unconditionally warrant the entire vehicle travel time collector for a warranty period of minimum three (3) years. Additionally, the Vendor shall furnish the receiving community a fully priced copy (parts and labor) of any warranty or commercial cost repair order which originates in the repair facility, subsequent to delivery, during or after the warranty period. No charge for service calls, travel time, travel expenses, mileage, or per diem will be allowed by the NFRMPO or receiving community in connection with the performance of any warranty repairs.

5.0 - Specifications

Equipment listed on this proposal must meet or exceed the following minimum requirements and is not required to meet the additional qualifications. Place a check mark in each box below to indicate the collector and software in your proposal is so equipped:

Collector Minimum Requirements

- Power supply compatible with 110 volt, 60 hertz AC – 220 volt, 50 hertz AC, or 5 volt regulated DC
- Integrated Ethernet RJ-45 port capable of 10/100 communications.....
- Ability to scan and collect media access control (MAC) addresses from a minimum range of 150 feet or more with suitable external antenna
- Can provide encrypted MAC addresses for secure data transmission
- Capability to detect MAC addresses from Wi-Fi enabled devices and/or discoverable and non-discoverable Bluetooth devices
- Can operate without performance degradation within a temperature range of -34 degrees centigrade to 74 degrees centigrade
- Units provided with all interface cabling
- Monitor delay by reporting the difference between the first timestamp after signal acquisition and the last timestamp of any particular device

Collector Additional Qualifications

- Basic collector, without accessories, consumes less than 7 Watts of power.....
- Can record up to 250,000 records per hour, with a sampling rate of at least 30 percent, with a data latency of 35 seconds or less

Software Minimum Requirements

- Uses a secure username and password interface.....
- User interface is web-based and supports common web browsers including Mozilla Firefox, Google Chrome, and Microsoft Internet Explorer
- Users are able to access raw XML or CSV formatted data streams
- Allows an unlimited number of users on the system at a time

- Ability to report the following data:
 - Travel time.....
 - Travel Time Index (TTI)
 - Planning Time Index (PTI)
 - Buffer Time.....
 - Delay at a single intersection
 - Delay along a corridor/route.....
 - Delay by phase and by approach.....
 - Progression diagram.....
 - Origin-Destination Matrix
 - Origin-Destination map with the ability to click multiple locations with real-time recalculations.....
 - Alert reporting for generating email notifications when travel times exceed a user-defined threshold for a customizable number of consecutive intervals.....

Software Additional Qualifications

- Vehicle travel time collector operating and office software free of charge
- All field unit software updates free of charge for five (5) years for NFRMPO and local agencies
- Users able to locate, access, and observe data collection in real-time from individual counter devices in the network.....
- Ability to display and process data from sources including:
 - Wi-Fi MAC address detectors
 - Bluetooth MAC address detectors
 - Automatic Number Plate Readers (ANPR)
 - In-ground magnetometers.....
 - In-ground inductive loop detectors
 - Video-based detectors.....
 - Microwave traffic sensors
 - Radar traffic sensors.....

6.0 - Submittals

Proposals must include the following documents:

- Completed Specification Checklist
- Completed proposal
- Pricing must include all available incentives, transportation, and delivery fees.
- Completed W-9
- Federal forms:
 - Lobbying Certification (Complete and submit **Appendix A**)
 - Debarment and Suspension Certification (Complete and submit **Appendix B**)

6.1 - Proposal Evaluation and Contract Award

A. Proposal will be awarded to the lowest responsible, responsive bidder for vehicle travel time collectors. Staff from the NFRMPO and regional partners will evaluate the bids on cost, warranty, function, and data collection.

As part of the award process, the successful firm must acknowledge the NFRMPO purchase order within seventy-two (72) hours, three (3) days after notification of award.

6.2 - PROTEST PROCEDURES

Filing of Protest

- (1) When to File: Protest must be submitted in writing and received by the Executive Director or her designee at 419 Canyon Avenue, Suite 300, Fort Collins, CO 80521 within seven (7) working days after the aggrieved person knows or should have known of the facts giving rise thereto.

Protests based upon restrictive specifications or alleged improprieties in any type of solicitation, which are apparent prior to bid opening or the closing date for receipt of initial proposals, must be filed no later than three (3) working days prior to bid opening or the closing date for receipt of proposals.

- (2) Subject of Protest: Protestors may file a protest on any phase of solicitation or award, including but not limited to specification or award.
- (3) Form: The protest must be in writing and include, as a minimum, the following:
- (a) The name and address of the protestor.
 - (b) Appropriate identification of the procurement by bid number.
 - (c) A statement of the reasons for the protest.
 - (d) Any available exhibits, evidence or documents substantiating the protest.
- (4) Decision: The Executive Director or her designee will make a decision, in writing, on a protest within seven (7) working days after receiving all relevant, requested information. The decision of the Executive Director or her designee is final.
- (5) Withholding of Award: When a protest has been filed before award, the North Front Range Transportation & Air Quality Planning Council will not make an award prior to the resolution of the protest, and when a protest has been filed before the opening of bids, the North Front Range Transportation & Air Quality Planning Council will not open bids prior to the

resolution of the protest, unless the North Front Range Transportation & Air Quality Planning Council determines that:

- (a) The items to be procured are urgently required.
- (b) Delivery or performance will be unduly delayed by failure to make the award promptly.
- (c) Failure to make prompt award will otherwise cause undue harm to the North Front Range Transportation & Air Quality Planning Council.

REQUEST FOR PROPOSAL # P2017-003 - VEHICLE TRAVEL TIME COLLECTORS

7.0 - Proposal

We hereby enter the following pricing for the NFRMPO's requirements for up to 14 travel time collectors, per the proposal invitation and any referenced specifications.

7.1 - Price Proposal

Pricing for vehicle travel time collectors to be purchased:

New vehicle travel time collectors equipped as specified in RFP: \$ _____

Normal vehicle travel time collector lead (order) time: _____ days

8.0 - Vehicle Travel Time Collector Warranty

Term: _____

Coverage: _____

Location where warranty repairs can be performed: _____

9.0 - Software and Support

Phone Number: _____ Hours (MDT): _____

Email: _____

10.0 - Freight Terms

F.O.B. destination, freight prepaid. All freight charges must be included in bid pricing.

11.0 - Certifications

Please complete and include certification documents **Appendix A** and **Appendix B** with your proposal.

12.0 - Bidder will be subject to and must abide by the federal requirements/clauses included in **Appendix C**.

Submitted by (please PRINT):

Individual Name: _____

Company Name: _____

Address: _____

Phone: _____

Email: _____

Signature

Date

APPENDIX A: CERTIFICATION REGARDING LOBBYING

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (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 Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date: _____

APPENDIX B: DEBARMENT AND SUSPENSION CERTIFICATION

Choose **one** alternative:

The Proposer, _____, certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or Contract under a public transaction; violation of federal or state antitrust statutes or commission or embezzlements, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicated for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in Paragraph 2 of this certification; and
4. Have not within a three-year period preceding this Proposal had one or more public transactions (federal, state or local) terminated for cause or default.

OR

The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In explanation, certify to those statements that can be certified to and explain those that cannot.)

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provision of Title 31 USC § Sections 3801 are applicable thereto.

Executed in (City) _____, state of _____

Printed Name: _____

Authorized Signature

Date

APPENDIX C: FEDERALLY REQUIRED CONTRACT CLAUSES

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1. CIVIL RIGHTS REQUIREMENTS

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

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

(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.

(3) 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.

2. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(1) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged

Business Enterprises (DBE) is 10%. The NFRMPO is covered under the Colorado Department of Transportation (CDOT) Disadvantaged Business Enterprise (DBE) program. CDOT has an overall DBE goal of 2.88 percent for FTA-funded projects and 12.15 percent for FHWA-funded projects. A separate contract goal has not been established for this procurement.

(2)"The Colorado Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 {78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

(3) The contractor 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 this DOT-assisted contract. 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 NFRMPO deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

(4) The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the NFRMPO.

(5) The contractor must promptly notify the NFRMPO whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the NFRMPO.

3. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the NFRMPO. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the NFRMPO, the Federal Government may pursue available remedies, including but not limited to suspension and/or

debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**** COMPLETE AND SUBMIT APPENDIX B: DEBARMENT AND
SUSPENSION CERTIFICATION ****

4. LOBBYING

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] – Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, “New Restrictions on Lobbying.” Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

**** COMPLETE AND SUBMIT APPENDIX A: 49 CFR PART 20 –
CERTIFICATION REGARDING LOBBYING ****

5. NO OBLIGATION BY THE FEDERAL GOVERNMENT

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

6. TERMINATION

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provision of this contract, the MPO may terminate this contract for default. The MPO shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contract will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performances set forth in this contract.

7. BREACHES AND DISPUTES

- (1) *Disputes* – Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the NFRMPO’s Executive Director. This decision shall be final and conclusive unless within then (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Transportation Planning Director. 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 Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision

- (2) *Performance During Dispute* – Unless otherwise directed by the NFRMPO, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
- (3) *Claims for Damages* – Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.
- (4) *Remedies* – Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the NFRMPO and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or if a court of competent jurisdiction with the State in which the NFRMPO is located.
- (5) *Right and Remedies* – The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of and duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the NFRMPO or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

8. GOVERNING LAW

The laws of the State of Colorado shall govern the construction, interpretation, execution and enforcement of this Agreement.

9. SEVERABILITY

In the event any provision of the Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.