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**INVITATION FOR BIDS  
BUS SHELTERS  
IFB #19-001-F**

Issued: December 7, 2018

**POINT OF CONTACT:**

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Skagit Transit website [www.skagittransit.org](http://www.skagittransit.org)  
Skagit Station, Mount Vernon, WA  
Skagit Transit MOA, Burlington, WA

**SKAGIT TRANSIT**  
**IFB #19-001-F – BUS SHELTERS**

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**INVITATION FOR BIDS (IFB) #19-001-F**  
**BUS SHELTERS**

**Release Date: December 7, 2018**

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**NOTICE IS HEREBY GIVEN** that sealed bids for the provision of two types of bus stop shelters will be physically received by Skagit Transit until **Exactly 10:00 a.m. PST December 20, 2018**, at Skagit Transit's Administrative office located at 600 County Shop Lane, Burlington, WA, which shall also be the date and time for the opening of bids for the **Bus Shelter Contract No. 19-001-F**. Oral, telephonic, telegraphic or faxed bids will not be accepted. Bids must be submitted on the forms provided in the IFB by the deadlines specified. All submittals become the property of Skagit Transit and are subject to public disclosure.

This Firm Fixed Price contract will be funded in whole or in part with Federal Transit Administration (FTA) funds. Contract term is 5 years; installation not included, with an estimated value of \$105,000. Quantities and dollar amounts mentioned are estimates only and impose no obligation on Skagit Transit, either minimum or maximum, to purchase all goods contained in the IFB or that Contractor is guaranteed sales in such amounts.

Bid Documents will be available at [www.skagittransit.org](http://www.skagittransit.org) under "About Us" in the "Procurement" section. Questions and requests for clarification or approved alternates must be submitted before **1:00 p.m. PST December 14, 2018**. Official responses will be as written Addenda sent to all registered bidders.

**Equal Opportunity:** It is Skagit Transit's policy to ensure full compliance with Title VI of the Civil Rights Act of 1964 by prohibiting discrimination against any person on the basis of race, color, national origin or sex in the provision of benefits and services resulting from federally assisted programs and activities and in the award and administration of all contracts. Small and women or minority owned Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26, are encouraged to submit bids.

**END OF BID NOTICE**

**SKAGIT TRANSIT**  
**INVITATION FOR BIDS #19-001-F**  
**BUS SHELTERS**  
**SECTION 2**  
**INSTRUCTIONS TO BIDDERS**

- 2.1 Definitions:** The abbreviation “IFB” means Invitation For Bids; the term “Bidder” means a person, firm or corporation that has made an offer in response to the IFB; “Bid Documents” means the IFB in its entirety; the “Successful Bidder” is the lowest responsive and responsible Bidder to whom award of the Contract is made; and the “Contractor” is the successful Bidder who was awarded the Contract and has subsequently entered into a contract with Skagit Transit
- 2.2 Bidder Acknowledgments:** Bidder agrees that signing and submitting a bid in response to this solicitation shall be conclusive evidence to Skagit Transit that the Bidder agrees to be bound by all legal requirements and contract terms and conditions contained in this solicitation, and that Bidder has thoroughly examined and fully understands all requirements of the ENTIRE solicitation package, including any Addenda issued and the work required to complete the Contract, and has made allowances for such in preparing figures to provide the required services. The failure or neglect of a Bidder to receive or examine any solicitation document or any part thereof shall in no way relieve the Bidder from its obligations with respect to its bid or to the Contract. No claim for additional compensation shall be allowed which is based upon a lack of knowledge thereof.
- 2.3 Subcontracting:** Bidders must be equipped and staffed to perform the services herein or have agreements with qualified subcontractors to perform the Work at the same standards agreed upon with Skagit Transit. The successful Bidder will be responsible and liable for all subcontracted work.
- 2.4 Small and Disadvantaged Businesses:** Skagit Transit takes reasonable steps to facilitate fair competition by incorporating small business concerns into its federal procurement practices. Skagit Transit seeks bids from qualified small businesses and DBEs and encourages prime contractors to provide subcontracting opportunities of a size and nature that small businesses can reasonably compete and perform effectively.
- 2.5 Calendar of Events:** Following is the procurement schedule from issuance of the IFB through contract performance beginning. Skagit Transit will notify Bidders of any schedule changes by Addendum. All times are stated in Pacific local time.

Invitation for Bids Published	December 7, 2018
Questions/Requests for Clarification due by	December 14, 2018 at 1:00 PM
Bid Due Date and Bid Opening	December 20, 2018 at 10:00 AM
Intent to Award Notice by	December 21, 2018
Bid Protest Deadline	December 28, 2018 at 2:00 PM
Board of Directors Award of Contract	January 16, 2019
Final Award Notice to Bidders	January 18, 2019
Contract Documents Returned by	January 25, 2019
Contract Term Begins	January 31, 2019 at 12:01 a.m.

**2.6 Questions and Communications:**

- 1) All communications regarding this solicitation or offers must only be made with Skagit Transit’s Procurement and Contracts Coordinator identified as the “Point of Contact” (POC) on the cover page of this solicitation. Bidders who risk seeking to obtain information, clarification, or interpretations from any other agent or representative of Skagit Transit are advised that such actions are prohibited and may be cause for disqualification.

- 2) To be given consideration, any and all requests for information, clarifications, material or product substitutions, or exceptions to any requirement or any bid aspect concerning this solicitation must be explicitly, fully, and separately submitted in writing using only the form provided as **Section 10, “Request For Clarifications/Approved Alternates”** and received by the POC before the date and time specified above in Section 2.5.
- 3) This process will be the only opportunity for prospective Bidders to ask questions prior to bid submittal. Skagit Transit **WILL NOT** provide binding verbal interpretations, explanations, or instructions as to the meaning or interpretation of any the solicitation documents.
- 4) A request to change any requirement must be fully supported with technical data, test results, or other pertinent information showing evidence that the exception will result in a condition equal to or better than that required by the Specifications without a substantial increase in cost or time requirements. Bidders are cautioned to limit exceptions, conditions, and limitations to the provisions of this solicitation as such may be determined so fundamental to be cause for rejection of the Bid for failure to meet the requirements.

### 2.7 **Addenda:**

- 1) Skagit Transit’s official response to inquiries is made by a written Addendum which is automatically sent by the Contracts Administrator to all potential Bidders registered as “Planholders” of the Bid Documents. No Addenda will be issued for any request or inquiry submitted after the deadline for receiving questions or bids unless Skagit Transit, at its sole discretion, deems additional information is necessary for bid submittal, or if the lack of information would be prejudicial to other prospective Bidders.
- 2) Bidders **MUST** indicate that they have received all issued Addenda on their Bid Form. Failure to acknowledge receipt of Addenda issued may invalidate a bid as non-responsive. Bidders shall ensure that they have received all Addenda by contacting the Contracts Administrator listed on the cover page of this solicitation, or checking the appropriate website where the Bid Documents are posted. Skagit Transit is not liable for Bidder’s failure to obtain Addenda issued.

**2.8 Non-Submittal:** If you determine not to submit a bid, please complete and return **Section 11, No Bid Notice** form. Please state the reason why a bid could not be submitted at this time.

### 2.9 **Specifications:**

- 1) All specifications in this solicitation are designed to enable a Bidder to satisfy a requirement for a product, material, process, or service. A specification may be expressed as a standard, a part of a standard, or independent of a standard. No specification is intended to unnecessarily limit competition by eliminating items capable of satisfactorily meeting the actual needs of the procurement. The fact that a manufacturer or supplier chooses not to produce or supply equipment, supplies, or services to meet these specifications will not be considered sufficient cause to adjudge these specifications as restrictive. Bidders shall bid equipment, supplies and/or services, which they believe, comply with these specifications.
- 2) If a Bidder deviates from these specifications, reasons must be stated for such deviation and state why, in their opinion, the equipment, supplies and/or services they bid will render equivalent reliability, coverage, performance and/or service. Failure to detail all such deviations may comprise sufficient grounds for rejection of the entire bid. Any Bidder believing a specification is unnecessarily restrictive must indicate as such on the form provided as **Section 10, “Request For Clarifications/Approved Alternates”** and be received by the POC before the deadline specified in Section 2.5.

**2.10 Brand Names:**

- 1) The use of any brand names, manufacturer, make or catalog number does not restrict the Bidder. Such use is to identify the standards of desired characteristics, quality and performance equivalence of the product on which bids are submitted. Alternates may be submitted prior to the Bid Due Date by requesting Skagit Transit's approval on the form provided as **Section 10, "Request For Clarifications/Approved Alternates"** and be received by the POC before the deadline specified in Section 2.5.
- 2) Skagit Transit reserves the right to decide whether or not proposed alternates are equivalent to the product described in the solicitation, of which decision shall be final. Any substitutions must, without exception, be manufactured of the same basic materials, meet or exceed all specification requirements of structural, functional, dimensional and appearance without deviation. Skagit Transit reserves the right to reject any and all substitutions.

**2.11 Bid Preparation:**

- 1) Bids must be legible, written in ink or typed on only the forms provided in the Bid Documents, and contain no erasures or crossed out items. Bids received on alternate forms will be immediately rejected as non-responsive. Unless otherwise specified (i.e. optional use forms), failure to provide any of the following documents will deem your bid non-responsive and therefore invalid.
  - a) Section 5 – Bid Form
  - b) Section 6 – Bidders Affidavit
  - c) Section 7 – Buy America Certification
  - d) Section 8 – Lobbying Certification
  - e) Section 9 – DBE/SBE Bidders List
  - f) Manufacturer's information or brochure for each type of shelter required.
  - g) Written warranty stating the scope and duration of the warranty period. It is desired that the warranty include coverage for the roof.
- 2) Beginning with the first page of the Bid Form, the bid packet must be single-stapled in the upper left corner and free of any extraneous covers or binding. Each bid must be signed in longhand by the Bidder, or Bidder's authorized representative, notarized where indicated, and sealed in an envelope marked on the outside with the name of the Bidder, address, and state prominently "**BUS SHELTERS IFB #19-001-F**". All submissions become the property of Skagit Transit.

**2.12 Bid Prices:**

- 1) Except as may be provided for herein elsewhere, the Total Bid Price shall include everything necessary for the prosecution and completion of the Work. Prices shall include installation kits with all mounting hardware and parts. All prices shall be stated in US currency, omitting digits more than two places to the right of the decimal point (i.e. \$720.74), and shall be in legible figures written in ink or typed.
- 2) Freight shall be **FOB Destination, Prepaid and Allowed** and included in the Bid Price. No surcharges or other extraneous charges will be allowed unless specified herein or prior written approval has been granted by Skagit Transit.
- 3) Washington State Sales Tax shall be shown as a separate line item on the Bid Form and not be included in the unit prices. Skagit Transit shall pay Washington State Sales Tax or Use Tax, as applicable, to the Contract Price upon payment of invoices. Skagit Transit is exempt from Federal Excise Tax.

- 2.13 Bid Effectiveness:** All bids shall be a firm bid effective for a minimum period of 60 Calendar Days after the Bid Opening date. Skagit Transit reserves the right to request extensions for bid effectiveness.

- 2.14 Collusion:** By signing a bid, the Bidder certifies that its bid is non-collusive and not made in the interest of any person not named, and that the Bidder has not induced or solicited others to submit a sham offer, or to refrain from proposing. If Skagit Transit determines that collusion has occurred among bidders, none of the bids of the participants in such collusion will be considered. Skagit Transit's determination shall be final.
- 2.15 Bid Submittal:** Submit the complete bid packet before the Bid Due Date stated in Section 2.5 above. Bids will be physically received from 9:30 – 10:00 a.m. in the MOA Conference Room at 600 County Shop Lane, Burlington, WA. Any bid submitted at 10:00 a.m. *Exactly* or thereafter, according to the atomic clock in the Conference Room, will be rejected as non-responsive and returned unopened to the Bidder. The Bidder accepts all risks of late delivery of mailed or couriered bids regardless of fault. Faxed, telegraphic or electronic bids will not be accepted.
- 2.16 Modifications:** No bid may be altered *after* the deadline specified for submitting bids. Submitted bids may only be changed if a written request is received by Skagit Transit *before* the specified submittal deadline. The request must be signed by an individual authorized to submit bids on behalf of the company and be accompanied by the modification presented in the same form and manner as the original bid. Nothing in this section shall be construed to permit the Bidder to alter its bid after it has been submitted pursuant to the terms of this solicitation.
- 2.17 Withdrawal:** Except for claims of error granted by Skagit Transit, no bid may be withdrawn *after* the deadline specified for submitting bids, unless award is delayed by Skagit Transit for a period exceeding 60 days from the submittal deadline. Any bid not so timely withdrawn prior to specified submittal deadline shall constitute an irrevocable offer, for a period of 60 days, to provide Skagit Transit the goods and services described herein, or until one or more of the bids have been approved by Skagit Transit, whichever occurs first.
- 2.18 Extension or Cancellation:** Skagit Transit reserves the right to cancel this solicitation or extend the deadline for submitting bids and opening bids by written Addendum at any time *prior to* the deadline specified for submitting and opening bids. If a Bidder pursues a protest or a request for reconsideration, its bid is deemed extended until Skagit Transit executes the Contract or until the protest or request for reconsideration is withdrawn by the Bidder.
- 2.19 Bid Opening:** Immediately after the specified closing time for bids to be received, only the name of the bidder and amount of their bid will be read aloud and recorded. The apparent low bidder will be announced after all bids have been opened. The reading does not determine award of the contract, responsibility of the Bidder, or responsiveness of the Bid. The record of bids opened (Bid Opening Summary) will be made available for viewing by those Bidders present and posted to the website specified for posting Bid Documents. This document is not an award notice or a list of final bid results. Bidder attendance at bid openings is not required.
- 2.20 Bid Evaluation:** Bids will be evaluated on the lowest responsive and responsible Bidder. Full reviews for accuracy, content and contractor responsibility will be conducted therefore, the apparent low bidder at the time of Bid Opening may not necessarily be recommended for award if they are determined to be non-responsive or their bid is disqualified as non-responsive. Skagit Transit reserves the right to request additional information from Bidders to further determine responsibility or to clarify items in a bid.
- 2.21 Responsiveness:** Skagit Transit will consider all the material submitted by Bidders to determine whether bids are in compliance with the provisions of this solicitation. A determination of responsiveness will then be made. Skagit Transit reserves the right to reject non-responsive bids.
- 2.22 Errors and Administrative Corrections:** Skagit Transit will not be responsible for errors in bids and reserves the right to make mathematical corrections that are due to minor administrative errors or irregularities such as typing errors, number transposition and incorrect calculations. Skagit Transit may waive these irregularities as immaterial. In the case of error in the extension of prices, the unit price shall govern.



- 2.23 Rejection and Consideration of Bids:** Skagit Transit reserves the sole discretionary right to: Accept or reject any or all bids, portions or parts thereof; Waive minor bid errors, informalities, or immaterial irregularities when it is in Skagit Transit's best interest and does not result in displacement of a low bidder; Republish the call for bids; Revise or cancel the Work or require the Work to be done in another way; Decline award based on available funding for the Contract; and award in whole or in part to the lowest responsive and responsible Bidder as best serves the interest of Skagit Transit. Bidder, in consideration for Skagit Transit's review and evaluation of its bid, waives and releases any claims against Skagit Transit arising from any rejection of any or all bids, including any claim for costs incurred by Bidders in the preparation of bids submitted in response to this solicitation.
- 2.24 Tied Bids:** If two or more lowest responsive bids are exactly equal, then a tie-breaker will be determined with a draw. Only those Bidders who submitted a bid total that is exactly equal to the lowest responsive bid are eligible to participate. Two or more slips of paper will be marked with the names of the tied firms, folded, placed inside a box and shook up. One authorized representative of Skagit Transit shall draw one slip from the box and announce the name of the successful Bidder.
- 2.25 Single Bid:** If Skagit Transit receives a single responsive and responsible bid, it may request an extension of the bid acceptance period up to an additional 60 days, or consider accepting the bid by performing a price or cost analysis, as applicable, on the single bid to determine if a fair and reasonable price was offered. Bidder shall promptly provide all cost or pricing data, supporting documentation and explanations requested by Skagit Transit to assist in such analysis. Skagit Transit shall not be obligated to accept the single bid by conducting such analysis and reserves the right to reject the bid or any portion thereof.
- 2.26 Bid Results:** As soon as practical after Bid Opening, a list of final bid results from all responsive bidders will be compiled and sent to all posted for public viewing on the website specified for posting Bid Documents. The Bid Tabulation is not an award notice.
- 2.27 Responsibility:** In order to determine whether a Bidder or Proposer is capable of successfully completing contracts of this type, magnitude, and within the time stated in the solicitation documents, factors considered may include, but not limited to: past performance with Skagit Transit or other customers, references, contractor qualifications, sufficient capital, facilities, personnel and plant, bonding capacity, credit ratings, safety record, payment of taxes, outstanding claims against retainage, bonds, lawsuits, debarment, suspension, or exclusion from participating in federal or state procurements, etc.. Failure to respond to any requests for information by Skagit Transit either with the submitted response or shortly thereafter may result in a bid or proposal being rejected as non-responsive.
- 2.28 Award:** The single lowest responsive and responsible bidder will be recommended for Contract Award. All bidders will receive a Notice of Intent to Award which shall also be posted to the website specified for posting the Bid Documents. Skagit Transit reserves the right to make award within 60 Calendar Days from the Bid Due Date. Should award, in whole or part, be delayed beyond the 60-day period, such award shall be conditioned upon Bidder's acceptance. Skagit Transit will have no obligations to the successful Bidder until after contract execution and an order is placed, or a purchase is made, or a Notice To Proceed is given.
- 2.29 Award Documents:** After the award recommendation is approved by the Skagit Transit Board of Directors, a final award notice will be sent to all responsive Bidders and posted to the website specified for posting Bid Documents. The successful Bidder will receive an award package and must immediately sign and return all requested documents to the Contracts Administrator within 10 Calendar Days, unless indicated otherwise. Bidders should already have preparations in place to notify their insurance broker and surety to immediately obtain the required documents.
- 2.30 Failure to Execute a Contract:** Should the successful Bidder fail to execute the Contract within the requested time, Skagit Transit reserves the right to terminate award and attempt to negotiate a satisfactory contractual agreement with the next lowest responsive and responsible Bidder. The Bidder failing to execute the Contract may be removed from Skagit Transit's bid list for any future contracting opportunities.

**2.31 Bids as Public Record:** Except to the extent permitted by Washington State public disclosure laws RCW Chapter 42.56, Skagit Transit will regard bids as public records which will be available for public inspection or copying regardless of any markings or notices contained in the Bid. Information will not be released by Skagit Transit *prior to* contract award in order to protect the integrity of the procurement process, unless otherwise required by law. All bids will remain confidential until a contract is awarded and fully executed by all parties involved. If a Bidder considers portions of its Bid to be protected under Washington State law, the Bidder shall clearly identify and mark such portions as “CONFIDENTIAL” or “PROPRIETARY” and submit such portions in a sealed envelope separate from the rest of the Bid. It is not usually reasonable or legally defensible to mark an entire bid as “confidential” or “proprietary”. Marking the entire bid as such will not be honored and the bid may be rejected as non-responsive. Skagit Transit shall make bid submittals available to the public after contract award except, to the extent consistent with RCW 42.56 those portions marked “Confidential” according to the above requirement. If a member of the public or another competitor demands to review portions of a bid marked “Confidential”, Skagit Transit will notify the affected Bidder of the request and the date that such records will be released, unless the Bidder obtains a court order enjoining that disclosure. The Bidder is responsible to protect the confidentiality of any information submitted in its Bid and shall take such legal action as it may determine to be necessary to protect its interest. If the Bidder has not commenced such action within 5 Calendar Days after receipt of the notice, Skagit Transit will make the requested portions available for review and copying by the Requestor. The Bidder will assume all liability and responsibility for any information declared confidential and shall defend and hold Skagit Transit harmless for any cost, penalties, and/or fees (including reasonable attorney fees) incurred in any action regarding the disclosure of said information. Skagit Transit assumes no responsibility or liability for any losses or damages which may result from the information contained in the bid. By submitting a bid, the Bidder has thereby agreed to the provision of this Section.

**2.32 Bid Protests:**

- 1) **Right to Protest:** Any actual or prospective bidder, proposer, or contractor who is aggrieved in connection with the solicitation or award of a contract due to a matter of law or procedural flaw may file a Notice of Protest, in writing, with Skagit Transit’s Executive Director, or designee, *prior to* the closing date for receiving bids or proposals. The written and signed notice of protest must address which law or procedure was not followed or violated, how it has affected the aggrieved, and a description of the relief or corrective action desired. If the aggrieved person did not know and could not have known of the facts giving rise to such protest prior to the closing date for bids or proposals, the protest shall be submitted within 7 calendar days after the aggrieved person knew or could have known of the facts giving rise thereto. A timely Notice of Protest shall be handled as follows:
  - a) A meeting will be called within 5 Business Days from receipt of the protest that will include representatives from Skagit Transit and the Protestor to discuss the issue(s) related to the protest. The meeting may be conducted by telephone conference.
  - b) A decision of the protest will be made by the Executive Director, or designee, within 7 Business Days of the final meeting. The Protestor shall be notified of the decision in writing by the Executive Director, or designee, by regular mail.
  - c) The Executive Director, or designee, may extend the limits of time outlined herein at his/her sole discretion.
  - d) The decision of the Executive Director, or designee, shall be final unless appealed as provided herein.
  - e) A request for reconsideration may be allowed if data becomes available that was not previously known, or there has been an error of law or regulation.
  - f) If the Protestor is not satisfied with the solution of the Executive Director, or designee, a written appeal may be filed with the Board of Directors. Appeals to the Board of Directors filed more than 7 calendar days following the receipt of the Executive Director, or designee’s, written determination will not be accepted.

- 2) **Appeals:** A Protester may appeal the Executive Director, or designee's, decision to the Skagit Transit Board of Directors by submitting a written Notice of Appeal to the Board Chairperson within 7 calendar days of receipt of the Executive Director, or designee's, decision which shall be deemed received within 3 days, exclusive of Sundays and holidays, of the date of posting of the decision or sooner in the event of actual receipt of personal service or fax confirmation. The appeal shall be based solely upon the record before the Executive Director, or designee. Appeals filed outside of this window of opportunity will not be accepted. A three-member committee of the Skagit Transit Board, as appointed by the Board Chairperson, shall decide the appeal. The Protestor must submit their written argument to the Committee. The Committee may affirm or reverse the decision of the Executive Director, or designee, or affirm or reverse the decision in part. The decision of the Committee shall be final.
- 3) **Validity of a Protest:** Bidders and Proposers are advised that to be considered a valid protest, subject matter can only address issues associated with the Procurement Action, as defined below. Accordingly, the protest cannot be associated with or challenge Skagit Transit personnel or the Evaluation Committee's recommendation of a potentially successful Bidder/Proposer. In other words, a protest can be put forth that Skagit Transit staff did not follow their own policies or procedures that govern a Procurement Action and, accordingly, a Bidder/Proposer was unfairly treated.
- 4) **Procurement Action:** Meaning specific procurement steps, such as setting the calendar of events, producing the solicitation document, advertising the proposal in a legal paper of record, maintaining a vendor bid list or Planholders' list, responding to all inquiries received in the specified manner by the appropriate time and date, issuing Addenda straightforwardly to all Bidders, enforcing closing time and date, providing proctoring services to the Project Manager and Evaluation Committee, setting criteria weights, conducting interview process with top-scoring Bidders (if applicable), assembling an Evaluation Committee, issuing award/non-award letters, and maintaining a written record of the procurement.
- 5) **Entitlement of Costs:** In addition to any other relief, when a protest is sustained and the protesting respondent should have been awarded the contract under the solicitation, but is not, then the incurred costs in connection with the solicitation, including bid preparation costs, but other than attorney's fees, shall be paid by Skagit Transit.

### **2.33 Contract Claims:**

- 1) All claims by a contractor against Skagit Transit relating to a contract, except bid protest, shall be submitted in writing to the Executive Director for a decision. Claims include, without limitation, controversies arising under a contract and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or revision.
- 2) The decision of the Executive Director shall be promptly issued in writing and shall be immediately mailed or otherwise furnished to the Contractor. The reasons for the decision reached shall be stated and shall inform the Contractor of its appeal rights under Section 2.32(2) above (Procurement Policy Section 13-102).
- 3) The Executive Director's decision shall be final and conclusive unless, within 7 Calendar Days from the date of receipt of the decision, the Contractor mails or otherwise delivers a written appeal to the Skagit Transit Board of Directors or commences an action in a court of competent jurisdiction.
- 4) Director does not issue a written decision regarding any contract controversy within 7 Calendar Days after written request for a final decision, or within such longer period as may be agree upon between the Parties, then the aggrieved party may proceed as if any adverse decision had been received.

***Failure of the Protestor to submit a written Notice of Protest in accordance with the specified timelines contained herein shall constitute a waiver of all right to protest.***

**END OF SECTION 2**

**SKAGIT TRANSIT**  
**INVITATION FOR BIDS #19-001-F**  
**BUS SHELTERS**  
**SECTION 3**  
**SCOPE OF WORK**

### 3.1 SUMMARY

Skagit Transit, the public transportation provider in Skagit County, intends to award a 5-year, firm-fixed, indefinite delivery/indefinite quantity (ID/IQ) contract to one Vendor for the provision of two (2) different types of bus stop shelters: 1) Full-Size; and 2) Cantilever. Skagit Transit anticipates purchasing the following estimated quantities of each shelter type over the contract duration:

	<i>Full-Size</i>	<i>Cantilever</i>	<i>Total per Year</i>
<b>2019</b>	3	1	4
<b>2020</b>	2	2	4
<b>2021</b>	3	3	6
<b>2022</b>	3	3	6
<b>2023</b>	2	2	4
<b>TOTAL</b>	<b>13</b>	<b>11</b>	<b>24</b>

Skagit Transit reserves the right to increase or decrease quantities as necessary; with no guarantee of the number of shelters which may be ordered per year or during the life of this Contract.

Bidders are to provide a cost per shelter size and type, to include shipping to: Skagit Transit at 600 County Shop Lane, Burlington, WA 98233. Skagit Transit may order shelters individually or in multiples.

Prices will remain firm-fixed for the duration of the Contract; however, reasonable price changes based on market conditions or other factors beyond Contractor's control may be considered by Skagit Transit after the second year of the Contract has passed.

### 3.2 MATERIAL & DESIGN

With a view to obtaining the best result and the most acceptable bus stop shelter for Skagit Transit, the following Specifications cover only the general requirements as to the type of construction and tests to which the shelter units must conform which the successful bidder must adhere to. Minor details of construction and materials where not otherwise specified are left to the discretion of the Contractor, who shall be solely responsible for the design and construction of all features.

### 3.3 SPECIFICATIONS

1) The Specifications intend for Contractor to provide complete components and accessories of the type prescribed, ready for final assembly and operation by Skagit Transit. Any items omitted from the Specifications which are clearly necessary for the expected operation of such equipment, although not directly specified in the Specifications, shall be considered an integral part of the basic Specifications and shall be provided by Contractor under this Contract.

2) All components and sub-components shall be new and in no case will be used (except for testing), reconditioned, or obsolete parts be accepted. Any one part shall be an exact duplicate in manufacture and design and shall be furnished as specified.

3) **General Standards:**

At a minimum, all bus shelters shall:

- a) Be fabricated by a manufacturer regularly engaged in the fabrication of such products and made of premium grade materials, construction, and finish for outdoor use.
- b) Be engineered to provide a framework of adequate structural integrity to satisfy the Uniform Building Code (UBC), and to meet the requirements for snow (min. dead loads of 40lbs PSF), wind (min. 85 MPH, 3-second gusts), and seismic loading for Skagit County, Washington.

- c) Further conform to ASTM, ANSI, ADA, AA and Uniform Federal Accessibility standards.
  - d) Be structurally stable even with all ground anchors removed. (This is with recognition that in a big wind the structure could be tipped over when not anchored in place.)
  - e) Be vandal resistant, completely weathertight, and easy to maintain.
  - f) Have an aluminum bench seat w/backrest.
  - g) Have a map holder/display case. The map holder/display case is required to have access via a hinged door secured with tamper-proof hardware.
- 4) **General Dimensions:**
- a) Full-Size Shelter: 5'W x 10'L
  - b) Cantilever Shelter: 3'W x 10'L
  - c) Height: 90" Clear Opening (from ground to bottom edge of roof)
- 5) **Framing Construction:**
- a) All structural framework (columns, sills, headers) shall be fabricated using 6063-T5 extruded aluminum members, approximately 2.5 inches x 2.5 inches x 1/8 inches thick square seamless tubes. 6061-T6 alloy/temper shall be used where required.
  - b) All fasteners shall be stainless steel or aluminum only, or a combination thereof, be tamper proof, and comply with shelter manufacturer's instructions for fastener types, quantities, and usage. No hex head or nut and bolt type exposed fasteners shall be used.
  - c) All frame connections shall be concealed. No exposed open ends.
  - d) All base connections shall be adjustable to varying mounting conditions.
  - e) All metal, including any exposed fasteners, shall have a powder coat paint finish painted RAL 6029 – Mint Green or equivalent such as Evergreen #PLSF 30059. A sample test will be required before production of shelters. We may need to include additional colors as required.
  - f) All joints shall be neat and clean w/edges free of burrs.
  - g) Joint sealant shall be approved by shelter manufacturer and meet applicable standards for transit shelters.
- 6) **Roof Construction:**
- a) Shall be a one-piece pre-assembled Barrel Vault Roof w/6mm White or Clear Polycarbonate Structured Sheet (PCSS), or approved alternate material, w/integral fascia/gutter. Manufacturer must provide documentation for basis of alternate material recommendation. The ends of the barrel roof will be enclosed with the same PCSS materials.
  - b) Must be removable without removing fascia/gutter.
  - c) Must be gasketed and sealed to be completely watertight.
  - d) Drain holes shall be located at rear corners of roof assembly and must prevent water from running into the shelter interior area.
  - e) Fascia/gutter extrusion shall be one piece extruded aluminum member, each face, a minimum of 6 inches in height with a gutter having an area of not less than 2.0 inches x 2.0 inches.
  - f) Must have concealed fasteners for installation. No fasteners will be exposed on the exterior face of the fascia. Corner connections shall be with internal corner angles fastened with 3/16 inch aluminum pop rivets.

- g) Open spans of the fascia/gutter will be capable of supporting 400 pounds at mid-span without shelter permanent deformity.
- 7) **Window Glazing:**
- a) All windows shall be 1/4 inch thick, clear colored, tempered safety glass. If glazing is shipped with protective masking, the protective material shall be plastic type peel-off masking (**no paper masking accepted**). The exposed window pane between the mullions shall not exceed a width of 26" and height of 78".
  - b) All window panes shall be gasketed with wrap-around PVC extrusion and factory installed in window frames that are independent of the structural frame. These panels shall be standard size to allow easy maintenance between backs and sides.
- 8) **Window Frames and Mullions:**
- a) Each window panel shall have mitered corners and be installed in structural frames and mullions at the manufacturing facility prior to shipping. Panels shall be secured to the framing structure with special extrusions to provide a safe weather-protective enclosure.
  - b) Mullions shall be 1.5 inches x 2.5 inches x .1/8 inches thick extruded aluminum tubes.
  - c) Connections to structural frame shall be with extruded aluminum channels 1.25 inches x 2.25 inches with 1.25 inches high legs, a minimum of .125 inches thick.
  - d) Each connection shall be made with tamperproof, stainless steel or aluminum screws or pop rivets, as deemed applicable by the manufacturer. Exterior rivets are not acceptable.
- 9) **Anchor Shoes:**
- a) Bases shall be one-piece cast aluminum boots with a minimum thickness of 1/4", welded onto 3/8" minimum thickness base plates, and have pre-punched holes to accept the concrete anchor hardware to be supplied with the shelter.
  - b) Bases shall be designed with a leveling adjustment of up to 4.5 inches, or more if columns are cut down.
- 10) **Bench Construction:**
- a) Shall be ADA length and constructed for positioning and fastening along the rear wall of the shelter from the end of one side wall (right side if facing towards shelter opening) to approximately mid-center. Specific length shall be determined by shelter dimensions.
  - b) Shall with vandal-resistant with stainless steel pop rivet fasteners.
- 11) **Map Holder/Display Case:**
- a) Shall be at vandal-resistant and least 24 inches x 48 inches w/locking mechanism. The map holder/display case is required to have access via a hinged door and secured with tamper-proof hardware.
  - b) Shall fasten between mullions with appropriate hardware supplied with the shelter.
- 12) **Assembly and Installation:**
- a) All units must come from the manufacturer with shelter panels fully assembled in modular sections to allow for quick and easy installation by Skagit Transit personnel. Shelter rear panels will arrive in sections of no more than 3 window columns wide per section, with each piece labeled and structural frame connecting parts and hardware included.

- b) Contractor shall include all equipment and related hardware and accessories for installation, including a minimum of 10% spare hardware and complete installation instructions.
- c) Skagit Transit will install the shelters on the bus pads, including any bus stop amenities that may be purchased from this Contract as optional items under Section 5.5, or from other sources.

### 3.4 **WARRANTY**

- a) All shelters, including the roof, must be warranted for a minimum period of one (1) year from the date of delivery acceptance against defects in material and workmanship, or within such longer period of time as may be prescribed by law or by the terms of any other applicable warranty period as specified or required by the Contract Documents.
- b) Contractor, at its sole expense, shall remedy all defects due to faulty materials, equipment, or workmanship which appears within said warranty period. Replacement parts shall be made available for at least 10 years after the purchase of shelters.

### 3.5 **DELIVERY REQUIREMENTS**

- 1) **Order Processing:** All orders shall be processed and delivered within 60 Calendar Days of Contractor's receipt of Skagit Transit's order. Contractor shall promptly communicate any Estimated Time of Arrival (ETA) exceptions with Skagit Transit so an alternative plan can be developed to Skagit Transit's satisfaction.
- 2) **Transport:**
  - a) All components for each shelter shall be palletized/crated for quick unloading with a forklift utilizing 5-foot long forks so please consider this in your bid pricing. Shelters that are not palletized will be returned to shipper with shipping cost to be paid by Contractor.
  - b) Skagit Transit prefers transport by flat deck trailers as it does not have a trailer level loading dock. Contractor must contact Skagit Transit's Receiving Department prior to shipping to discuss best carrier and delivery load arrangement. Contractor shall take all necessary precautions to safeguard Skagit Transit property being stored or transported during inclement weather.
- 3) **Location:** Unless otherwise directed by Skagit Transit, all deliveries shall be made to: 600 County Shop Lane, Burlington, WA 98233.
- 4) **Time:** Deliveries must be made during normal working hours (M-F, 0800-1700).
  - a) Prior to delivery, Contractor shall confirm specific times with Skagit Transit's Receiving Department and instruct its carrier(s) to deliver accordingly, or Contractor will arrange for approved transport company to make a delivery appointment with Skagit Transit's Receiving staff at least 24-hours prior to any delivery. Failure to schedule a delivery may subject Contractor to no delivery assessment charges. Skagit Transit reserves the right to refuse unscheduled deliveries, or deliveries made after normal working hours, and return the product at the shippers' expense.
  - b) The acceptance of late deliveries, with or without objection or reservation, shall not waive Skagit Transit's right to claim damage for such breach, nor preclude Skagit Transit from pursuing any other remedy provided herein, including termination, nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Contractor.
- 5) **Signature Required:** When making any delivery, Contractor's agent must obtain a signature from Skagit Transit's Receiving Clerk, or designee. Such paperwork bearing a signature must be provided by Contractor for Skagit Transit's approval to pay the subsequent invoice.
- 6) **Extension and Delays:** Skagit Transit reserves the right to extend delivery, postpone delivery, or reschedule delivery. No delay shall be granted in connection with the acts, omissions, negligence, or



mistakes of Contractor, its agents or suppliers. Unless contrary to other parts of the Contract, if the goods or the tender of delivery fail in any respect to conform to this Contract, Skagit Transit may: 1) reject the whole; or 2) accept the whole; or 3) accept any commercial unit or units and reject the rest.

### **3.6 SHIPPING**

- 1) **Terms:** Freight shall be **FOB Destination, Prepaid and Allowed** and made in accordance to Interstate Commerce Commission rules. All risk of transportation and related charges shall be Contractor's responsibility. Contractor shall retain title and control of all goods until delivered and received by Skagit Transit. Contractor is not authorized to ship materials under reservation and no tender of a bill of lading will operate as a tender of materials. Skagit Transit does not accept COD shipments.
- 2) **Errors:** Contractor agrees that shipping errors will be at the expense of the Contractor (i.e. Contractor ships a product to Skagit Transit that was not ordered). Contractor will pay for return shipment at the convenience of Skagit Transit.
- 3) **Defective Goods:** Contractor agrees to pay for the return shipment on goods that arrive in a defective or inoperable condition and shall arrange for return shipment of any damaged goods.
- 4) **Restocking Fees:** May only be charged on products ordered and delivered to Skagit Transit. Restocking fees in excess of 15% will not be allowed and may be waived at Contractor's option.

### **3.7 OTHER DELIVERABLES**

Upon contract execution, Contractor shall furnish Skagit Transit with the following documents:

- a) Construction drawings depicting wall and roof panels; details of materials, fabrication and assembly; framing profiles; fastener types and locations, flashing and seal details, as applicable.
- b) Field installation instructions complete with diagrams.
- c) Warranties.

**END OF SECTION 3**

**SKAGIT TRANSIT**  
**INVITATION FOR BIDS #19-001-F**  
**BUS SHELTERS**  
**SECTION 4**  
**SAMPLE CONTRACT**

**INDEPENDENT CONTRACTOR AGREEMENT  
CONTRACT NUMBER: 19-001-F**

**TITLE: BUS SHELTERS**

**TERM:** 12:01 a.m. PST on January 31, 2019 through 11:59 p.m. PST on December 31, 2023.

**PARTIES:**

**SKAGIT TRANSIT SYSTEM (SKAGIT TRANSIT)**

600 County Shop Lane, Burlington, WA 98233

Phone: 360-757-8801 / Fax: 360-757-8019

Contacts: Al Schaner, Maintenance and Facilities Manager (PM) – [aschaner@skagittransit.org](mailto:aschaner@skagittransit.org)  
 Aggie Juarez, Facilities Supervisor (Project Coordinator) – [ajuarez@skagittransit.org](mailto:ajuarez@skagittransit.org)  
 Elisa Rizzo, Procurement and Contracts Coordinator – [erizzo@skagittransit.org](mailto:erizzo@skagittransit.org)  
 Kelly Borden, Accounts Payable – [kborden@skagittransit.org](mailto:kborden@skagittransit.org)

**ABCXYZ COMPANY (CONTRACTOR)**

Address, City, State, Zip

Phone: / Fax:

Contacts:

**THIS AGREEMENT** is made and entered into this \_\_\_\_ day of January , 2019, by and between the Skagit Transit System, a State of Washington municipal corporation, (Skagit Transit), and \_\_\_\_\_, a State of Washington \_\_\_\_\_ (Contractor).

In consideration of the terms, conditions, covenants, and performance contained herein, the Parties agree as follows:

1. **Contract Documents:** This document; The entire solicitation titled “Bus Shelters IFB #19-001-F”; Contractor’s submitted bid and any supplemental items, as accepted by Skagit Transit; All Addenda issued prior to, and all modifications issued after execution of this document constitute the Contract and are complementary.
2. **Purchase and Sale:** Skagit Transit agrees to purchase, and Contractor agrees to sell, bus shelters in accordance with the Contract Documents attached herein by reference.
3. **Rate of Payment:** Is set forth on the Contractor’s submitted Bid Form attached herein by reference. Skagit Transit shall pay the Contractor in current U.S. funds subject to the terms, conditions, additions and deductions provided for in the Contract Documents.
4. **Delivery:** The shelters identified in the Contract Documents shall be delivered by Contractor, ready for use, within 60 Calendar Days from the receipt of a Purchase Order, unless agreed upon otherwise by the Parties.
5. The Parties agree that this Contract is the complete expression of the terms hereto and any oral representation or understandings not incorporated herein are excluded. Further, any modification of the Contract shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. The Parties also agree that the forgiveness of the non-performance of any provision of this Contract does not constitute a waiver of all other provisions of this Contract.

**1.00 ADDITIONS OR DELETIONS**

Skagit Transit reserves the right to add or delete items as determined to be in its best interest, provided such items are related to those on Contract and will not represent a significant increase or decrease in size or scope of the Contract. Such additions or deletions will be by mutual agreement, will be at prices consistent with the original bid or proposal, and will be evidenced by issuance of a written Contract Amendment issued by Skagit Transit in accordance with Article 5.00 below.

**2.00 ASSIGNMENT**

This Contract shall be binding on the Parties and their successors and assignees. Contractor shall not assign its obligations, monies payable, transfer any interest, or subcontract the Work provided under this Contract without prior written notification to Skagit Transit. Any potential assignee shall assume all obligations of the Contractor under this Contract and shall be jointly and severally liable with the Contractor for performance of all terms, covenants and conditions of this Contract. Contractor shall be responsible to ensure that all contract requirements flow down to any approved subcontractors.

**3.00 COMPLIANCE WITH LAWS AND REGULATIONS**

- 1) **General Requirement:** Contractor will at all times, at its sole cost and expense, comply with all applicable federal, State and local laws, ordinances, regulations, orders, and codes in regards to all matters of its business operation and to performance of the Work or services under this Contract. Should the Contractor be determined to be in violation of federal, State, or local laws or regulations, Skagit Transit reserves the right to modify its initial determination of responsibility at the time of award and take other action as determined appropriate, including but not limited to, terminating the Contract.
- 2) **Registration:** Contractor's company must be registered to conduct business in the State of Washington. Out-of-state corporations must secure authority from the Secretary of State to transact business in the State of Washington. Accordingly, before Skagit Transit can enter into a contract with an Out-of-state or foreign corporation, such entity must comply with Washington's corporation laws. Information and application forms relative thereto may be obtained from the Corporations Division, Office of the Secretary of State, PO Box 40234, Olympia, Washington 98504. The Corporate Information Line is 360-725-0377 or e-mail at [corps@sos.wa.gov](mailto:corps@sos.wa.gov).
- 3) **Licenses, Permits and Similar Authorizations:** Contractor shall secure and maintain, at no expense to Skagit Transit and in full force and effect during Contract Term, all required licenses, permits, fees, bonds, inspection fees, and similar legal authorizations as may be required for performance under the Contract. It is Contractor's sole responsibility to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to immediately comply with all related requirements. If for any reason Contractor's required licenses or certificates are terminated, suspended, revoked or in any manner modified from their status at the time this Contract becomes effective, Contractor shall notify Skagit Transit immediately of such condition in writing.
- 4) **Taxes:** If applicable, Contractor will be responsible for adding sales tax to amounts due under the Contract and making payment of sales tax to the State of Washington, as determined by the Washington State Department of Revenue. All other taxes required by statute or regulation are the sole responsibility of the Contractor. No charge by Contractor shall be made for Federal Excise Tax and Skagit Transit agrees to furnish an exemption certificate where appropriate.
- 5) **Wage and Hours Laws:** Contractor shall comply with all applicable provisions of the Fair Labor Standards Act (FLSA) and all other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall, at all times, save Skagit Transit free, clear and harmless from all actions, claims and expenses arising out of said Act and rules and regulations that are or may be promulgated in connection herewith.

**4.00 CONFLICT AND SEVERABILITY**

- 1) In the event of a conflict between the solicitation documents and the terms and conditions of the Contract, Skagit Transit has the sole authority to determine which requirement shall apply and be considered the legally binding requirement. In the event of conflict between the Contract Documents in its entirety and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered part of this Contract.
- 2) In the event that any provision, portion, or application of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, Skagit Transit and Contractor shall negotiate an equitable adjustment in the provision of this Contract with a view toward effecting the purpose of this Contract and the validity and enforceability of the remaining provisions, or portions of applications thereof, shall not be affected thereby. Any provision of the Contract Documents found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Contract.

**5.00 CONTRACT MODIFICATIONS**

- 1) No change, alteration, or modification to this Contract will be effective without prior written consent of Skagit Transit. Oral changes, amendments or agreements are not permitted. Prior to becoming a contract modification, all changes must be prepared as a written Contract Amendment to be signed by the Parties. Only Skagit Transit's Contracts Administrator shall have the express, implied, or apparent authority to alter, amend, modify, add, or waive any section or condition of this Contract on behalf of Skagit Transit.
- 2) Any increase or decrease in the cost of, or the time required for, the performance of any part of the Contract Work, whether changed or not changed by any such order, an Equitable Adjustment shall be made in the Contract Price or Contract Time, or both, without invalidating any other portion of the Contract. Any change exceeding 25% of the Contract Amount is considered a "Cardinal Change" and will not be permitted.
- 3) Contractor must assert its right to an adjustment by delivering a written Change Request to Skagit Transit which states the general nature of the claim, a detailed price proposal for the changed work or services and, if applicable, notice of any modifications required of other contract provisions that may be affected as a result of the change. If Skagit Transit requests a change, Contractor shall submit same within 7 days after Contractor's receipt of such change request. Upon Skagit Transit's request, Contractor shall submit additional cost or price data, as applicable, to determine the validity and reasonableness of the claim. No claim by Contractor for an Equitable Adjustment hereunder will be allowed for any costs incurred more than 7 days before Contractor gives written notice.
- 4) Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the provision of this Contract titled "Disputes" (Article 8.00); however, nothing in this clause shall excuse the Contractor from proceeding with the work or service as changed.

**6.00 DELIVERY OF SERVICES**

All work and services must be made in accordance with the Contract Documents. For any exception, Contractor shall give Skagit Transit immediate notice of its inability to meet a scheduled date and provide the reason, expected length of the delay, and a written recovery schedule where applicable. Acceptance of late service shall not waive the remaining schedule or relieve the Contractor of its obligation to make future scheduled service. Contractor shall make every effort to avoid or minimize delays to the maximum extent practicable. Any additional costs caused by these requirements shall be borne solely by Contractor.

**7.00 DISPUTES**

- 1) **Decision of the Executive Director:** Except for bid protest, any dispute concerning a question of fact or arising in the performance under this Contract which is not resolved by agreement of the Parties shall be decided in writing by Skagit Transit's Executive Director. Claims include, without limitation, controversies arising under the Contract, and those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or revision. The decision of the Executive Director shall be promptly issued in writing and shall be immediately mailed or otherwise furnished to the Contractor. The decision shall state the reason(s) for the decision reached and shall inform the Contractor of its appeal rights under Item 3 below. If the Executive Director does not issue a written decision regarding any contract controversy within 7 Calendar Days after Contractor's written request for a final decision, or within such longer period as may be agreed upon between the parties, then the aggrieved party may proceed as if any adverse decision had been received. The Executive Director's decision shall be final and conclusive unless, within 7 Calendar Days from the date of receipt of the decision, Contractor mails or otherwise delivers a written appeal to the Skagit Transit Board of Directors. Contractor's failure to timely submit a dispute against the Executive Director's decision shall waive any relief that might otherwise be due with respect to such dispute.
- 2) **Performance during Dispute:** Pending final resolution of a dispute, Contractor shall proceed diligently with the performance of the Contract and in accordance with the Executive Director's decision.
- 3) **Appeals:** Contractor may appeal the Executive Director's decision to the Skagit Transit Board of Directors by submitting a written Notice of Appeal to the Skagit Transit Board Chairperson within 7 Calendar Days of receipt of the Executive Director, or designee's, decision. The Executive Director, or designee's, decision shall be deemed received within 3 days, exclusive of Sundays and holidays, of the date of posting of the decision or sooner in the event of actual receipt of personal service or fax confirmation. The appeal shall be based solely upon the record before the Executive Director, or designee. A three-member committee of the Skagit Transit Board, as appointed by the Board, shall decide the appeal. Written argument must be submitted to the committee. The committee may affirm or reverse the decision of the Executive Director, or designee, or reverse the decision in part. The decision of the committee shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, so grossly erroneous as to constitute bad faith, or not supported by substantial evidence. No action challenging such decision shall be brought more than one year from the date of the Contractor's receipt of such decision.
- 4) **Rights and Remedies:** The duties and obligations imposed by the Contract Documents and the rights and remedies herein 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 Skagit Transit 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. All claims, counterclaims, disputes and other matters in question between Skagit Transit and Contractor arising out of or relating to this Contract or its breach will be decided by mediation if the parties mutually agree, or in a court of competent jurisdiction within Skagit County, State of Washington. Either party may request in writing that a dispute be submitted to mediation. Absent an agreement to a mediator, the mediation shall be conducted by Judicial Dispute Resolution (JDR) located in Skagit County, Washington. The Parties shall be equally responsible for the cost of any mediation. Mediation is optional and neither party is compelled to participate.
- 5) This "dispute" clause does not preclude consideration of law questions in connection with decisions provided for in the paragraphs above; provided that nothing in this Contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

**8.00 EMERGENCY, DISASTERS AND FORCE MAJEURE**

- 1) **Force Majeure Definition:** The term “Force Majeure” means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force Majeure shall include acts of nature, war, terrorist activities, riots, strikes, fire, floods, epidemics, or other similar occurrences. Except for payment of sums due, neither party shall be liable to the other or deemed in default under this Contract if and to the extent that such party’s performance of this Contract is prevented by reason of Force Majeure. In the event Contractor is unable to meet delivery or performance requirements due to circumstances beyond its reasonable control, Contractor agrees to make such delivery or performance as soon as practicable or shall immediately assist Skagit Transit in whatever reasonable manner to gain access to such goods or services or offer limited substitutions for consideration.
- 2) **Notification:** If either party is delayed by Force Majeure, said party shall provide written notification to the other within forty-eight (48) hours. The notification shall provide evidence of the Force Majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended by contract modification for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract.
- 3) **Rights Reserved:** Skagit Transit reserves the right to cancel the Contract and/or purchase materials, equipment or services from the best available source during the time of Force Majeure and Contractor shall have no recourse against Skagit Transit.

**9.00 ENFORCEMENT COSTS**

In the event of litigation between the Parties hereto, declaratory or otherwise, for the enforcement of this Contract or as a result of this Contract in any way, the prevailing party shall be entitled to recover from the other party, its reasonable attorney fees and other costs incurred in such action or proceeding. In the event that the Parties engage in arbitration, mediation or any other Alternative Dispute Resolution (ADR) forum to resolve a dispute in lieu of litigation, both Parties shall share equally in the cost of the ADR method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys’ fees incurred as a result of the ADR method.

**10.00 ENGLISH LANGUAGE**

All documentation and any other written, oral, or other communications required in the performance of the Contract shall be prepared using the English language as used throughout the U.S. If English is not the prevalent language used at the job site, a person fluently proficient in the other language(s) used and in English shall be available to the representative during all working hours for interpretation.

**11.00 ERRORS AND OMISSIONS**

If, at any time during the performance of this Contract, Contractor becomes aware of any errors, omissions, discrepancies and actual or potential problems between the Contract Documents and any federal, State or local law, rule, or regulation, Contractor shall give immediate written notice thereof to Skagit Transit’s Contracts Administrator. Until such written notification has been given and one business day has elapsed, any services performed by Contractor after such discovery will be done at Contractor’s risk.

**12.00 FEDERAL REQUIREMENTS**

The federal clauses in this Section are not negotiable and, unless otherwise specified, must be included in any subcontracts awarded by the Contractor. The FTA will not be a party to any sub-agreement nor to any solicitation for bids.

**13.1 ACCESS TO RECORDS AND REPORTS**

Contractor agrees to:

- a) Maintain all books, records, accounts and reports required under this Contract for a period of not less than 3 years after the date of termination or expiration of this Contract, or any extensions thereof, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until Skagit Transit, the FTA Administrator, the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- b) Permit any of the foregoing parties access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions and to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c) Provide, pursuant to 49 C.F.R. 633.17, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- d) FTA does not require the inclusion of these requirements in Contractor subcontracts. Reference 49 CFR 18.39 (i) (11).

**13.2 ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES**

The Parties are required to comply with all applicable requirements of the Americans 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:

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



**13.3 BREACHES AND DISPUTE RESOLUTION**

- a) **Disputes.** Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by Skagit Transit's Executive Director. This decision shall be final and conclusive unless within 10 Calendar Days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to Skagit Transit's Board of Directors. In connection with any such appeal, 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 and Contractor shall abide by the decision.
- b) **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 of damage.
- c) **Performance during Dispute.** Unless otherwise directed by Skagit Transit, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
- d) **Rights and Remedies.** The duties and obligations imposed by the Contract Documents and the rights and remedies thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Parties 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. All claims, counterclaims, disputes, and other matters in question between the Parties arising out of or relating to this Contract or its breach will be decided by arbitration if the Parties mutually agree, or in a court of competent jurisdiction within Skagit County, State of Washington.

**13.4 BUY AMERICA**

- 1) Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7 and include final assembly in the United States for 15-passenger vans and 15-passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j) (2) (C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 % domestic content. Contractor must submit to Skagit Transit the appropriate Buy America Certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver.
- 2) Bids or offers that are not accompanied by a completed Buy America Certification will be rejected as non-responsive. This requirement does not apply to lower tier subcontractors. (*Contractor's Buy America Certification submitted with their bid is incorporated herein by reference.*)

**13.1 CARGO PREFERENCE REQUIREMENTS**

- 1) Contractor agrees comply with 46 U.S.C. Section 55303 and Maritime Administration regulations, "Cargo Preference-U.S. Flag Vessels," 46 CFR Part 381 which requires the use of privately owned U.S. Flag commercial vessels to transport at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) of any federally assisted property involved, pursuant to the underlying Agreement, to the extent such vessels are available at fair and reasonable rates for United States Flag commercial vessels.

- 2) Contractor must furnish within 20 Business Days following the date of loading for shipments originating within the United States, or within 30 Business Days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to Skagit Transit, (through the Contractor in the case of a subcontractor's bill-of-lading).
- 3) Contractor agrees to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

### 13.2 CIVIL RIGHTS / TITLE VI REQUIREMENTS

- 1) **Non-discrimination.** In accordance with Title VI of the Civil Rights Act of 1964, 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, as amended, 42 U.S.C. § 12132, and Federal Transit Law at 49 U.S.C. § 5332, Contractor and each subcontractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, marital status age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- 2) **Equal Employment Opportunity.** Contractor agrees to comply with all Equal Employment Opportunity requirements applicable to this Contract as follows and with any implementing requirements that the FTA may issue:
  - 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 Law at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable Equal Employment Opportunity requirements of U.S. Dept. of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, 41 CFR, Parts 60 *et seq.*, (which implement Executive Order No. 11246, "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 this Project. 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, marital status, 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.
  - 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) **Segregated Facilities.** Contractor certifies that their company does not and will not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not and will not permit their employees to perform their services at any location under the Contractor's control where segregated facilities are maintained. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, parking lots, drinking fountains, recreation

or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise. Contractor agrees that a breach of this certification will be a violation of this Civil Rights clause.

- 3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Contractor of Contractor's obligations under this Contract and the regulations relative to non-discrimination on the grounds of race, color, creed, sex, disability, age or national origin.
- 4) **Sanctions of Non-Compliance.** In the event of Contractor's non-compliance with the non-discrimination provisions of this Contract, Skagit Transit shall impose such Contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to: 1) Withholding of payments to Contractor under the Contract until Contractor complies, and/or; 2) Cancellation, termination or suspension of the Contract, in whole or in part.
- 5) Contractor 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.

### **13.3 CLEAN AIR AND WATER REQUIREMENTS**

- 1) Contractor agrees to comply with all applicable standards, orders or regulations issued under:
  - Section 306 of the Clean Air Act, as amended, 42 U.S.C. Section 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. Sections 7401 through 7671q. and;
  - Section 508 of the Clean Water Act, as amended, 33 U.S.C. Section 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. Sections 1251 through 1377 and;
  - Executive Order 11738 and Environmental Protection Agency regulations 40 CFR, Part 15, which prohibits the use of non-exempt federal contracts, grants or loans, of facilities included on the EPA List for Violating Facilities.
- 2) Contractor agrees to report each violation to Skagit Transit and understands and agrees that Skagit Transit will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA Regional Office.
- 3) Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

### **13.4 DEBARMENT AND SUSPENSION**

- 1) Executive Order 12549, as implemented by 49 CFR Part 29, prohibits Skagit Transit from contracting for goods and services from organizations that have been suspended or debarred from receiving federally assisted contracts. This Contract is a covered transaction therefore, Contractor agrees to verify that the Contractor and none of 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. Contractor and any of its lower tier subcontractors shall: 1) Review a subcontractor's status on the federal System for Award Management (SAM) website at <https://www.sam.gov> before entering into any contracts; or 2) Collect a certification from all lower tiered subcontractors.

- 2) Contractor will not be debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or State department or agency or from bidding on any public contract; and shall not be presently indicted for, or otherwise criminally or civilly charged by, a governmental entity (federal, State or local) with commission of any of the offenses mentioned below.
- 3) Within a three-year period preceding this bid or proposal, Contractor shall not have 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; Violation of federal or State anti-trust statutes; Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; or had one or more public transactions (federal, State or local) terminated for cause or default.
- 4) By signing and submitting a bid or proposal, Contractor has certified that the certification in this clause is a material representation of fact relied upon by Skagit Transit. If it is later determined that the Contractor knowingly rendered an erroneous certification by signing the bid, or failed to notify Skagit Transit immediately of circumstances which made the original self-certification no longer valid, Skagit Transit may immediately terminate the Contract, in addition to other remedies available to it, including suspension or debarment by the Federal Government. Contractor 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.
- 5) Contractor further agrees to include a provision requiring such compliance in each subcontract, regardless of tier.

### 13.5 **DISADVANTAGED BUSINESS PARTICIPATION**

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 DBE is 10%. Skagit Transit's overall Annual Goal, from October 1, 2016 until September 30, 2019, for DBE participation is 0%. A separate contract goal for DBE participation has NOT been established for this Contract.

- 1) **DBE Program**. It is Skagit Transit's policy to ensure Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26, have an equal opportunity to receive and participate in the performance of DOT-assisted contracts. Contractor will cooperate with Skagit Transit in meeting its commitments and goals to ensure that DBEs shall have the maximum practicable opportunity to compete for subcontract work, regardless of whether a contract goal is set for this Contract. Contractor agrees to use good faith efforts to carry out a policy in the award of its subcontracts, agent agreements, and procurement contracts which will, to the fullest extent, utilize DBE consistent with the efficient performance of the Contract. To enable accurate monitoring of DBE Program compliance, the Contractor is required to report to Skagit Transit its DBE participation obtained through race-neutral means throughout the period of performance under this Contract.
- 2) **DBE Liaison**. Skagit Transit has a designated DBE Liaison to assist DBEs, administer Skagit Transit's DBE Program, and acts as liaison to the Uniform Certification Process in Washington State administered by the Washington State Office of Minority and Women's Business enterprises (OMWBE). Inquiries and requests concerning Skagit Transit's DBE Program shall be directed to: Motoko Pleasant, DBE Liaison, Skagit Transit, 600 County Shop Lane, Burlington, WA 98233. Phone: 360-757-8801, x1601.

- 3) **Non-Discrimination Assurances.** Contractor and its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out all 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 Skagit Transit deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the Contractor from future bidding as non-responsible. Each subcontract of the Contractor, regardless of tier, must include the assurances of this paragraph. (See 49 CFR 26.13(b)).
- 4) **Prompt Payment to Subcontractors.** Contractor is required to pay each subcontractor performing work under this Contract for satisfactory performance of that work no later than 30 days after Contractor's receipt of payment for that Work from Skagit Transit. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's Work related to this Contract is satisfactorily completed and accepted by Skagit Transit. Any delay or postponement of payment from the above time frames may occur only for good cause following written approval of Skagit Transit. This clause applies to both DBE and non-DBE subcontractors.
- 5) **DBE Delegation and Assignment.** Contractor must promptly notify Skagit Transit 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. 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 Skagit Transit. Failure by the prime contractor to comply may result in monetary penalties and partial or total termination for default with re-solicitation costs to the prime contractor or its bond.

### **13.6 ENERGY CONSERVATION REQUIREMENTS**

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plans issued under the Energy Policy and Conservation Act, as amended, 42 U.S.C. Sections 6321 *et seq.* and 41 CFR Part 301-10.

### **13.7 FEDERAL CHANGES**

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Contract between Skagit Transit and the FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this Contract.

### **13.8 FLY AMERICA REQUIREMENTS**

- 1) **Project Travel – Use of U.S. Flag Air Carriers.** Contractor agrees to comply with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, ("Fly America" Act), 49 U.S.C. Section 40118, in accordance with the General Services Administration's (GSA) regulations, "Use of United States Flag Air Carriers", at 41 CFR Sections 301-10.131 through 301-10.143, which provide that recipients and sub-recipients of federal funds and their contractors are required to use U.S. flag air carriers for U.S Government-financed international air travel and transportation when property or persons are transported by air between U.S. and foreign destinations, or between foreign locations, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. If a foreign air carrier was used, the Contractor shall submit an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.

- 2) Contractor agrees to include the requirements of this Section in all subcontracts that may involve international air transportation.

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

The provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding Contract provisions. All contractual provisions required by the DOT, as set forth in the most current FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. Contractor agrees not to perform any act, fail to perform any act, or refuse to comply with any Skagit Transit requests that would cause Skagit Transit to be in violation of the FTA terms and conditions.

### **13.10 LOBBYING RESTRICTIONS AND ANTI-KICKBACKS**

- 1) **Disclosure of Lobbying Activities.** Pursuant to the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65, contractors who apply or bid for an award of \$150,000 or more shall complete and submit with their Proposal the "Certification Regarding Lobbying" and, if appropriate, "Disclosure of Lobbying Activities" to Skagit Transit as 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, codified at 2 USC Section 1601 *et seq.*, who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant or award covered by 31 USC 1352. Such disclosures shall be forwarded from tier-to-tier up to Skagit Transit. (*Contractor's Lobbying Certification submitted with their bid is incorporated into this Contract by reference.*)
- 2) **Anti-Kickbacks.** Skagit Transit and its contractors are required to comply with the Anti-Kickback Act of 1986, 41 USC Section 51 *et seq.* Under State and federal law, it is a violation for Skagit Transit employees, bidders, contractors or subcontractors to accept or offer any money or benefit as a reward for favorable treatment in connection with the award of a contract or the purchase of goods or services. "Kickback" as defined by Federal Acquisition Regulation (FAR) 52.203-7, and 41 USC Section 52(2), means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind that is provided directly or indirectly to any prime contractor, prime contractor employee, subcontractor or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contractor in connection with a subcontract relating to a prime contract.
- 3) Contractor will include the language of this Certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$150,000 shall certify and disclose accordingly.

### **13.11 NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES**

- 1) The Parties acknowledge and agree that, absent the FTA's express written consent and notwithstanding any concurrence by the FTA, in or approval of the solicitation or award of the underlying Contract, the FTA is not a party to this Contract and shall not be subject to any obligations or liabilities to Skagit Transit, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract.

- 2) 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.

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

- 1) 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 CFR Part 31, apply to its actions pertaining to this Contract. Upon execution of the underlying Contract, 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 the contract work is being performed. In addition to other penalties that may be applicable, 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, as amended, on the Contractor to the extent the Federal Government deems appropriate.
- 2) 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 the FTA under the authority of 49 U.S.C. § 5307, the Federal 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.
- 3) 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 sub-contractor who will be subject to the provisions.

### **13.13 RECYCLED PRODUCTS / RECOVERED MATERIALS**

To the extent practicable and economically feasible, the Contractor agrees to provide a competitive preference to products and services that conserve natural resources, protect the environment, and are energy efficient. Examples of such products may include, but are not limited to, the regulatory provisions and products described in the EPA Guidelines at Subpart B of 40 CFR Part 247, implementing Section 6002 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Section 6962), and Executive Order 12873.

### **13.14 TERMINATION**

- 1) **Termination for Convenience.** Skagit Transit may terminate this Contract, in whole or in part, at any time by written notice to the Contractor when it is in Skagit Transit's best interest. After receipt of a written Notice of Termination, and except as directed by Skagit Transit, Contractor shall immediately stop work as directed in the Notice and comply with all other requirements in the Notice. Contractor shall be paid its costs on only that portion of the Work satisfactorily performed up to the date of termination as specified in the Notice. Contractor shall promptly submit its termination claim to Skagit Transit, together with detailed supporting documentation, to be paid to Contractor. If Contractor has any property in its possession belonging to Skagit Transit, Contractor will account for the same, and dispose of it in the manner Skagit Transit directs.
- 2) **Termination for Default.** If 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 provisions of this Contract, Skagit Transit may terminate this Contract for default. Skagit Transit shall terminate by delivering to the Contractor a Notice of Termination specifying the

nature of the default and the effective date of termination. Contractor will only be paid the Contract Price for supplies delivered and accepted, or services satisfactorily performed in accordance with the manner set forth in the Contract, less any damages to Skagit Transit caused by such default up to the date of termination as specified in the Notice. This liability includes any increased costs incurred by Skagit Transit in completing the Work or performing the service. If Contractor has any property in its possession belonging to Skagit Transit, Contractor will account for the same and dispose of it in the manner Skagit Transit directs. If it is later determined by Skagit Transit that the Contractor had an excusable reason for not performing due to events which were not the fault of, or are beyond the control of the Contractor, Skagit Transit, after setting up a new delivery of performance schedule, may allow the Contractor to continue work under the Contract or treat the termination as a Termination for Convenience.

- 3) **Opportunity to Cure.** Skagit Transit, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 10 Calendar Days in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to Skagit Transit's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within 10 Calendar Days after receipt by Contractor of written notice from Skagit Transit setting forth the nature of said breach or default, Skagit Transit shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Skagit Transit from also pursuing all available remedies against Contractor and its sureties for said breach or default.
- 4) **Waiver of Remedies for any Breach.** In the event that Skagit Transit elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Skagit Transit shall not limit Skagit Transit's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract. In the event that any provision, portion, or application of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, Skagit Transit and Contractor shall negotiate an equitable adjustment in the provision of this Contract with a view toward effecting the purpose of this Contract and the validity and enforceability of the remaining provisions, or portions of applications thereof, shall not be affected thereby.

### **13.00 INDEMNIFICATION, HOLD HARMLESS AND STATUS**

To the fullest extent permitted by law, and except to the extent caused by the sole negligence or willful misconduct of Skagit Transit, its officers, officials, agents and employees, Contractor shall defend, indemnify, save and hold harmless Skagit Transit, its officers, officials, agents and employees from and against any and all claims, actions, suits, penalties, losses, expenses, judgments in law and equity, and damages of whatsoever kind in nature arising out of, or resulting from, Contractor's negligence or willful misconduct in the performance of this Contract by or on behalf of the Contractor, its officers, employees, subcontractors and agents; or Contractor's failure to meet the obligations of the Contract. Neither Party assumes any responsibility to the other Party for the consequences of any act or omission of any person, firm or corporation not a party to this Contract. Contractor's sole obligation to defend includes the payment of all reasonable attorney's fees and legal costs of Skagit Transit's defense of any claim, suit or action within the scope of this Article whether or not suit was instituted. If a lawsuit in respect to this hold harmless provision ensues, Contractor shall appear and defend that lawsuit at its own cost and expense, and if judgment is rendered or settlement made requiring payment of damages by Skagit Transit, its officers, officials, agents, and employees, Contractor shall pay the same. Skagit Transit will give the Contractor prompt written notice of the institution of any suit or proceeding and permit the Contractor, through its counsel, to defend same and will give all needed information, assistance and authority to enable the Contractor to do so. This Article does not modify any other articles regarding any other conditions as are elsewhere agreed to herein between the Parties.



**14.00 INSPECTION AND REJECTION**

- 1) Skagit Transit's inspection of all goods or services upon delivery is for the sole purpose of identification and shall not be construed as Final Acceptance or as acceptance of the goods or services if such does not conform to contractual requirements. If there are any apparent defects in the goods or services at the time of delivery, Skagit Transit will promptly notify Contractor thereof. If there are defects detected post-delivery, Skagit Transit will notify Contractor with a description of such non-compliance.
- 2) Within 7 days of receiving such written notification, Contractor shall provide Skagit Transit with a detailed written plan which indicates the time and methods needed to bring the work in compliance with the Contract. Without limiting any other rights, Skagit Transit may require the Contractor to: 1) repair or replace any or all of the damaged goods at Contractor's expense; 2) refund Skagit Transit the full price paid for any or all of the damaged goods and accept the return of such damaged goods. If Skagit Transit rejects Contractor's written plan, Contractor may be determined to be in material default of the Contract.
- 3) This procedure to remedy defects is not intended to limit or preclude any other remedies available to Skagit Transit by law, including those available under the Uniform Commercial Code, Title 62A RCW. Acceptance by Skagit Transit of unsatisfactory performance, with or without objection or reservation, shall not waive the right to claim damage for breach, or terminate the contract, nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by Contractor.

**15.00 INSURANCE REQUIREMENTS**

- 1) Contractor, at its sole expense and for the duration of the Contract, will purchase and maintain all insurance described herein from insurers licensed to conduct business in the State of Washington (or issued as a surplus line by a Washington Surplus lines broker) and approved by the State Insurance Commissioner pursuant to RCW Title 48. Insurers must have a minimum rating of A- and a financial rating of Class VII or higher in the most recently published edition of the A.M. Best's Key Rating Guide. The insurance shall protect Skagit Transit against any and all claims for damages to persons or property arising under Contract performance whether by reason of acts or omissions of Contractor, or anyone directly or indirectly employed by Contractor, and shall hold Skagit Transit harmless for any claims presented to it as a result of Contractor's negligence.
- 2) All costs for insurance shall be incidental to and included in the Contract Price and no additional payment will be made by Skagit Transit. Policies shall be endorsed and will not be canceled, materially changed or altered without 30 days prior written notice submitted to Skagit Transit's Risk Manager. Any exclusion must be pre-approved by the Risk Manager.
- 3) **Primary Coverage:** Contractor's insurance afforded herein shall be primary insurance and any insurance or self-insurance maintained by Skagit Transit shall be considered excess coverage and not contributory insurance to that provided by the Contractor. Contractor's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.
- 4) **Evidence of Insurance:** Prior to contract performance, Contractor shall provide Skagit Transit an ACORD Certificate of insurance and any schedule of underlying policies for Skagit Transit's approval within the time specified in the Final Contract Award Notice. If the Contract is executed, no payment will be due until all insurance certificates are furnished.
- 5) **Minimum Scope and Limits of Insurance:** Coverage listed below is the minimum to be provided and not limitations of liability under the Contract, indemnification, or applicable law provisions. Skagit Transit shall not be deemed or construed to have assessed the risks that may be applicable to Contractor under this Contract. Contractor shall assess its own risks and may, at its expense, purchase greater limits and broader coverage. Coverage for each policy period shall be at least as broad as the following:

- a) Commercial General Liability: \$1,000,000 per occurrence, Combined Single Limit for Bodily Injury and Property Damage, including Personal Injury/death; Premise and Operations; Contractual Liability; Protective Liability; Products and Completed Operations; and a general aggregate limit of at least \$2,000,000. This protection may be a CGL policy or any combination of primary, umbrella or excess liability coverage affording total liability limits of not less than \$2,000,000.
- b) Commercial Automobile Liability: \$1,000,000 per occurrence Combined Single Limit for Bodily Injury and Property Damage for all owned, non-owned, and hired or rented vehicles assigned to or used in the performance of the Work or services.
- c) Employer's Liability and Workers' Compensation: Workers' Compensation shall be provided in the State Statutory Limits and Employer's Liability coverage of not less than \$1,000,000 per occurrence. If Contractor is not eligible for Worker's Comp., it shall indemnify and hold Skagit Transit harmless for any claims presented to it solely as a result of Contractor's negligent actions. Contractor specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW.
- d) Additional Insured Endorsement: Except for Workers' Compensation insurance, all other insurance coverages and self-insured retention or deductible portions shall name, to the fullest extent permitted by law for claims arising out of the performance of this Contract, Skagit Transit as Additional Insured. **Language such as the following shall be used in the description area of the ACORD Certificate: "SKAGIT TRANSIT, ITS OFFICERS, AGENTS, AND EMPLOYEES ARE NAMED ADDITIONAL INSURED IN RESPECTS TO CONTRACT #17-021-F"**
- e) Errors and Omissions (E&O) Endorsement: For all errors and omissions for which the insured is held legally liable.
- 6) **Excess Liability**: Coverage in the minimum amounts set forth above shall not be construed to relieve the Contractor from liability in excess of such limits. Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of the coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(s). Nothing contained with this provision shall affect and/or alter the application of any other provision contained with this Contract.
- 7) **Failure of Coverage**: Contractor's failure to fully comply with these insurance requirements during the term of the Contract shall be considered a material breach of contract upon which Skagit Transit may, after giving 5 Business Days written notice to Contractor to correct the breach, immediately terminate the Contract; or at its discretion, alternatively procure and maintain in the name of the Contractor, and at Contractor's sole expense, such types of insurance to the extent deemed proper up to the amount of the required coverage(s). Skagit Transit may offset the cost of such insurance against payment due to the Contractor under the Contract. If Skagit Transit is damaged by the failure of the Contractor to maintain any of these insurance requirements, or to so notify Skagit Transit, then the Contractor shall bear all costs attributable thereto. Suspension or termination of this Contract shall not relieve Contractor from its insurance obligations hereunder.
- 8) **Attorney Fees**: If a lawsuit in respect to this insurance provision ensues and the amount of the liability claimed exceeds the amount of insurance coverage, Contractor shall authorize representatives of Skagit Transit to collaborate with counsel for the insurance carrier, if any, in settling or defending such claim. Contractor shall appear and defend that lawsuit at its own cost and expense, and if judgment is rendered or settlement made requiring payment of damages by Skagit Transit, its officers, agents, and employees, Contractor shall pay the same.

- 9) **Cancellation:** In the event of cancellation, non-renewal, revocation, or other termination of any insurance coverage required by this Contract, Contractor shall provide written notice of such to Skagit Transit within one (1) business day of Contractor's receipt of such notice.
- 10) **Rights of Subrogation:** Skagit Transit reserves and retains its rights of subrogation and shall further have the right, at its election and expense, to pursue collection and recovery from any and all responsible third parties. Contractor shall cooperate with Skagit Transit in such recovery and collection, and shall make its records and personnel available. As to an accident or incident to which this paragraph is applicable, any and all sums so recovered by Skagit Transit as provided hereunder, after deduction only of court costs, shall be reimbursed to Contractor. The pendency of any collection efforts against third parties, including litigation, shall in no way delay or diminish the obligation of Contractor to promptly remit the sums due to Skagit Transit under the provisions of this subpart.

#### **16.00 JURISDICTION LAWS AND VENUE**

This Contract shall be governed in all respects by the laws of the State of Washington and authorities having jurisdiction over the Contract work will be deemed to be included in the Contract the same as though herein written out in full. The jurisdiction for any action hereunder shall be exclusively brought in the Superior Court for Skagit County in the State of Washington.

#### **17.00 LIENS, CLAIMS AND ENCUMBRANCES**

All materials, equipment, or services performed or delivered by Contractor shall be free of all liens, claims, or encumbrances of any kind.

#### **18.00 NON-DISCRIMINATION**

- 1) Skagit Transit is an Equal Opportunity Employer. During the performance of this Agreement, Contractor and its assignees, subcontractors, and successors in interest, shall not discriminate against any client, employee, or applicant for employment or for services on the basis of race, color, creed, national origin, religion, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental or physical disability except for bona fide occupational qualification with regard not limited to the following: Employment upgrading, demotion or transfer, recruitment or any recruitment advertising, layoffs or terminations, rates of pay or other forms of compensation, selection for training, or rendition of services.
- 2) Consultant shall take such action with respect to this Agreement as may be required to ensure full compliance with 49 CFR Part 21, "*Non-Discrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964*" and Chapter 49.60 RCW, *Discrimination – Human Rights Commission*. Failure by Consultant to carry out these requirements is a material breach of contract which may result in the termination of this Agreement or such other remedy as Skagit Transit deems appropriate. Skagit Transit may further bar Consultant from performing any services for Skagit Transit now, or in the future, unless a showing is made satisfactorily to Skagit Transit that discriminatory practices have terminated and that recurrence of such action is unlikely. Skagit Transit retains the right to withhold payments to Consultant under the Agreement for non-compliance with this provision until the Consultant complies.
- 3) In relation to Title VI of the Civil Rights Act of 1964, Consultant is further bound by such provisions contained in Articles 13.4 and 13.7(3) above.

**19.00 ORGANIZATIONAL CONFLICTS OF INTEREST**

An organizational conflict of interest is a situation in which, because of other activities, relationships, or contracts, a contractor or subcontractor is unable, or potentially unable, to render impartial assistance or advice to Skagit Transit; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage. Skagit Transit will evaluate future procurements related to this Contract to determine if there is an organizational conflict of interest. If an organizational conflict of interest exists, Skagit Transit may prohibit the Contractor and any of its subcontractors from participating in such related procurements.

**20.00 OWNERSHIP OF DOCUMENTS**

All documents, data, drawings, specifications, software applications and other products or materials produced by Contractor in connection with this Contract shall be the property of Skagit Transit. All such documents, products and materials shall be forwarded to Skagit Transit at its request and may be used by Skagit Transit as it sees fit. Contractor shall preserve the confidentiality of all Skagit Transit documents and data accessed for use in Contractor's work product.

**21.00 PAYMENT**

- 1) All payments under this Contract are considered full compensation for goods delivered and services rendered. **Pre-payments are not permitted.** Payment is based upon the Contractor's original bid prices, except as may be modified by written Amendment, and will be made within 30 days after acceptance and approval of invoices by Skagit Transit. Prior to approval of payment, the Skagit Transit Project Manager shall make verification of work performed or items received.
- 2) **Invoice Detail:** Each pay request must contain the following minimum information, as applicable: 1) Contract name and number; 2) Skagit Transit's customer account number; 3) Invoice number; 4) Date of invoice; 5) Payment due date; 6) Date of service or goods delivered; 7) Item Description; 8) Quantity and unit measure; 9) Contract Unit Price; 10) Extended price; 11) State Sales Tax (8.5% Destination Based); 12) Total purchase amount. This list is not necessarily all-inclusive.
- 3) **Submittal:** Invoices shall be provided to Skagit Transit as soon as possible after goods are delivered. All paperwork associated with a particular invoice (i.e. work orders, receiving documents, delivery tickets, etc.) must reference the same identifying number and correspond to the final invoice in order to link all the paperwork together. Failure to comply with these requirements may delay payment. Submit invoices to: Skagit Transit, Attn: Accounts Payable, 600 County Shop Lane, Burlington, WA 98233
- 4) **Payment does not imply acceptance of Work:** The granting of any payment by Skagit Transit, or the receipt thereof by Contractor, shall not constitute in any sense acceptance of the Work or service, or any portion thereof, and shall in no way lessen the liability of Contractor to remedy defective work, materials, equipment or service which does not conform to the Contract Documents, though the character of such Work may not have been apparent or detected at the time such payment was made. Payment does not waive Skagit Transit's right to reject defective or non-conforming Work, materials, equipment or service even though the same is covered by the payment, nor is it a waiver of any other rights of Skagit Transit.

**22.00 PERFORMANCE STANDARDS**

- 1) As used in this Article, the word "*service(s)*" includes all work or services performed, the workmanship, and materials and products furnished or used in performing the work or services. Contractor shall comply with recognized quality industry service standards as applicable. All references to standards, whether for delivery of goods, processes, assemblies, workmanship, performance, or similar purposes shall mean, unless otherwise noted, the most recent available published version of such standard. When reference is made to standards, the standards are to be made a part of this Contract and to have the same effect as if fully reproduced herein.

- 2) If any unsatisfactory condition or deficiency is detected, or if any of the services performed do not conform to the contract requirements, Skagit Transit will promptly notify the Contractor in writing with a description of such non-compliance and further require the Contractor to: 1) repair or replace any or all of the damaged goods, or perform the services again in conformity with contract requirements, at Contractor's sole expense; 2) refund Skagit Transit the full price paid for any or all of the damaged goods or services and accept the return of any damaged goods.
- 3) Contractor shall acknowledge such notice within 24 hours of receipt and initiate the process to remedy the condition, defect, error, or non-conformity to the satisfaction of the Skagit Transit Project Manager, or designee.
- 4) Within 7 Calendar Days of acknowledging said notice, Contractor must provide Skagit Transit with a written detailed plan which states the time and methods needed to bring the work, materials or services within acceptable limits of the specifications or contract requirements. Skagit Transit may accept or reject this plan at its discretion. In the event this plan is rejected, Contractor may be determined to be in material default of the Contract and the work, materials, or services will be deemed not accepted and returned to the Contractor at Contractor's expense.
- 5) In the case of an emergency where Skagit Transit believes delay could cause serious injury, loss or damage, Skagit Transit may waive the first written notice and either: 1) direct the Contractor to correct the defect or, 2) correct the defect of its own accord and dispatch a third party contractor, or use Force Account through use of Skagit Transit employees at a rate equal to the employee's hourly rate plus administrative costs. In either case, Contractor is responsible for all costs of remedying the defect and Skagit Transit may deduct such costs from any balance due, or which may become due, to the Contractor or charge-back the cost to the Contractor regardless of who actually corrects the defect.
- 6) **Non-Performance Notice:** If Contractor fails to initiate any corrective action procedure after receiving the first notification of unsatisfactory performance, Skagit Transit may send a "Notice of Non-Performance" to the Contractor detailing the exact nature of non-performance, remaining work to be performed, and the date of non-performance. Contractor shall acknowledge and respond to the Notice within 3 Business Days of receipt and shall promptly proceed to remedy the situation described therein to Skagit Transit's satisfaction. Receipt of notice is evidenced upon signature of certified mail return receipt or 3 Business Days after mailing. Continued non-performance may result in Contract termination. A further finding of non-responsibility may be determined and any future submittals by Contractor for Skagit Transit contracts may be rejected without consideration.
- 7) **Third Party Claims:** In the event that either party is found liable for damages to third parties as a result of the performance of services under this Contract, each party will be financially responsible for the portion of damages attributable to its own acts and responsibilities under this Contract.
- 8) No provision herein shall be construed to limit Contractor's liability for work not performed in accordance to the Contract. The liability for such failure to perform shall extend as far as the appropriate periods of limitation provided by law, including those available under the Uniform Commercial Code, Title 62A RCW. Acceptance by Skagit Transit of any late or unsatisfactory performance, with or without objection or reservation, shall not waive, alter or affect the obligations of Contractor from its warranty responsibilities and for satisfactory and timely performance, or the rights of Skagit Transit to claim damage for breach, or terminate the contract.

### **23.00 PRICE COMPLETE**

The prices quoted in Contractor's submitted bid, as accepted by Skagit Transit, include all items of labor, material, tools, equipment, and other costs necessary to fully complete the manufacture, assembly, delivery, warranty, schematics and drawings, if required, pursuant to the Specifications in the Bid Documents.

**24.00 PRICE ADJUSTMENTS**

- 1) Under certain circumstances as a cost of running a business, Contractor may request a price adjustment to the prices as originally bid. Such requests must be filed in writing with the Contracts Administrator only after the second year of the Contract has ended, and a minimum of 60 Calendar Days before the effective date of Contractor's proposed increase. In this event, Contractor must submit detailed cost data with their request which supports their claim for a price increase, or any other documentation that Skagit Transit deems necessary to determine through a cost analysis or audit that any increase is fair and reasonable. Skagit Transit's acceptance of any proposed price increase will be incorporated into the Contract by written Amendment. Skagit Transit reserves the right to deny the Contractor's price increase request or terminate the Contract.
- 2) Price adjustment requests shall:
  - a) Clearly identify the goods or services impacted by the increase.
  - b) Be the direct result of increase at the manufacturer's or corporate level.
  - c) Substantiate that the increase is consistent with current market conditions and that Contractor could not get a better price from another manufacturer or supplier.
  - d) Not deviate from the original contract pricing scheme/methodology.
  - e) Not result in a 25% overall increase or greater cost to the Contract Amount (see Article 6(2) re: "Cardinal Change").
  - f) Reference U.S. published indices such as the Producers Price Index (PPI) for the commodity, the Consumer Price Index (CPI) for the Seattle-Tacoma-Bremerton area, or a manufacturer's published notification of price changes to help substantiate and document the Contractor's request.
  - g) Remain firm-fixed for at least one (1) year after the effective date of the contract Amendment perfecting the adjustment. All other payment terms will remain in effect under the original Contract.

**25.00 PROPERTY LIABILITY**

Unless otherwise provided for, Contractor assumes the risk of, and shall be responsible for, any loss or damage to Skagit Transit furnished property in its possession, or in the possession of any agents or employees of the Contractor, resulting from Contractor's negligent or willful misconduct, except for reasonable wear and tear in the normal performance of this Contract. Contractor shall bear no liability for any negligent acts or abuse of property by Skagit Transit.

**26.00 RELATIONSHIP OF THE PARTIES**

- 1) The Parties agree that an independent contractor relationship will be created by this Contract whereby, in the performance of this Contract, the Parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee of Skagit Transit under Chapter 41.06 RCW or Title 51 RCW. Contractor shall indemnify and hold harmless Skagit Transit from and against any and all costs (including attorney fees incurred in defense) or liabilities (including payroll taxes, penalties or interest) arising out of any assertions that the Contractor is not an independent contractor.
- 2) Upon Contract execution ("Effective Date"), Contractor agrees that it has a business account established with the Washington State Department of Revenue, and other State agencies as required by the particular case, for the payment of all State taxes normally paid by employers and businesses, and has registered for and received a Unified Business Identifier (UBI) number from the State of Washington.

**27.00 REPRESENTATIVES**

- 1) **Skagit Transit:** The Contracts Administrator is the designated representative for contract compliance and helping resolve contractual issues. The Project Manager is the designated representative for contract performance compliance within budget and schedule, approval of services, and coordinating communications between the Contractor and Skagit Transit. The Project Coordinator is the designated representative to act on behalf of the Project Manager. Key personnel are listed on the first page of this Contract.
- 2) **Contractor:** Contractor shall appoint a representative as a Point of Contact (“POC”) for Skagit Transit and contract liaison agent through whom Skagit Transit will communicate. POC shall respond to all written communications from Skagit Transit representatives within 7 Calendar Days from receipt.
- 3) Either Party shall have the right to change any representative or address it may have given to the other Party by giving such other Party due notice in writing of such change.

**28.00 RISK OF LOSS AND TITLE**

Regardless of FOB point, Contractor agrees to bear all risks of loss, injury, or destruction of goods and materials ordered herein which occur before delivery and acceptance. Such loss, injury, or destruction shall not release Contractor from any obligation hereunder.

**29.00 SERVICE OF NOTICES**

- 1) Except for routine operational communications, which may be delivered personally or transmitted by electronic mail or facsimile, all legal notices desired or required hereunder shall be promptly made in writing and shall be deemed to have been duly given if delivered personally, or on the third Calendar Day after mailed certified, return receipt, and postage prepaid, to the Parties at the following addresses or to such other address as either Party may hereafter designate in writing:

<b>SKAGIT TRANSIT</b>	<b>CONTRACTOR</b>
Contact: Dale S. O’Brien, Executive Director	Contact:
Address: 600 County Shop Lane, Burlington, WA 98233	Address:
Phone: 360-757-8801	Phone:
Fax: 360-757-8019	Fax:
E-mail: <a href="mailto:dobrien@skagittransit.org">dobrien@skagittransit.org</a>	E-mail:

- 2) Either Party hereto shall have the right to change any representative or address by giving the other Party due notice in writing of such change. Consultant shall immediately furnish Skagit Transit with copies of all pertinent papers received by Consultant.

**30.00 SUGGESTIONS TO CONTRACTOR**

Any plan or method of work suggested by Skagit Transit to Contractor, but not specified or required in writing under the Contract, if adopted or followed by Contractor in whole or part, shall be used at the risk and responsibility of Contractor and Skagit Transit shall assume no responsibility therefore.

**31.00 SUPERVISION AND COORDINATION**

Contractor shall: 1) Competently and efficiently, supervise and direct the implementation and completion of all Contract requirements specified herein; 2) Designate a representative for the Work under this Contract to which all communications given by Skagit Transit to the representative shall be binding on Contractor.

**32.00 WAIVER OF RIGHTS BY SKAGIT TRANSIT**

In the event that Skagit Transit elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Skagit Transit shall not limit Skagit Transit's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract. Skagit Transit shall be deemed to have waived a right or remedy only if issued or confirmed in writing as a waiver by Skagit Transit. No waiver of one right or remedy shall act as a waiver of any other right or remedy or as a subsequent waiver of the same right and remedy.

**33.00 WARRANTIES**

- 1) Contractor warrants that all workmanship and materials, including all parts and accessories whether manufactured by it or others, provided under this Contract are subject to all warranties or guarantees arising by operation of law and additionally conform to the requirements and specifications imposed by Skagit Transit or offered in the Contractor's bid, including any submitted Manufacturers' Warranty or workmanship guarantee. This warranty shall be in addition to any other express or implied warranties provided by this Contract or by law, and in addition to any other rights or remedies available to Skagit Transit under this Contract or by law.
- 2) **Defects.** Skagit Transit shall immediately give written notice to Contractor of any defective goods or services discovered within said warranty period. Contractor will maintain copies of all warranty information and shall cooperate with Skagit Transit to immediately facilitate any warranty related work to satisfactorily repair the condition, correct the defect, error, or non-conformity at Contractor's sole expense. If Contractor has not taken corrective action within 30 Calendar Days after receiving the written notice, Skagit Transit, in its sole discretion, may seek to correct the defect itself. In this event, Contractor is responsible for all replacement costs and Skagit Transit will charge-back such costs to Contractor, including shipping charges, regardless of who actually corrects the defect. In the case of an emergency where Skagit Transit believes delay could cause loss or damage, Skagit Transit may waive the written notice and correct the defect.
- 3) **Product.** In addition to any standard Manufacturer's Warranty, Contractor shall furnish to Skagit Transit any warranty or guarantee furnished as a normal trade practice in connection with the purchase of any materials, items or equipment used in the fabrication process. Such furnished products shall: Conform to the requirements and specifications herein; Be of good marketable quality of latest model and current date; Exclude surplus remanufactured and used products; Be fit for the known purpose for which they are sold; Be free and clear of all liens and encumbrances and that Contractor has a good and marketable title to same; Not infringe any patent, registered trademark or copyright; and Contractor agrees to hold Skagit Transit harmless in the event of any infringement or claim thereof. Acceptance of any item or service and inspection incidental thereto by Skagit Transit shall not alter or affect the obligations of the Contractor or the rights of Skagit Transit.
- 4) **Price.** Contractor warrants that prices of materials, equipment, and services set forth herein do not exceed those charged by Contractor to any other customer purchasing the same goods or services in like or similar quantities and under similar terms and conditions.
- 5) **Remedies.** Skagit Transit reserves the right to waive or take exception to its specifications if it is to the greatest advantage or best interest of Skagit Transit. Warranties shall not apply to work or materials that have been abused or neglected by Skagit Transit. Abuse means damage or degradation resulting from accidents, deliberate actions or omission other than normal wear and tear of the user. Skagit Transit's Project Manager, or designee, will be the final arbitrator for issues involving abuse versus normal wear and tear.



- 6) Contractor is responsible for liability and expense caused by any inconsistencies or differences between the warranties extended to Skagit Transit by Contractor and those extended to Contractor by its suppliers, vendors, distributors and subcontractors. Such inconsistency or difference will not excuse Contractor's full compliance with its obligations under this Contract. Required repairs not covered by the Manufacturer's Warranty because of Contractor's deviation of the methods will be made by Contractor at no expense to Skagit Transit.

**END OF SECTION 4**

**SKAGIT TRANSIT**  
**INVITATION FOR BIDS #19-001-F**  
**FOR**  
**BUS SHELTERS**  
**SECTIONS 5 – 9**  
**MANDATORY FORMS**

**INSTRUCTIONS:** This entire Section 5 will be your Bid. Answer each part directly on this form in the spaces provided. All entries below shall be legible and entered in ink or typed. **Do not leave an item blank or your bid may be considered non-responsive.** Acceptable abbreviations for use on this form: Not Applicable = (N/A).

**5.1 BUSINESS INFORMATION**

Business Name, as registered: \_\_\_\_\_

Type of Business (sole proprietorship, partnership, corporation, other) \_\_\_\_\_

Name & Title of person preparing bid: \_\_\_\_\_

Mailing Address, including Zip Code: \_\_\_\_\_

Telephone/Fax Numbers, including Area Code: Ph: \_\_\_\_\_ Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Federal Tax Identification Number: \_\_\_\_\_ DUNS Number: \_\_\_\_\_

DBE, M/WBE or SBE Certification Number(s): \_\_\_\_\_

WA State Contractor Registration Number: \_\_\_\_\_

WA UBI# / State Excise Tax Registration Number: \_\_\_\_\_

WA Industrial Insurance Account Identification Number: \_\_\_\_\_

**5.2 MANUFACTURER’S MINIMUM REQUIREMENTS CHECKLIST**

Place a check or mark and “X” in the appropriate Yes or No box to indicate your compliance to the requirements specified in the Scope of Work:

	<b>SPECIFICATION</b>	<b>YES</b>	<b>NO</b>
<b>1</b>	Shelter is to be fabricated by a manufacturer regularly engaged in the manufacturing of such products using premium grade materials, construction and finish for outdoor use. Shelter shall withstand minimum wind loads of 85 MPH, 3-second gust, and snow load of 40 PSF, be vandal resistant and easy to clean and maintain.		
<b>2</b>	Shelter design will be such that the structure is stable with all ground anchors removed. Shelter package will include all ground anchors and other hardware in order for Skagit Transit staff to install to existing concrete pad.		
<b>3</b>	The shelter framework and fascia material shall be seamless aluminum that conforms to all applicable standards (UBC, AA, ASTM, ANSI, ADA, UFA, etc.)		
<b>4</b>	Shelter framework shall allow for a 7’ clearance and be fabricated using 6063-T5 extruded aluminum members approx. 2.5” x 2.5” x 1/8” thick square tubes.		
<b>5</b>	All fasteners shall be stainless steel or aluminum only, or a combination thereof, be tamper proof, and comply with shelter manufacturer’s instructions for fastener types, quantities, and usage. No hex head or nut and bolt type exposed fasteners shall be used.		
<b>6</b>	All extruded aluminum components, including exposed fasteners, shall have a powder coat paint finish (RAL 6029) that lasts for at least 10 years.		

	SPECIFICATION	YES	NO
7	All structural frame connections shall be concealed and all base connections shall be adjustable to varying mounting conditions.		
8	All joints shall be neat and clean w/edges free of burrs. Joint sealant shall be approved by manufacturer and meet applicable transit shelter standards.		
9	Roof shall be a one-piece pre-assembled Barrel Vault Roof with enclosed ends constructed of the same pcss material of the barrel roof constructed w/6mm White or Clear PCSS w/integral fascia/gutter. Roof design shall allow for reasonably simple removal without removing fascia/gutter (for future replacement when necessary).		
10	The roof shall be gasketed and sealed to be completely watertight. Drain holes shall be located at rear corners of roof assembly and will prevent water from running into the shelter interior area.		
11	Open spans of fascia/gutter will be capable of supporting 400 pounds at mid-span without permanent deformity. Fascia shall be one-piece extruded aluminum member, each face, with a gutter area not less than 2" x 2".		
12	Roof assembly must have concealed fasteners for installation. No fasteners will be exposed on the exterior face of the fascia. Corner connections shall be with internal corner angles fastened with 3/16" aluminum pop rivets.		
13	All exposed window panes between the mullions shall not exceed a width of 26" and height of 78" window glazing shall be 1/4" thick, clear colored, tempered safety glass. If glazing is shipped with protective masking, the protective mask material shall be plastic type peel-off masking ( <b>no paper masking accepted</b> ).		
14	All window panes shall be gasketed with wrap-around PVC extrusion and factory installed in window frames that are independent of the structural frame. Panels shall be standard size for easy maintenance between backs and sides.		
15	Each window panel shall have mitered corners and be installed in structural frames and mullions at the manufacturing facility prior to shipping. Panels shall be secured to the framing structure with special extrusions to provide a safe weather-protective enclosure.		
16	Mullions shall be 1.5" x 2.5" x .1/8' thick extruded aluminum tubes.		
17	Connections to structural frame shall be with extruded aluminum channels 1.25" x 2.25" with 1.25" high legs, a minimum of .125" thick.		
18	Each connection shall be made with tamperproof, stainless steel or aluminum screws or pop rivets, as deemed applicable by the manufacturer. Exterior rivets are not acceptable.		
19	Anchor bases shall be one-piece cast aluminum boots with a minimum thickness of 1/4", welded onto 3/8" minimum thickness base plates, and have pre-punched holes to accept the concrete anchor hardware to be supplied with the shelter. Bases shall be designed with a leveling adjustment of up to 4.5 inches, or more if columns are cut down		
20	Shelter shall come with a vandal-resistant, ADA length aluminum bench w/backrest constructed to fasten along the rear wall of the shelter with stainless steel pop rivet fasteners.		
21	Shelter shall come with a vandal-resistant map holder/display case at least 24" x 48" w/locking mechanism that will fasten between mullions with appropriate hardware		

	supplied with the shelter. The map holder/display case access door will be hinged and secured closed with tamper proof hardware.		
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22	Shelter side and rear panels will arrive in fully assembled modular sections. with each piece labeled and structural frame connecting parts, hardware, (plus 10% spare hardware) and instructions included.		
23	Workmanship and materials shall be warranted against defects for a minimum period of one full year from time of delivery acceptance.		
24	All components for each shelter shall be palletized for quick unloading with a forklift with 5-foot long forks and will be shipped FOB Destination, Prepaid and Allowed via flat deck truck for delivery to: Skagit Transit, 600 County Shop Lane, Burlington, WA 98233.		

**5.3 ACKNOWLEDGMENT OF ADDENDA**

I/We acknowledge that Addenda numbers \_\_\_\_\_ through \_\_\_\_\_ have been received by us and have been taken into account as part of our Bid. (If no Addenda were issued, please mark each space with a “0”).

**5.4 BID SCHEDULE**

Quantities listed below are estimates only. Award is based on the Total Bid Price of the lowest responsive and responsible Bidder.

Item No.	Item Description	Estimated Quantity	Unit Price	Extended Price
1	“Full Size” Shelter as specified.	13	\$	\$
2	“Cantilever” Shelter as specified.	11	\$	\$
Sub Total:				\$
Sales Tax (8.5%):				\$
<b>TOTAL BID PRICE</b>				<b>\$</b>

**5.5 OPTIONAL ITEMS**

The items listed below are intended for optional use by Skagit Transit on an as-needed basis for replacement components, inventory, or additional enhancements, and will not be evaluated. Skagit Transit reserves the right to purchase items from other sources as may be in the best interest of the Agency. All metal on the items listed below shall be powder coat finished according to Section 3.3(5)(e) Specification in this IFB.

- 1) **Solar Lighting Enhancement:** Pricing for solar lighting shall include factory installation of the following equipment into a shelter prior to shipment: photovoltaic panels, photovoltaic battery, solar charge controller, interior light fixture and system wiring. This system is designed to run autonomously for (3) days on a full battery charge. If this system is ordered separately, additional shipping charges may apply. The PV system controller will be Bluetooth capable, turn on at sunset for a pre-determined amount of time and again turn on for a pre-determined prior to sunrise.

Optional cost of adding solar lighting	\$	each shelter
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**2) Replacement/Inventory Items:**

a) Full-Size Window Panel	\$	each
b) Full-Size Window Panel, Fully Assembled	\$	each
c) Cantilever Window Panel	\$	each
d) Cantilever Window Panel, Fully Assembled	\$	each
e) Barrel Vault Roof	\$	each
f) Window Rubber Seal	\$	per linear foot
g) Benches w/Backrest	\$	each
h) Map Holder/Display Case	\$	each
i) Trash Can, 10 Gal. Drop Bottom w/Mounting Straps (Cylindrical, Metal Mesh) WR690 GREEN PERF, or approved equal.	\$	each

**5.6 BIDDER'S CERTIFICATION**

**I/WE CERTIFY** that, to the best of my/our knowledge and belief, the solicitation documents in their entirety and any Addenda issued thereto have been examined, read, and that the Bidder thoroughly understands:

- ✓ The work/services to be provided under the Contract;
- ✓ The procedures and instructions of this solicitation;
- ✓ The terms and conditions of the resulting Contract;
- ✓ That information contained in this Bid is accurate and complete;
- ✓ That all costs except sales tax are included this Bid;
- ✓ The offer remains effective for a period of 60 days from the Bid Due Date;
- ✓ That I/we have the legal authority to commit this company to a contractual agreement;
- ✓ That our submitted Bid will become part of the public record.
- ✓ That final funding is based upon approved budget amounts by Skagit Transit's Board of Directors.

*Having carefully examined all documents for this Contract, as well as the site of the Work, and the availability of labor and materials we, the below signed Bidder, propose to perform all services identified herein in strict compliance with the Contract Documents for the amounts set forth above:*

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

Printed Name & Title: \_\_\_\_\_

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

**END OF SECTION 5**

**AFFIDAVIT CONCERNING NON-COLLUSION, CONFLICTS OF INTEREST,  
ANTI-KICKBACKS, SEGREGATED FACILITIES, DEBARMENT AND SUSPENSION**

**6.1 NON-COLLUSION**

Bidder affirms that, in connection with this Bid, the prices or cost data have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, and that the Bid herewith submitted is a genuine and not a sham or collusive bid, or made in the interest or on behalf of any person not therein named; and further says that the said Bidder has not directly, or indirectly, induced or solicited any bidder on the above work or supplies to put a sham bid, or any other person or corporation to refrain from bidding; and that said Bidder has not in any manner sought by collusion to secure to himself an advantage over any other bidders.

**6.2 CONFLICTS OF INTEREST, ANTI-KICKBACKS AND CONTINGENT FEES**

Bidder affirms that:

1. It has no direct or indirect pecuniary or proprietary interest in the Contract, and that it shall not acquire any such interest which conflicts in any manner or degree with the work or services required to be performed under this Contract, and that it shall not employ any person or agent having such interest. In the event that the Bidder, as Contractor, or its agents, employees or representatives hereafter acquires such a conflict of interest, Contractor shall immediately disclose such interest to Skagit Transit and take immediate action to eliminate the conflict or will withdraw from the Contract as Skagit Transit may require.
2. No gratuities, in the form of entertainment, gifts, favors, service, or other thing of intrinsic value from or to any person involved in this solicitation were offered or given by the Bidder or any of its agents, employees, or representatives to any official, member, employee, agent of Skagit Transit or family member of same, or to another governmental agency, with a view toward securing this Contract or securing favorable treatment with respect to the awarding, amending, or the making of any determination regarding performance under this Contract. Use of one's position in a manner that constitutes a real or apparent personal or organizational conflict of interest or personal gain is strictly prohibited (FTA Cir 9030.1D).
3. No person or selling agency, except bona fide employees or designated agents or representatives of the Bidder, have been employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid.

**6.3 DEBARMENT AND SUSPENSION**

Bidder 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 3-year period preceding this bid, 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 of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State or local) with commission of any of the offenses enumerated in Paragraph 2 above; and
4. Have not within a 3-year period preceding this bid had one or more public transactions (federal, State or local) terminated for cause or default.

**6.4 SEGREGATED FACILITIES**

Bidder certifies that their company does not and will not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not and will not permit their employees to perform their services at any location under its control where segregated facilities are maintained. Bidder agrees that a breach of this certification will be a violation of the Equal Opportunity or Civil Rights clause in any contract resulting from acceptance of this bid. As used in this Certification, the term “segregated facilities” means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise.

**If the Bidder is unable to certify to any of the statements in this certification, Bidder shall attach an explanation to this certification. Note: The penalty for making false statements in offers is described in 18 U.S.C. 1001.**

THE BIDDER CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 USC SECTIONS 3802, *ET SEQ.*, ARE APPLICABLE THERETO.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Notary Public in and for the State of \_\_\_\_\_,

residing in \_\_\_\_\_

**\*\*THIS FORM MUST BE SUBMITTED WITH YOUR BID\*\***



**Federal Transit Administration (FTA)**

Bidder agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7 and include and include final assembly in the United States for 15 passenger vans and wagons produced by Chrysler Corporation, microcomputer equipment, software, small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

Bidders must submit to Skagit Transit the appropriately completed Buy America Certification (below) with all bids on FTA-funded contracts, except those subject to a general waiver. Bids that are not accompanied by a completed Buy America Certification will be rejected as non-responsive. This requirement does not apply to lower tier subcontractors.

**Certification requirement for procurement of steel, iron, or manufactured products:**

**Certificate of Compliance with 49 U.S.C. 5323(j)(1)**

The Bidder hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

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

**Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)**

The Bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1), but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(B) or (j)(2)(D) and the regulations in 49 CFR 661.7.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_

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

**\*\*THIS FORM MUST BE SUBMITTED WITH YOUR BID\*\***

**Federal Transit Administration (FTA)**

Pursuant to 40 CFR Part 34 (incorporated herein by reference), the undersigned certifies to the best of his or her knowledge and belief that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer of employee of any agency, a Member of Congress, or 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, grant, loan or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL *"Disclosure Form to Report Lobbying,"* in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

THE BIDDER, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE BIDDER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. A 3801, ET SEQ., APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

Name of Firm: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Date: \_\_\_\_\_

*NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.*

**\*\* THIS FORM MUST BE SUBMITTED WITH YOUR BID \*\***

As required by 49 CFR Part 26.11, Skagit Transit is required to create and maintain a bidders list of all firms bidding on prime contracts and bidding or quoting subcontracts on U.S. Department of Transportation-assisted contracts. To comply with this provision of the regulations, Skagit Transit requests the following information required by the FTA.

**This information is not used in determining contract award but is mandatory. Failure to return a completed form with your submittal will be cause for immediate rejection of the bid or proposal as non-responsive.**

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

Company Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Is your firm a Disadvantaged Business Enterprise (DBE) registered with the State of Washington Office of Minority and Women’s Business Enterprises?

Yes       No

Is your firm a Small Business Enterprise (SBE) meeting the size requirements of 49 CFR Part 26.65 whereby average annual gross receipts for the previous three years do not exceed \$22.41 million (or as adjusted for inflation by the Secretary of USDOT)?

Yes       No

How long has your firm been in business? \_\_\_\_\_

Please check the box that describes your total (national) gross annual receipts:

- |  |  |
|--|--|
| <input type="checkbox"/> Less than \$500,000       | <input type="checkbox"/> \$3,000,001 - \$3,500,000 |
| <input type="checkbox"/> \$500,000 - \$1,000,000   | <input type="checkbox"/> \$3,500,001 - \$4,000,000 |
| <input type="checkbox"/> \$1,000,001 - \$1,500,000 | <input type="checkbox"/> \$4,000,001 - \$4,500,000 |
| <input type="checkbox"/> \$1,500,001 - \$2,000,000 | <input type="checkbox"/> \$4,500,001 - \$5,000,000 |
| <input type="checkbox"/> \$2,000,001 - \$2,500,000 | <input type="checkbox"/> \$5,000,001 - \$5,500,000 |
| <input type="checkbox"/> \$2,500,001 - \$3,000,000 | <input type="checkbox"/> Greater than \$5,500,000  |

**\*\* THIS FORM MUST BE SUBMITTED WITH YOUR BID \*\***

**SKAGIT TRANSIT**  
**INVITATION FOR BIDS #19-001-F**  
**FOR**  
**BUS SHELTERS**  
**SECTION 10 –11**  
**OPTIONAL FORMS**

*Use this form to clarify the meaning of items in the Scope of Work or to request changes.*  
**FAX TO: 360-757-8019    ATTN: Elisa Rizzo, Procurement and Contracts Coordinator**

Company Name: \_\_\_\_\_ Requestor: \_\_\_\_\_  
Fax: \_\_\_\_\_ Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Document Reference: State the Section #, Part, Subpart, Page, etc. to which you are referring.**

**Question or Request for Clarification: *(Attach additional sheets if necessary)***

Submitted By: \_\_\_\_\_ Date \_\_\_\_\_  
Signature Date


.....  
**Skagit Transit Response:**

Written response to questions attached/faxed to \_\_\_\_\_ on \_\_\_\_\_

Bidder's Request → Approved: \_\_\_\_\_ Denied: \_\_\_\_\_ Question answered: \_\_\_\_\_

**Skagit Transit Comments:**

**\*\*Optional Use Form\*\***

 <p style="margin-left: 100px;"><b>600 County Shop Lane Burlington, WA 98233 Fax: 360-757-8019</b></p>	<p style="font-size: 24pt; font-weight: bold;">IFB #19-001-F</p>  <p style="font-size: 24pt; font-weight: bold;">BUS SHELTERS</p>
<p><b>If your firm elects to not submit a response to this solicitation, please complete this form and return to Rhonda Wahlgren, CPPB, Contracts Administrator to the above listed fax number or e-mail to: <a href="mailto:erizzo@skagittransit.org">erizzo@skagittransit.org</a></b></p>	

## NO BID NOTICE

**A response to the solicitation is not being submitted for the following reason(s):**

- |   |  |
|---|--|
| <p><input type="checkbox"/> We do not provide the required goods or services</p> <p><input type="checkbox"/> The project scope is too small</p> <p><input type="checkbox"/> The project scope is too large</p> <p><input type="checkbox"/> Specifications are not sufficiently defined</p> <p><input type="checkbox"/> Cannot handle due to present work load</p> | <p><input type="checkbox"/> Cannot meet delivery or response time requirements</p> <p><input type="checkbox"/> Licensing restrictions (please explain below)</p> <p><input type="checkbox"/> Insufficient time to prepare submittal</p> <p><input type="checkbox"/> Cannot comply with contract terms and conditions (please specify below)</p> <p><input type="checkbox"/> Other reasons (please explain below)</p> |
|---|--|

**ADDITIONAL REASONS / COMMENTS:**

<p>I/We wish to respond to similar services in the future</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>Authorized Company Official – Signature and Title</p>	<p>Date</p>
<p><b>Do not write in this space</b></p>	<p>Firm Name</p>	
	<p>Address</p>	
	<p>City</p>	
	<p>State</p>	<p>Zip Code</p>
	<p>Telephone Number</p>	

**\*\*Optional Use Form\*\***