



**Request for Proposal for
Northern Michigan
Rail Ridership Feasibility & Cost Estimate Study
RFP #1-2017**

ISSUING OFFICE:
BAY AREA TRANSPORTATION AUTHORITY
3233 Cass Road
Traverse City, MI, 49684

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SECTION 1 - INTRODUCTION

1.1 OVERVIEW

The Bay Area Transportation Authority (BATA) seeks Proposals from qualified firms for a Rail Ridership and Cost Estimate Study. BATA is the fiduciary for this project funded by a Federal Transit Administration (FTA)/Michigan Department of Transportation (MDOT) Service Development and New Technology grant (SDNT). BATA is partnering with the Groundwork Center for Resilient Communities (Groundwork).

The study objective is to provide a preliminary feasibility analysis of new passenger rail service along the Ann Arbor to Traverse City and Petoskey corridor and look at the opportunities, challenges, and describe a range of scenarios for operation. The study must also quantify, at a high level, the economic and financial impacts of new intercity passenger transportation service within the corridor. If adequate ridership is proven, and economic and financial impacts are positive, this study could serve as a catalyst to study the operational feasibility of new passenger rail service between southeast and northwest Michigan, and detailed engineering studies for track upgrades.

1.2 PROCURING AGENCY AND PARTNER CONTACT

Procuring Agency: Eric Lingaur
Bay Area Transportation Authority 3233
Cass Rd., Traverse City, MI 49684
lingaure@bata.net

Partner Contact: James Bruckbauer
Groundwork Center for Resilient Communities
148 E. Front Street, Suite 301, Traverse City, MI 49684
james@groundworkcenter.org

1.3 SOLICITATION SCHEDULE

The following is the solicitation schedule for this procurement. All times presented in this RFP are in the Eastern Time Zone unless otherwise stated.

Event	Date and Time
Request for Proposal Issued	July 7, 2017
Non-Mandatory Pre-Proposal Conference Call	July 13, 2017 @ 11 a.m.
Questions due	July 21, 2017
BATA and Groundwork Responds to Questions	July 25, 2017
Proposal Due Date	August 11, 2017 @ 5 p.m.
Proposal Evaluation	August 12 – 25, 2017
BATA and Groundwork Center Notifies Top Ranked Proposers and Requests Interviews/Oral	August 28, 2017
Proposer Interviews/Oral Presentations	September 11 – 13, 2017
Anticipated Award	October 2017

1.4 SUBMITTAL OF PROPOSALS

Proposers are invited to submit a proposed work program, budget and timeline for completing the required work tasks. Proposals are to be addressed and delivered as follows:

Eric Lingaur, Procuring Agent
Bay Area Transportation Authority
RFP #1-2017 Northern Michigan Rail Ridership
Feasibility & Cost Estimate Study
3233 Cass Rd., Traverse City, MI 49684

Proposals **MUST** be received by the due date and time. Late proposals may be returned to the Proposer unopened. No telegraphic, email (electronic) or facsimile proposals will be considered. Proposals may be mailed by U.S. Postal Service, other private delivery companies, or dropped off in person.

Proposals received after the due date and time will not be opened unless it is determined by BATA that the late receipt was due solely to mishandling by BATA. BATA assumes no responsibility for errant delivery of proposals, including those relegated to a courier agent who fails to deliver in accordance with the time and receiving point specified.

This is a Sealed Proposal solicitation. Proposals submitted in response to this RFP are to consist of two (2) parts: Technical Proposal, and Price Proposal Form plus completed Forms and Certifications Forms are located in Section 6 of this RFP.

The Price Proposal Form and attached cost breakdown **must** be submitted with the proposal in a separate, sealed envelope. This requirement is to prevent the price proposal from influencing the scoring of the four evaluation criteria. **Failure** to submit the price proposal in a separate, sealed envelope will result in the **immediate disqualification** of the proposer as non-responsive.

The entire Proposal shall contain: one (1) original and four (4) copies of the Technical Proposal, and one (1) original and one (1) copy of the Price Proposal Form plus other completed Forms and Certifications contained in Section 6 of this RFP.

Proposers will not be reimbursed for any costs associated with preparing responses to this RFP. Proposals and documents pertaining to this solicitation become the property of BATA and will not be returned.

BATA reserves the right to accept or reject any or all Proposals received as a result of this RFP for sound, documentable, business reasons, to negotiate with qualified Proposers, to award a contract without discussions/interviews or to cancel in part or in whole this RFP for sound, documentable, business reasons. BATA also reserves the right to waive any minor defects, informalities or irregularities in any proposal.

Proposer agrees to and acknowledges all RFP specifications, terms and conditions and indicates ability to perform by submission of its Proposal.

Submitted Proposals must be valid for a minimum period of one hundred and twenty (120) days after the proposal due date.

1.5 COMMUNICATION

Questions and all other communication MUST BE SUBMITTED BY EMAIL and directed to Eric Lingaur at BATA at lingaure@bata.net or to James Bruckbauer at Groundwork at james@groundworkcenter.org. Questions and answers will be posted on BATA's website at www.bata.net.

Questions must be received by date indicated in the Solicitation Schedule found in Section 1.3 of this RFP. Only written interpretations, corrections or addenda issued by BATA will be binding. Verbal comments are not part of this solicitation.

Proposers may be disqualified if any unsolicited contact related to this solicitation is made with an employee or representative of BATA or Groundwork other than the Procuring Agent or designated Groundwork contact.

1.6 PRE-PROPOSAL CONFERENCE CALL

A non-mandatory Pre-Proposal Conference Call will be held: **Date: July 13, 2017**
Time: 11:00 a.m.

To access the Conference Call, **dial 855-295-4410 and use Access Code: 7250267752# when prompted.** No other calls will be scheduled or permitted, and no other opportunity for verbal communication with BATA or Groundwork staff will be available prior to the Proposal due date.

1.7 LOCATION OF DOCUMENTS AND ADDENDA

This RFP, relevant documents and appendices not contained at the end of this RFP, and any updates to this RFP including addenda will be available the Bay Area Transportation Authority website at www.bata.net.

BATA will not notify or distribute to prospective Proposers or interested parties any addenda, changes or updates to the RFP. Failure of any prospective Proposer to receive any addenda will not relieve the Proposer from any obligation under its proposal as submitted or under the RFP, as clarified, interpreted or modified.

All addenda issued shall become part of the RFP. Proposers shall acknowledge the receipt of each individual addendum and all prior addenda in their proposals. Failure to acknowledge in their proposals receipt of addenda may, at BATA's sole option disqualify the proposal.

Prospective Proposers and interested parties may obtain the RFP, addenda, and any updates on the BATA website at www.bata.net, or by picking up a printed copy at the Bay Area Transportation Authority, 3233 Cass Road, Traverse City, MI 49684,

Monday-Friday, 8:00 AM – 5:00 PM.

1.8 PROJECT FUNDING

Funding for this project comes from the FTA, the MDOT, and several local partners including the City of Petoskey, Petoskey Area Visitors Bureau, City of Traverse City, Traverse City Tourism, City of Alma, and Washtenaw County. The successful Proposer will be required to comply with all applicable federal, state, and local laws and requirements. The federal requirements are the Contract Clauses Professional and A&E More than \$100,000, attached as Attachment A. The successful proposer will enter into a 3rd party subcontract for a firm, fixed price with BATA. The subcontract must be approved by MDOT. The successful Proposer will be given a Notice to Proceed upon Contract award. All tasks must be undertaken in a manner consistent with the federal requirements, and it is the Contractor's responsibility to understand and document compliance.

SECTION 2 - SCOPE OF SERVICES

2.1 BACKGROUND & INTRODUCTION

A. History of Rail Service from Ann Arbor to Traverse City and Petoskey:

Trains were already rolling when Michigan joined the Union in 1837: Five railroads owned tracks connecting Toledo, Detroit, and Royal Oak. Over the next 70 years rail companies laid thousands of miles of track; by 1905, Michigan boasted nearly 1,800 train depots and more than 9,000 miles of track.

The first train pulled into the Traverse City Depot in 1872, carrying food and medical supplies. The line established a long-lasting, direct connection to Michigan's largest metropolitan areas, like Grand Rapids, Battle Creek, and Detroit, as well as other Midwestern cities like Cincinnati and Chicago. The new route spurred business growth and opened up distant markets around the country and, eventually, all over the world. Not only did the region gain reliable access to food and medical supplies, it was now able to export fruits and, more commonly, forest products like wood and paper.

Rail line owners added passenger trains the next year with a daily connection to Grand Rapids. Tourism boomed; for the first time, summer visitors from southeast Michigan, Chicago, and northern Ohio had timely access to northern Michigan's lakes, beaches, and cottages. By 1900, thousands of visitors traveled to Traverse City each year.

But through the 1940's, as road infrastructure and automobile technology started to predominate, freight and passenger rail service declined, as did investment in maintaining the rail infrastructure. Freight rail has survived, if only barely; passenger rail service to Traverse City ended in 1966.

Ten years later, in 1976, the Michigan Department of State Highways & Transportation purchased the railroad right of way connecting Toledo, Ohio, and Ashley, Michigan, to Cadillac and on to Petoskey in order to preserve what was left of the line and the rail connection to Traverse City. The state contracted with Michigan

Northern Railway to manage the tracks. In 1984, Tuscola and Saginaw Bay Railway leased the tracks from the state. Over the past decade there have been some attempts to offer limited passenger rail in the Traverse City area, including a short run 'Dinner Train', which offered excursion train service through the scenic Grand Traverse area.

In October of 1985, rail service between Petoskey and Charlevoix discontinued due to a part of the rail line collapsing into Lake Michigan. In 1991 - The Northern Michigan track between Reed City and Cadillac was removed. Also, rail was removed from the rail line between Comstock Park and Reed City and was converted to a hiking and biking trail.

In March 2006, the Tuscola & Saginaw Bay Railway was purchased by Federated Railways, a wholly owned subsidiary of the Federal Capital Corp. The railroad was renamed Great Lakes Central Railroad and is the largest regional railroad in Michigan, with 424 miles of track.

B. Michigan State Rail Plan (2010-2011)

In 2010 and 2011, the Michigan By Rail team, then made up of the Michigan Environmental Council (MEC) and Michigan Association of Railroad Passengers (MARP), held public forums across the state to collect community input to submit as public comment for Michigan's State Rail Plan. Officials asked participants to map important Michigan locations and possible rail routes. Every map included a train line from Traverse City to lower Michigan. In fact, it was the most consistent theme emerging from all the sessions, held in every corner of the state. When participants were asked where they want to see significant rail service improvement and expansion, they mentioned Traverse City more frequently than any other city.

C. Grand Vision (2010)

During the Grand Vision, a multi-year transportation and land use public visioning process conducted in the six county region surrounding Traverse City, many residents were interested in restoring passenger rail to Traverse City. Since then, a Grand Vision committee formed to advance rail topics in the Grand Traverse region hosted two well-attended rail events. One highlighted New Mexico's commuter rail project, called the Rail Runner; the other highlighted Michigan's enhanced-speed rail network between Chicago and Detroit, and two planned urban rail lines: the M-1 streetcar and Washtenaw-Livingston (WALLY) commuter line.

D. Ann Arbor to Traverse City and Petoskey Rail Project (2015)

In 2015, the Groundwork Center for Resilient Communities (formerly Michigan Land Use Institute) began a project to explore the potential for passenger rail between the Ann Arbor area and northern lower Michigan. Groundwork held a kickoff event at the State Theatre in downtown Traverse City, which was widely attended. Speakers included representatives from Groundwork, a former Ann Arbor Mayor, the Traverse City Area Association of REALTORS®, Ann Arbor Area Transportation Authority, and the M-1 Rail. Since that time, Groundwork has continued to promote the vision of passenger rail service along this corridor in communities along the line, as well as to

the media.

2.2 WORK TASKS

The Contractor shall undertake the following work tasks. All work must be undertaken in a manner consistent with FTA guidelines.

A. Project Description with Goals and Objectives

Based on existing data and documentation, develop a project description with goals and objectives for the project. This shall describe the history, and context of the project, with documentation of the transportation and broader community problems the project is intended to address.

B. Resource Reference of Existing and Comparison Case Studies

Where possible, reference relevant literature and comparison case studies and utilize data from the pre-existing studies of the corridor.

C. Public and Stakeholder Engagement at Public Forums – in partnership with Groundwork

Groundwork will organize and conduct the public engagement portion of this study. The Contractor shall collaborate with the Groundwork team throughout the study and be willing to share data collected throughout the process as appropriate. The Groundwork team will share relevant feedback and updates throughout the public engagement process with the Contractor. Groundwork intends to host two sets of meetings in six - seven communities along the rail corridor: Petoskey, Traverse City, Cadillac, Mt. Pleasant, Alma, Owosso and Ann Arbor. The first set of meetings will be held close to the start of the study process, and the second set of meetings at the conclusion of the study.

The Contractor must provide a representative for all public engagement meetings. The meetings will generally be held in evenings in communities along the corridor. The Contractor shall provide materials created for the study for use during the public engagement sessions, and be prepared to provide a brief presentation to the public about the study proposal (first set of meetings) and study findings (second set of meetings).

D. Population Demographics

The Contractor will provide a report and analysis of current population, travel and employment data in communities along the corridor. Data should include, but not be limited to:

- total population
- population density patterns
- population trends
- basic demographic information
- employment data

- land use patterns and trends
- origin/destination travel patterns
- other relevant transportation data

E. Analysis of Rail Track Conditions, Proposed Improvement Schedule and Associated Cost Estimates

Develop a general evaluation of existing track conditions, and general estimates of upgrade costs. The Contractor will use these estimates to develop associated estimates of train speed and expected travel times. The contractor is expected to work closely with the Michigan Department of Transportation Rail Division staff and Great Lakes Central for the track condition data and cost estimates. This is not intended to be an engineering study, but a general assessment of conditions and priority list of the areas needing upgrades. Using this data, the Contractor will develop a proposed improvement schedule, with a sequence of projects and associated train speed/ travel time estimates.

F. Proposed Rail Stops, Train Station Status, and Existing Support Infrastructure

In conjunction with the estimate of expected travel times, the Contractor will develop a set of potential and proposed passenger stops along the corridor. The Contractor will consider the communities of Petoskey, Traverse City, Cadillac, Mt. Pleasant, Alma, Owosso and Ann Arbor as the minimum number of stops. However, they should also evaluate the opportunity for additional stops in smaller communities including Boyne Falls, Mancelona, Kalkaska, Kingsley, Manton, Clare, Ithaca, Howell, and Brighton.

When considering these additional stops, the Contractor will develop an evaluation of the suitability of the train station for passengers. They will also conduct a brief inventory of additional existing supporting transportation services for passengers, including public transit, taxis, bike trails, car share, bike share, etc. and nearby walkable commercial amenities.

G. Estimate Demand and Future Demand for Service

The Contractor will develop estimates of demand for passenger service at proposed stops throughout the corridor. The Contractor shall recommend an approach or mix of approaches before actually undertaking the work.

H. Preliminary Economic and Financial Analysis

Develop a preliminary economic and financial analysis to better understand the financial feasibility for service in the overall corridor as well as for segments within the corridor. Analysis should include, but not be limited to:

1. Estimated intercity passenger rail service capital and operating costs based on ridership assessment.
2. Revenue estimates based on varying cost-per-rider options and based on ridership assessment.

I. Estimates for economic benefits to communities along the corridor.

J. Proposed Management Structure for Passenger Rail Service

The Contractor will provide a list of options of possible management structures for the proposed passenger rail service between Ann Arbor and Traverse City/ Petoskey to include public, non-profit, private, and public/ private partnership. A description of the pros and cons of each structure, as well as examples of other passenger rail systems that employ that structure. This section should also provide a brief summary of the process for implementing each of the described structures, considering the existing partners and operating structures in place.

K. Deliverables Timeline

Provide a timeline indicating the date by which study deliverables will be completed. The timeline should allow for the completion of public involvement activities undertaken by the Groundwork Center for Resilient Communities.

L. Consistency with Regional Plans and Planning Practices

All tasks must be undertaken in a manner consistent with the applicable practices and assumptions used by local, regional, and state plans and planning practices, to ensure consistency among plans and clarity for stakeholders and the public.

2.3 KEY DELIVERABLES

The following list of deliverables is to be created, consistent with the work tasks.

- A. Project Description with Goals and Objectives
- B. Resource Reference of Existing and Comparison Case Studies in the Corridor
- C. Public Engagement Results and analysis (to be completed by the Michigan By Rail team)
- D. Detailed Project Description
- E. Project Demographics
- F. Analysis of Route Options
- G. Estimate Service Demand
- H. Preliminary Economic and Financial Analysis

The format, timing, and version control of project deliverables and background materials shall be clearly identified with dates, page numbers, and version number. Deliverables must be in recent versions of MS Word, MS Excel, or MS PowerPoint, and PDF format.

All graphic images must be supplied as JPEG's in a size and resolution sufficient to be used for printed and digital materials. Graphics produced by programs other than those listed above (e.g. Adobe Illustrator) shall also be delivered in editable formats native to that application, unless otherwise agreed upon. All background files shall

be submitted to the client upon request, and shall be clearly documented.

2.4 PROJECT MANAGEMENT

- A. BATA will act as the procuring agent and fiduciary for this project. Groundwork will assist BATA with project management. The Contractor shall designate a single individual as a project manager with overall responsibility for directing the work and communicating progress to the client.
- B. The Contractor's project manager will maintain the task list and timeline for the project and regularly update BATA and Groundwork whenever conditions require a deviation from the original task list and timeline.
- C. The Contractor's project manager will provide regular status reports as agreed to with the BATA procuring agent, at least monthly, and provide quarterly SDNT reports to MDOT. The project will be managed on the basis of submission of key deliverables and key milestones. Invoicing and payment will be made based on completion of key deliverables.
- D. Project guidance will also be provided by a Project Steering Committee, which includes Groundwork, the MDOT Office of Rail, BATA, and the Michigan Association of Railroad Passengers. Groundwork will convene this group and facilitate additional stakeholder input.

SECTION 3 - INSTRUCTIONS TO PROPOSERS

3.1 TECHNICAL PROPOSAL CONTENT

The technical content of the proposal shall include the following:

A. Letter of Transmittal

The Letter of Transmittal shall be addressed to Eric Lingaur, Procuring Agent, and must contain the following:

- 1. Identification of the offering firm(s), including name, address telephone number and Federal Employer Identification Number.
- 2. Acknowledgment of RFP addenda, if any.
- 3. Name, title, address, telephone number, and email address of contact person during the period of proposal evaluation.
- 4. A statement to the effect the proposal shall remain valid for a period of 120 days from the proposal due date.
- 5. Proposals must be signed by the person or persons legally authorized to bind the offering firm to the terms of the proposal and to a contract for the

execution of the work and services

B. Company History

Provide a brief history of the firm. Describe the firm, its age, number of employees, and subsidiaries or partnerships it has with other firms.

C. Qualifications, Experience and Capacity

1. Provide a statement of qualifications of proposing firm providing details on firm's experience with work relevant to this RFP.
2. Provide a narrative description of studies completed on three (3) projects similar to the project outline in this RFP. Include references with current contact information for each project.
3. Provide a list of projects (with dates) successfully completed in the past five (5) years.
4. Provide credentials (Resume) of each of proposed project team member. Be sure to include education, experience and unique qualifications. Note that this is the team that will be assigned to this project. Prior written approval will be required for any change to the proposed project team.
5. Provide a staffing plan.

D. Methodology and Approach:

Provide a narrative of how Proposer intends to execute and complete this project.

E. Project Schedule and Deliverables

Provide a detailed schedule to complete the project and identify proposed dates – or range of dates – of key deliverables. See Section 2.5 of this RFP regarding key deliverables.

F. Conditions, Exceptions and/or Deviations to Product or Service

Include any Conditions, Exceptions and/or Deviations to the RFP or addenda. Proposals containing Conditions, Exceptions and/or Deviations may be rejected as non-responsive unless approval from BATA is requested in writing and BATA issues approval through addenda.

G. Subcontractors

Proposals must provide the name, address and EIN of any subcontractor and

clearly identify the work they will perform. BATA retains the right to refuse the subcontractors selected.

H. Addenda Issued for this RFP

Include a signed print out of all addenda (if any) issued for this RFP to demonstrate the Proposer's understanding and acceptance of the addenda.

3.2 PRICE PROPOSAL FORM

Submit the Price Proposal Form which is included in this RFP.

- A. An itemized, detailed cost breakdown must be attached to the Price Proposal Form. The cost breakdown must include labor costs and time by staff, as well as overhead, travel, and other costs for completing the work outlined in this RFP. The Price Proposal Form and attached cost breakdown **must** be submitted with the proposal in a separate, sealed envelope. **Failure** to submit the price proposal in a separate, sealed envelope will result in the **immediate disqualification** of the proposer as non-responsive.
- B. Price proposals submitted on any other form than the Price Proposal Form may be considered non-responsive. Proposer shall not alter or qualify the Price Proposal Form unless authorized by BATA in writing.
- C. BATA is exempt from Federal Excise Tax and State sales tax and taxes shall not be included in the price proposal.

All travel costs billed will follow the State of Michigan's vehicle and travel rates. Current travel rates can be found on the Department of Technology, Management and Budget's website at:

http://www.michigan.gov/dtmb/0,5552,7-150-9141_13132---,00.html.

3.3 MODIFICATION OR WITHDRAWAL OF PROPOSALS

- A. A modification of any part of a proposal already received will be accepted by BATA only if the modification is received prior to the Proposal Due Date. A Proposer may withdraw the entire Proposal already received prior to the Proposal Due Date by submitting a written request for withdrawal executed by the Proposer's authorized representative.

3.4 WAIVER

The Proposer shall represent and warrant that they have sufficiently informed themselves in all matters affecting the performance of the work called for in the scope of this project; that they have checked the proposal for errors and omissions; that the prices stated in the proposal are correct and as intended by them and is a complete

and correct statement of the prices for performing the work required.

3.5 PROPOSAL EVALUATION

A. Evaluation Committee

The Evaluation Committee is comprised of the following:

- Bay Area Transportation Authority, Procuring Agent
- Groundwork Center for Resilient Communities, Deputy Director
- Intercity Passenger Rail Operations Specialist, MDOT
- Board Member, Michigan Association of Railroad Passengers

B. Evaluation Procedures

All proposals received will be scored by the evaluation committee according to the evaluation criteria. After the initial scoring, the committee may choose to interview the top proposers in a competitive range. The purpose of the interviews will be to clarify any information or questions the evaluation team may have concerning the proposal. Original scoring may be modified based on the results of the interview. After scoring is complete, the envelopes containing the Price Proposal Forms and attached cost breakdowns will be opened and evaluated to determine which proposal represents the Best Value to BATA. Best Value is defined by federal guidance as a competitive procurement process in which the grant recipient reserves the right to select the most advantageous offer by evaluating and comparing factors in addition to cost or price such that a recipient may acquire technical superiority even if it must pay a higher price.

BATA will only award to a responsive and responsible Proposer.

C. Evaluation Criteria

The evaluation criteria are equally weighted and listed below. BATA reserves the right to award to other than the lowest priced proposal.

1. Qualifications, Related Experience, and References:

The qualifications of the Proposer will be evaluated in terms of relevant experience in performing work of a similar nature, experience with a minimum of three projects, strength and stability of the firm; capacity to perform the required services, minimum of five (5) years as a corporation, and assessment by client references. Relevant experience must include:

- Evidence of the firm's experience conducting similar studies, including an indication of whether the study work led to construction and operation of a passenger rail system.

- Evidence of the firm's experience working in a railroad environment, and the firm's understanding of, and experience with, rail ridership and cost estimates.

2. Proposed Project Team and Organization:

The organizational structure of the Proposer will be evaluated in terms of its effective use of personnel, relevant experience and time commitment of key personnel, especially the designated Project Manager and sub-consultants (if applicable), logic of project organization; adequacy of labor commitment and resources; capability to reallocate resources as needed to meet project schedules.

3. Methodology and Approach

The narrative of the Proposer's methodology and approach will be evaluated to determine the Proposer's understanding of project scope and ability to execute and complete this project.

4. Project Schedule and Deliverables

The project schedule with key deliverables will be evaluated to determine the Proposer's understanding of project scope; work schedule; logic, clarity, specificity, and overall quality.

SECTION 4 - SPECIAL PROVISIONS

4.1 MODIFICATION TO CONTRACT

A. Change Orders

Oral change orders are not permitted. No change in the contract shall be made unless BATA gives prior written approval. A change order cannot constitute a cardinal change.

4.2 PROTEST PROCEDURES

A. General Procedures

1. Any Proposer or Contractor whose direct economic interest would be affected by the award of the Contract or the failure to award the Contract may file a protest, claim or dispute with BATA pursuant to these protest procedures prior to filing any protest, claim or dispute with the FTA.
2. Protests, claims or disputes, where applicable, shall be in writing and filed with BATA directed to the Executive Director, Bay Area Transportation

Authority 3233, Cass Rd., Traverse City, MI 49684

3. Failure to comply with any of the requirements may result in rejection of the protest.

B. Protest Before Proposal Opening

Protests shall be submitted in writing prior to the opening of proposals, unless the aggrieved person did not know and could not have known of the facts giving rise to such protest prior to the opening. In that case, the protest shall be submitted within five (5) calendar days after such aggrieved person knows or should have known of the facts giving rise to the protest. The protest shall clearly identify:

1. The name, address, and telephone number of the protester.
2. The grounds for the protest, any and all documentation to support the protest and the relief sought.
3. Steps that have been taken to date in an attempt to correct the alleged problem or concern.

C. Protest After Award

1. Any individual or entity may file a protest with BATA alleging a violation of applicable federal, state law and/or BATA policy or procedure relative to seeking, evaluating and/or intent to award a procurement Contract. In addition, any individual or entity may file a protest with BATA alleging that BATA has failed to follow its Procurement Protest Procedures. Such protest must be filed no later than five (5) calendar days from the notice of intent to award or non-award of the procurement Contract.
2. A protest, dispute, or claim with respect to the award of a Contract through solicitation of bids shall be submitted in writing within five (5) days of notification of such award to the BATA Executive Director for a decision. All claims shall clearly identify:
 - a. The name, address, and telephone number of the protester
 - b. The grounds for the protest, any and all documentation to support the protest and the relief sought
 - c. Steps that have been taken to date in an attempt to correct the alleged problem or concern.
3. A written decision by the BATA Executive Director stating the grounds for allowing or denying the protest will be mailed to the protestor prior to execution of the Contract. Such decision shall be final.

SECTION 5 - TERMS AND CONDITIONS

5.1 TERMINATION

A. Waiver of Remedies for any Breach

In the event that BATA elects to waive its remedies for any breach by the Contractor of any covenant, term or condition of this Contract, such waiver by BATA shall not limit BATA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

5.2 DISPUTE RESOLUTION

- A.** Disputes arising in the performance of this Contract, which are not resolved by agreement of the parties, shall be decided in writing by the Executive Director of BATA. This decision shall be final and conclusive unless within ten (10) calendar days from the date of receipt of its copy of the decision, the Contractor mails or otherwise furnishes a written appeal to the Executive Director of BATA in accordance with the Notice delivery provisions of this Agreement. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision.
- B.** Unless otherwise directed by BATA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.
- C.** If the Contractor disputes the decision of the BATA Executive Director, the provisions of this Section of the solicitation shall apply, however, the decision of the Executive Director shall remain binding except as otherwise determined pursuant to this Section.
- D.** Unless otherwise agreed upon in writing by the parties, disputes involving BATA and Contractor and which arise from any aspect of this Agreement including, but not limited to, interpretation of the Agreement, performance, default, or enforcement shall be decided by litigation in a court of competent jurisdiction located in Grand Traverse County, Michigan. The court shall take into consideration the findings and decision of the Executive Director of BATA with respect to any decision made by the court relating to any such dispute.

5.3 LITIGATION EXPENSES

In the event of any dispute that results in litigation or arbitration arising from or related to the services provided under this Contract, the prevailing party will be entitled to recovery of all reasonable costs incurred, including that party's time, court costs, attorney fees, or appraisers (whether or not called to testify), and other related

expenses. Recovery of these expenses shall be as additional costs awarded to the prevailing party and shall not require initiation of a separate legal proceeding.

5.4 ASSIGNMENT

Any Contract issued pursuant to this solicitation and the monies, which may become due, are not assignable except with the prior written approval of BATA. Any required consent will not be unreasonably withheld or delayed.

5.5 INDEMNIFICATION

A. The Contractor shall, to the extent permitted by law:

- 1) Protect, indemnify and save BATA and its officers, employees and agents, including consultants, harmless from and against any and all liabilities, damages, claims, demands, liens, encumbrances, judgments, awards, losses, costs, expenses, and suits or actions or proceedings, including reasonable expenses, costs and attorneys' fees incurred by BATA and its officers, employees and agents, including consultants, in the defense, settlement or satisfaction thereof, for any injury, death, loss or damage to persons or property of any kind whatsoever, arising out of, or resulting from, the negligent acts, errors or omissions of the Contractor, including negligent acts, errors or omissions of its officers, employees, servants, agents, subcontractors and suppliers;
- 2) Upon receipt of notice and if given authority, shall settle at its own expense or undertake at its own expense the defense of any such suit, action or proceeding, including appeals, against BATA and its officers, employees and agents, including consultants, relating to such injury, death, loss or damage. Each party shall promptly notify the other in writing of the notice or assertion of any claim, demand, lien, encumbrance, judgment, award, suit, action or other proceeding hereunder. The Contractor shall have sole charge and direction of the defense of such suit, action or proceeding. BATA shall at the request of the Contractor furnish to the Contractor all reasonable assistance that may be necessary for the purpose of defending such suit, action or proceeding, and shall be repaid all reasonable costs incurred in doing so. BATA shall have the right to be represented therein by advisory counsel of its own selection at its own expense.

B. Nothing in this Contract shall be construed to waive BATA's immunities or liability limits provided under applicable state or federal law.

5.6 PROHIBITED INTEREST

No member, officer, or employee of BATA or of a local public body during their tenure or one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

5.7 CONFLICT OF INTEREST

- A. The Contractor, by entering into the Contract with BATA, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services, or materials required to be performed or provided under the Contract and that it shall not employ any person or agent having such interests. In the event that the Contractor or its agents, employees, or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to BATA and take action immediately to eliminate the conflict or to withdraw from this Contract, as BATA may require.
- B. The Contractor also certifies that to the best of its knowledge, no BATA Board Member or employee, or employee or officer of any agency interested in the Contract has a pecuniary interest in the business of the Contractor or with the Contract and that no person associated with the Contractor has any interest that would conflict in any manner or degree with the performance of the Contract.
- C. The Contractor, by entering into a Contract with BATA further covenants: 1) that no person or selling agency except bona fide employees or designated agents or representatives of the Contractor has 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; and 2) that no gratuities were offered or given by the Contractor or any of its agents, employees or representatives, to any official, member, or employee of BATA or other governmental agency with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this service.

5.8 LIMITATION OF LIABILITY

BATA's liability is, in the aggregate, limited to the total amount payable under this Contract.

5.9 LAWS GOVERNING CONTRACT

This Proposal and the resulting Contract shall be governed and construed in accordance with the laws of the State of Michigan. The parties stipulate that this Contract was entered into in Grand Traverse County, in the State of Michigan. The parties further stipulate that Grand Traverse County is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from. All parties to this proposal and any resulting contract agreed that venue shall be within Grand Traverse County, Michigan. Each party will perform its obligations hereunder in accordance with applicable laws, rules, and regulations now or hereafter in affect.

5.10 COMPLETE AGREEMENT

The Contract resulting from this Solicitation, including exhibits and other documents incorporated in the Contract or made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the Contract between the Contractor and BATA. The Contract supersedes all prior representations, understandings, and communications. The validity in whole or in part of any term or condition of the Contract shall not affect the validity of other terms or conditions.

BATA's failure to insist in any one or more instances upon the Contractor's performance of any term or condition of the Contract shall not be construed as a waiver or relinquishment of BATA's right to such performance, or to future performance, of such term or condition of the Contractor, and Contractor's obligation for performance of that term or condition shall continue in full force and effect.

5.11 SEVERABILITY

If any provisions or portion of any provision, of this Contract are held invalid, illegal or unenforceable, they shall be severed from the Contract and the remaining provisions shall be valid and enforceable.

5.12 CONTRACTOR'S LIABILITY INSURANCE

A. The Contractor shall purchase and maintain, throughout the term of the Contract, insurance from an insurance company authorized to do business in the State of Michigan that will protect Contractors, subcontractors, and the owner from all liability claims under the Contract. The insurance must state BATA as additionally covered. The amount of insurance shall not be less than the following:

1. Workers' Compensation, disability benefit and other similar employee benefit acts in the amount required under State of Michigan law. A nonresident Contractor shall have insurance for benefits payable under Michigan's Workers' Compensation law for any employee resident of and hired in Michigan. The Contractor shall maintain coverage for employees of other states as mandated.
2. Comprehensive General Liability: \$2,000,000

Bodily injury and property damage combined single limit including personal injury and completed operations.
3. Automobile Insurance for Vehicles:

\$2,000,000 Liability, including standard no-fault

B. The Contractor may not start work until evidence of all required insurance has

been submitted and approved by BATA. The Contractor must cease work if any of the required insurance is canceled or expires. One copy of the certificate of insurance shall be submitted to and approved by BATA prior to the execution of Contract.

- C. All policies providing contractor's insurance shall be endorsed to provide thirty (30) days written notice of cancellation or non-renewal to BATA.
- D. The limits of liability may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies. But in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required.

All policies of insurance presented, as proof of compliance shall be on forms and with insurance companies approved by BATA. All such insurance policies shall be provided by insurance companies having Best's ratings of A or greater and VII or greater (A/VII) as shown in the most current issue of Best's Key Rating Guide. Policies of insurance insured by insurance companies not rated by Best's or having Best's ratings lower than A/VII will not be accepted as complying with the insurance requirements of the contract unless such insurance companies were approved in writing prior to award of the contract.

SECTION 6 –PRICE FORM

And other REQUIRED FORMS AND CERTIFICATIONS

PROPOSAL SUBMISSION CHECKLIST

Within the Technical Proposal (1 original and 5 copies)

- ___ Letter of Transmittal (as detailed on page 11 of this RFP)
- ___ Company History (as detailed on page 12 of this RFP)
- ___ Qualifications, Experience and Capacity (as detailed on page 12 of this RFP)
- ___ References (as detailed on page 12 of this RFP)
- ___ Methodology and Approach (as detailed on page 12 of this RFP)
- ___ Project Schedule and Deliverables (as detailed on page 12 of this RFP)
- ___ Exceptions and/or Deviations (as detailed on page 12 of this RFP)
- ___ Signed Federal Contract Clauses Professional and A&E More than \$100,000 (Attachment A)
- ___ Signed copies of any and all Addenda issued for this RFP

Within Section 6 (1 original and 1 copy)

Signed Forms and Certifications (forms are provided in Section 6 of this RFP)

- ___ Agreement of Goods and Services
- ___ Proposal Addenda Acknowledgement Form
- ___ Certificate of Non-Collusion
- ___ Price Proposal Form (form is provided in Section 6 of this RFP) with an attached, detailed, itemized, cost breakdown. Price Proposal Form and cost breakdown **must** be submitted with the proposal in a separate, sealed envelope. **Failure** to submit the price proposal in a separate, sealed envelope will result in the **immediate disqualification** of the proposer as non-responsive

AGREEMENT OF GOODS and SERVICES

TO: BATA
3233 Cass Road,
Traverse City, MI 49685

The undersigned hereby agrees to furnish the goods and services as listed below in accordance with the specifications which have been carefully examined and are attached.

Signature: _____

Typed Name: _____

Company: _____

Title: _____ Date: _____

PROPOSAL ADDENDA ACKNOWLEDGEMENT FORM

The undersigned acknowledges receipt of the following addenda to the document:

Addendum No. _____, Dated _____

Addendum No. _____, Dated _____

Addendum No. _____, Dated _____

Failure to acknowledge receipt of all addenda may cause the Proposal to be considered non-responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the offer.

The undersigned understands that any conditions stated above, clarifications made to above or information submitted on or with this form other than that requested, will render Proposal unresponsive.

Signature: _____

Typed Name: _____

Company: _____

Title: _____ Date: _____

CERTIFICATE OF NON-COLLUSION

I hereby swear (or affirm) under penalty for perjury:

1. That I am the Proposer or an officer or employee of the bidding corporation having authority to sign on its behalf (if the Proposer is a corporation);
2. That the attached proposal has been arrived at by the Proposer independently and has been submitted without collusion and without any agreement, understanding, or planned course of action with any other vendor of materials, supplies, equipment, or service described in the Request For Proposal, designed to limit independent proposals or competition;
3. That the contents of the proposal has not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer or its surety on any bond furnished with the Proposer, and will not be communicated to any such person prior to the opening of the proposals; and,
4. That I have fully informed myself regarding the accuracy of the statement made in this affidavit.

Signed_____

Firm Name_____

Subscribed and sworn to before me this_____ day of_____, 20____

Notary Public

My commission expires_____,_____

Proposer's E.I. Number_____
(Number used on employer's Quarterly Federal Tax Return)

PRICE PROPOSAL FORM

Company

Name of Authorized Representative

Title

Address

City

State

Zip Code

Email Address

Telephone Number

Fax Number

Signature of Authorized Representative

Date

PRICE

Lump Sum Price* for completion of project as specified in RFP

\$ _____

*Lump Sum Price includes all services, labor, expenses, travel, overhead, material production and other costs to complete the project. Proposer **must** attached a detailed, itemized, cost breakdown. Price Proposal Form and attached cost breakdown **must** be submitted with the proposal in a separate, sealed envelope. **Failure** to submit the price proposal in a separate, sealed envelope will result in the **immediate disqualification** of the proposer as non-responsive*