



RFP #2017-002

TIRE LEASE PROGRAM FOR ANAHEIM TRANSPORTATION NETWORK

PROPOSAL DUE DATE: MAY 5, 2017



An electronic copy of this RFP and attachments, if any, is available from the ATN's website: www.rideart.org/about-us/doing-business-with-atn. All RFP documents shall be submitted in hard copy. Electronic or e-mailed submissions shall be rejected.



Request for Proposals Proposal #2017-002

Transit Tire Lease Program Based on Mileage and On-Site Tire Service Support

Date:	March 30, 2017
Contact:	David Ortega, Maintenance Manager
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Release Date:	March 30, 2017
Request for Proposals	#2017-002

TRANSIT TIRE LEASE BASED ON MILEAGE AND ON-SITE TIRE SERVICE SUPPORT

NOTICE OF REQUEST FOR PROPOSALS (RFP)

The Anaheim Transportation Network (ATN) is a public transit service provider offering mass transit service within the greater Anaheim Resort area. ATN is requesting proposals from qualified firms to provide tire leasing on a cost per mileage basis and on-site service and support. The Supplier shall furnish tires, service, inspection, account for and maintain a replacement supply of tires for the ATN fleet, as hereinafter described. The ATN currently operates 80 buses.

The Supplier shall be regularly engaged in the business of leasing bus tires and shall furnish a list of a minimum of three (3) transit properties Supplier presently services under tire lease contracts. The term of the contract will be for three (3) years with two (2) two-year options to extend. Proposals must be received with all required submittals as stated in the RFP no later than 2:00 pm local time on May 5, 2017, (closing date).

Please reference RFP #2017-002 on the submittal cover. Proposals received after the time specified shall not be considered for award. Proposals delivered via facsimile (fax) or electronic mail (e-mail) shall not be considered. Proposals not meeting specified delivery and method of submittal will not be opened nor considered responsive. Proposals submitted must be addressed and delivered to ATN at the following address. This is also the address to be used for all communication in connection with this RFP



Anaheim Transportation Network -- RFP 2017-002
Attn: David Ortega
1354 South Anaheim Boulevard, Anaheim, CA 92805

Submission of a proposal shall constitute a firm offer to the ATN for one hundred twenty (120) days from the date of RFP closing. This RFP does not commit the ATN to award a contract, to pay any cost incurred in preparation of a proposal, or to procure or contract for services.

For information regarding this proposal, contact Barbara Adams, at 714-563-5287 phone, 714-563-5289 fax or dortega@atnetwork.org via email. Any questions or requests for clarification are due from proposers before April 14, 2017, at 4:00pm and must be submitted in writing to David Ortega either by e-mail, fax or US Mail. If required, ATN's response to these submissions will be in the form of an Addendum.

Pre-proposal meeting and site visit is scheduled for April 10, 2017, at 1:30 pm. The meeting will be held at the ATN's location at:

Anaheim Transportation Network
1354 South Anaheim Boulevard
Anaheim, CA 92805



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SECTION 1 PROPOSAL SCHEDULE

RFP Issued	March 30, 2017
Pre-Proposal Meeting and Site Visit	April 10, 2017 @ 1:30 pm
Final Questions, Comments and Requests for Clarifications	April 14, 2017
ATN Response to Questions, Comments and Requests for Clarifications	April 21, 2017
Proposal Due	May 5, 2017 @ 2 pm
Contract Award	May 24, 2017
Contact Begins	July 1, 2017

SECTION 2 TECHNICAL SPECIFICATIONS

2.1 General Requirements

- A. The Supplier shall furnish service, inspect, account for and maintain a replacement supply of tires for the ATN fleet, as hereinafter described.
- B. The Supplier shall be regularly engaged in the business of leasing bus tires and shall furnish a list of a minimum of three (3) transit properties Supplier presently services under tire lease contracts. The Supplier shall produce evidence of equal miles on its tires in a transit property of like geographical location to the tire miles experienced by the ATN.
- C. Supplier will submit test data for transit tire applications pertaining to tire heat. ATN is aware of an industry problem relating to excess heat on the rear dual tires. The Supplier should also submit information and recommendations on how the heat problems such as blowouts and tire separation are remedied.
- D. The Supplier will propose a Fixed Tire Mile Rate for each year of the Contract. There will be no other rate adjustments.
- E. The Supplier will also propose a monthly charge for On-Site Tire Service Personnel, which shall be firm for each year of the Contract. The Supplier will provide tire service, as outlined in Section II, Sub-section 2.3 "Service Requirements", at the ATN weekdays five (5) days a week, except holidays listed below.
- F. The current ATN holidays include New Year's Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas Day. The Supplier shall provide staff and tire service during all other weekdays of the year.



- G. The number of service personnel must be sufficient to meet all required response times and schedules inspections as outlined in this Invitation for Proposals, including Supplier personnel absences. An Account Representative shall be identified for this service. The total personnel staff shall be a minimum of one (1) Service Person as identified in Cost Proposal.

2.2 Tire Requirements

Tires in Possession of ATN at Inception of Contract

The successful proposer shall be cognizant of and totally supportive of strict fulfillment of the ATN's desire for the Bridgestone/Firestone (Firestone) tires in the possession of or identified for use upon expiration of the prior contract. The ATN shall continuously use all of Firestone tires insofar as is practical, up to 36 months (See Section 2.5, Continued Tire Use Option.)

Supply of Tires

The Supplier shall maintain a sufficient supply of tires for each wheel on each bus, plus a sufficient number of spare tires, based on a ratio of one-half (1/2) tire per vehicle per tire size, to ensure continuity of service at all times during the term of the Contract. In the event of a manufacturing delay in tires due to a strike or other event outside of Supplier's control, the Supplier will, to the degree possible, prior to the effective day of the strike or other such event, the Supplier will, to the degree possible, prior to the effective day of the strike, ship additional spare tires to maintain the ATN during the manufacturing delay. In any event, it is the Supplier's responsibility to assure an adequate supply of tires at all times. All tires shall be delivered to the ATN premises and the Supplier shall pay for all freight or delivery charges.

Tires to be Furnished by the Supplier

As the tires in the possession of the ATN at the inception of the Contract and thereafter throughout the Contract term are rendered permanently unfit for use and are replaced, the Supplier shall furnish and continuously maintain in inventory all new tires of the following types, including enough mounted spares to ensure that tires are available at all times, for the ATN use. All tires furnished by the Supplier shall be individually or group branded prior to delivery.

TABLE 1
NUMBER OF BUSES AND AVERAGE MILEAGE APPROXIMATIONS
FOR INFORMATION ONLY AND SUBJECT TO CHANGE

TIRE SIZE	NO. OF BUSES	AVERAGE ANNUAL MILEAGE PER FLEET	MAKE & MODEL
305/70/R22.5	3	125,952	El Dorado EZ Rider LOW FLR
305/70/R22.5	40	1,215,950	NABI40 FT LOW FLR
225/70/R19.5	9	378,451	El Dorado StarCraft
225/70/R19.5	18	696,960	Glaval Entourage
305/70/R22.5	4	104,960	BYD K9 40-ft LOW FLR Bus



Original, Recapped and Re-grooved Tires

Tires to be run on front wheels shall be new tires only and shall be removed when the tread depth reaches 6/32" minimum at any point in the tread configuration. Not more than a total of 50% of the tires provided by the Supplier shall be previously "used" tires. If Supplier has any plans to bring used tires on the property, the Supplier must secure approval from the ATN management beforehand.

Damaged, Lost, and Stolen Tires

The cost for damaged tires shall be included in the fixed rate per tire mile "Normal" damage to a tire means abuse by partial or total destruction of a tire by means other than normal wear, including but not limited to irregular wear, damage from brake heat, curbing, road hazards and misalignment. The ATN agrees to maintain bus suspension and steering in accordance with bus manufacturers' alignment specifications, and keep brakes properly adjusted.

Tires which are damaged beyond repair by an accident or fire, lost, stolen, or have been disposed by the ATN, shall be paid by the ATN in the amount of any mileage remaining thereon at the rate then in effect. The remaining mileage shall be prorated by the following formula: (percentage of tread rubber remaining multiplied by the base mileage multiplied by the applicable billing rate per tire mile). "Base Mileage" Table 2 is to be completed by Supplier on Proposal Response Form.

If a tire is not available for inspection in order to apply the above formula (whether lost, stolen, destroyed by fire, involved in a collision or otherwise missing), the ATN shall reimburse the Supplier but in no event in excess of 50 percent of the current value of a replacement tire of the same size, unless the Supplier can provide an auditable accounting of the tire's actual mileage prior to the loss.

Tire Fitness

All tires furnished or returned by the Supplier to the ATN for use shall be of safe and usable condition. No tire shall be mounted that has tread missing on the road contact surface. In the event of a dispute regarding fitness for continued use, The ATN determination shall be final.

Storage and Security

The Supplier shall maintain and replenish usable mounted spares of the appropriate tire sizes and tread depths. The ATN will provide adequate space in their operating facilities for mounted tires. The ATN agrees to provide a suitable place in an enclosed building for the storage of spare tires including spares to be used by the ATN road service crews. Security and control of the stored tires shall be a joint responsibility of the ATN and the Supplier, and the risk of loss shall be shared equally between the parties. In lieu of this joint responsibility for the risk of loss, the Supplier may offer an alternative proposal which, if reasonable and in the



best interests of the ATN, may be accepted by the ATN in lieu of joint responsibility. The Supplier shall maintain adequate security for all tires in its possession, as well as necessary supplies and equipment.

Tires for New Buses

Upon request of the ATN, the Supplier shall deliver to a *North American* bus manufacturer on any new buses which the ATN may purchase, new tires of the type furnished under the Contract. All tires, both front and rear, on new buses shall be new tires (not previously used or recapped). The tires shall, upon delivery to the manufacturer of the buses, become subject to the terms and conditions of the Contract. ATN intends to purchase new buses during the five-year term of the Contract, but vehicle models and delivery schedules are unknown at this time.

If new buses are to be driven from the manufacturer to ATN for delivery, the Supplier shall receive payment for such use at the same rates specified by the Contract.

Additional Tire Sizes

In the event that the ATN requires bus tires of a size or type not specified in the Contract, and which the Supplier ordinarily provides or has access to such tires, the Supplier shall, upon request, provide such tires to the ATN. The Supplier shall negotiate with the ATN a suitable basis of compensation for the use of such additional tire types and sizes.

Scrap Letter Agreement

The Supplier shall provide the ATN a "Scrap Tire Letter of Agreement" which shall become an attachment to the Contract. This Letter shall allow the ATN to work with the Supplier to mount uncut scrap tires on out-of-service buses.

2.3 Service Requirements

Initial Inventory

Within three weeks after the effective Contract date, the Supplier shall inspect all bus tires in the ATN possession, shall record the tire numbers and locations, and shall provide the ATN with a listing of all tires and locations, with appropriate comments on exceptional conditions encountered regarding fitness of tires for continued use or need for changes.

Periodic Inspection

Following completion of the initial inventory, and throughout the remainder of the Contract term, the Supplier shall inspect all ATN tires, covered by this contract at least once during each month. The Supplier shall advise the Foreman of needed tire changes.

Continuous Service – Supplier Responsibilities -- The Supplier Shall:



1. Mount and dismount tires from rims, repair all bus tires, perform all wheel balancing, tire inflation, front wheel alignment check and supply equipment and materials necessary to perform such service on a scheduled basis. At minimum each bus must be inspected and necessary services performed on tires once a month.
2. Ensure that all tires comply with all D.O.T. (Federal & State) standards and other applicable regulations.
3. Provide all tools and equipment necessary for the performance of its services.
4. Provide a full time supervisor and service person five (5) days per week (Monday-Friday), except holidays, to perform necessary services as outlined in this section and at least once a month check and inflate tire pressures, and check front wheel alignment.
5. Perform the following services on ATN property, as and when necessary or requested, during working hours:
 - a. Replenish blank tire change tickets or tags. (Note: In those instances, when the ATN performs tire service when the Supplier is not on duty, the ATN will have a standard practice of recording the date, vehicle, tire size and the number(s) of tire(s) and location(s) of tire(s) placed on the vehicle. Tire change tickets from the removed tires will be placed in a specified area, and the tires placed in the storage area).
 - b. Inspect the tires.
 - c. Record the contents of all tire change tickets on a summary form showing date, vehicle, off-on, tire brand number and location.
 - d. Separate removed tires into appropriate categories (i.e., tires to be retired by the Supplier, tires ready for reuse, and tires from the prior contract which are considered permanently unfit for use).
 - e. Furnish new tires as ATN spares, either separated or marked for use on front or other wheels, and obtain a signed receipt showing tire number(s) from the Foreman.
 - f. Provide copies of the tire summary form with pertinent tire change tickets the Forman.
 - g. Remove scrap tires in a timely manner.
 - h. Mate rear dual tires. All spare tire stock shall be mated before placing in ATN storage facility.
 - i. Assist in checking coaches for adverse mechanical conditions such as axle misalignment, worn or loose wheel bearings, worn radius rod bushing, loose or missing lugs and lug



nuts, out of round brake drums, or any other maintenance deficiency which may impact tire wear or overall safety.

- j. Install metal valve caps on all units.
- k. Road call associated with tire malfunction issues will be handled jointly and based on the response time frame most advantageous to the ATN.
- l. Keep all tires inflated on a monthly basis to conform to the approved standards of the Tire and Rim Association of America, Inc. In addition, perform the following inspections:
 - Bump test and visually inspect all available tires on a daily basis.
 - Pressure check and inflate tires daily, if needed, on a sufficient number of vehicles to ensure that each vehicle in the fleet is pressure checked and inflated to proper tire pressure at least every thirty (30) days. Defects are to be reported to the operating garage Foreman or designee in writing at the earliest convenience.
 - Static and dynamic balance of all front tires and wheel sets prior to installation.
 - Check and maintain pressure in all road supervisor vehicles monthly.

Provision of Parts, Materials, Tools, Labor and Transportation

Unless specifically otherwise stated in these Technical Specifications, the Supplier shall furnish all valves, valve parts, flaps, repair materials, tools, any equipment not provided by the ATN, labor and transportation necessary to maintain the tires. The ATN will provide wheels.

Disposal and Environmental Safety

The Supplier shall be solely responsible for all fees and costs mandated by federal, state, or local governments associated with the acquisition, installation, removal and proper disposal of scrapped tires from ATN premises. Disposal shall be done in accordance with all applicable federal, state, and local laws and regulations.

Responsibilities of the ATN:

1. Keep garage floors and bus parking areas free of nuts, bolts, metal, wire, etc.
2. Investigate misalignment and other conditions reported by Supplier personnel and correct as necessary.
3. Provide necessary air and electrical outlets for tire service equipment.
4. Generate accurate records of tire and wheel changes made by the ATN when Supplier is not working.



5. Provide adequate utility space suitable for the Supplier's use in repairing and maintaining tires for the ATN.
6. Provide road call service for its fleet.
7. The ATN shall install and remove mounted tires from all vehicles.

Record Keeping Requirements

1. The ATN will provide to the Supplier, on or before the 15th day of the month, a list of buses and the Hubometer mileage, for the previous month.
2. For the purpose of tire mileage computations, bus mileage shall be deemed to have occurred prorated daily throughout the month.
3. Throughout the term of the Contract and for three years thereafter, the Supplier shall retain all tire change summaries and invoicing documentation, and shall make the records available for inspection by the ATN representatives, by the ATN internal and external auditors, and, upon the ATN request, by representatives of firms owning any tires serviced by the Supplier under the Contract.
4. The Supplier shall make available to the ATN, upon request, any other reports or statistics the supplier should have available such as average tire mileage by 'type' of tire, mileage history, history of tires' bus and wheel position, tires removed from service by type, etc.

Wheels

ATN has steel wheels on 20% of the fleet and aluminum wheels on the remaining 80% of its fleet. 30 and 40-foot buses are being specified with Aluminum Polished wheels that are Hub piloted. The Aluminum wheels are polished inside and outside. Wheel purchases -- The ATN currently purchases an average of 40 new wheels per year.

2.4 Invoicing and Compensation

Invoices

The Supplier shall submit monthly invoices showing for each tire type the activity during the previous calendar month as follows:

1. A usage charge equal to the Hubometer or electronic measurement of miles traveled by the ATN vehicles on the Supplier's tires furnished under the Contract, times the base mileage rate in effect for the preceding calendar month.
2. The tire service rate for each calendar month equals the annual service costs divided by twelve.



2.5 Continued Tire Use Option

The ATN reserves the right to exercise the following option:

1. Upon the expiration of the term of the Contract, as extended and amended, and only in the event the ATN wishes to change supplier, the ATN has the right to further extend said Contract and continue to use all tires furnished by Supplier for a period of thirty-six (36) months from said expiration date.
2. All terms, conditions and provisions of said Contract, as previously amended and extended, shall remain in full force and effect during said thirty-six (36) month period, except that Supplier shall be relieved of any requirement to furnish the ATN with additional tires during said thirty-six (36) month period unless agreed to by Supplier.
3. The rate or rates per miles in effect during such thirty-six (36) month period shall be the rate or rates in effect for the six (6) month period immediately preceding the commencement date of such thirty-six (36) month period.
4. It is understood that the ATN shall continuously use such tires insofar as practicable on its highest mileage runs until such tires are rendered permanently unfit for service during said thirty-six (36) month period.
5. Upon the expiration of said thirty-six (36) month period, the ATN shall pay for any then unused mileage remaining in such tires (tires supplied by Supplier pursuant to the Contract) using the formula as set forth in Section 2.2 -- Damaged, Lost and Stolen Tires.
6. Unused tires at the end of the original Contract shall be returned to the Supplier at no additional cost to the ATN. The option granted herein is exercisable by the ATN upon thirty (30) days prior to the expiration date of the Contract, as extended and amended. Such notice of the ATN exercise of this option must be in writing and sent certified mail, to:

Firm: _____

Address: _____

Attention: _____



SECTION 3. PROPOSAL INSTRUCTIONS

3.1 General Information

- a. The terms "solicitation" and "Request for Proposals (RFP)" are used interchangeably, the terms "offer" and "proposal" are used interchangeably, and the terms "bidder" and "proposer" are used interchangeably.
- b. Interested firms may submit proposals until proposal closing on 2:00pm PST on May 5, 2017. Proposals received after the time specified may not be considered for award. Proposals received via facsimile (fax) or electronic mail (e-mail) will not be considered. Proposals must meet specified delivery and method of submittal or they will not be opened or considered responsive. Proposals must be delivered or mailed to:

ATN – RFP #2017-002
1354 South Anaheim Boulevard, Anaheim, CA 92805

- c. In cases where communication is required between bidders and the ATN, such as requests for information, instruction, clarification of specifications, approval of completed work, etc., such communication shall be forwarded in writing directly to Barbara Adams, Project Manager. Electronic comments, questions and requests for clarification should be sent to Barbara Adams, badams@atnetwork.org.
- d. Submitting a proposal constitutes a firm offer to ATN for one hundred twenty (120) days from the closing date.
- e. ATN is not responsible for any cost or expense that may be incurred by the proposer before the execution of a contract, including costs associated with preparing a proposal or interviews.

3.2 Reservations

- a. ATN reserves the right to waive informalities or irregularities in proposals, to accept or reject any or all proposals, to cancel this RFP in part or in its entirety, and to re-advertise for proposals if it is in the best interest of the ATN. ATN shall be the sole judge of what is in its best interest with respect to this solicitation.
- b. ATN also reserves the right to award a contract solely on the basis of the initial proposal without any interviews or negotiations. Therefore, offers should be submitted to ATN on the most favorable terms possible, from a cost or price and technical standpoint.

3.3 Proposer's Responsibilities

- a. By submitting a proposal, the proposer represents that:
 1. The proposer has read and understands the RFP and the proposal is made in accordance with the RFP;



2. The proposer possesses the capabilities, resources, and personnel necessary to provide efficient and successful service to ATN
- b. Before submitting a proposal, the proposer should make all investigations and examinations necessary to ascertain site or other conditions and requirements affecting the full performance of the contract.

3.4 Authorization to Propose

If an individual doing business under a fictitious name makes the proposal, the proposal should so state. If the proposal is made by a partnership, the full names and addresses of all members of the partnership must be given and one principal member should sign the proposal. If a corporation makes the proposal, an authorized officer should sign the proposal in the corporate name. If the proposal is made by a joint venture, the full names and addresses of all members of the joint venture should be given and one authorized member should sign the proposal. If the proposal is made by a limited liability company, the full names and addresses of all members of the limited liability company must be given and one manager or managing member should sign the proposal.

3.5 Withdrawal & Incomplete Proposals

- a. Proposals may be withdrawn upon written request received by ATN before the closing date. Withdrawal of a proposal does not prejudice the right of the proposer to submit a new proposal, provided the new proposal is received before the closing date.
- b. Incomplete proposals may render the proposal nonresponsive.

3.6 Modification of Proposals

Any modifications or revisions to a proposal received after the closing date may not be considered.

3.7 Unbalanced Proposal

The ATN may determine that an offer is unacceptable if the prices proposed are materially unbalanced. An offer is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work.

- a. Approved Equals.
 1. Wherever brand, manufacturer, or product names are used, they are included only for establishing a description of minimum quality of the requested item unless otherwise specified. This inclusion is not to be considered as advocating or prescribing the use of any particular brand or item or product. However, approved equals or better will be



accepted only when previously approved by the ATN.

2. All requests for approved equals shall be received in writing. Changes to the specifications will be made by addendum if applicable. Proposers may discuss the specification with the ATN; however, requests for changes shall be written and documented.
3. When an approved equal is requested, the bidder shall demonstrate the quality of its product to the ATN, and shall furnish sufficient technical data, test results, etc., to enable the ATN to determine whether the proposer's product is or is not equal to specifications.

3.8 Protests

- a. The following protest procedures will be employed for this procurement. For the purposes of these procedures, "days" shall mean business days of ATN administrative personnel which are days other than a Saturday, Sunday or legal holidays observed by ATN for such administrative personnel.
 1. Pre-Submittal. A pre-submittal protest is received prior to the proposal due date. Pre-submittal protests must be received by the ATN, in writing and addressed to the ATN Director of Procurement, no later than five (5) days before the proposal closing date.
 2. Post-Submittal/Pre-Award. A post-submittal/pre-award protest is a protest against making an award and is received after receipt of proposals but before award of a contract. Post-submittal protests must be received by the ATN, in writing and addressed to the ATN Director of Procurement, no later than five (5) days after the proposal closing date.
 3. Post-Award. Post-Award protests must be received by the ATN, in writing and addressed to the ATN Director of Procurement, no later than five (5) days after the date of the Notice of Intent to Award.
- b. The ATN Project Manager shall respond in writing within five (5) days from the date of the written request. If the protester is not satisfied with the response of the ATN Director of Procurement the protester may appeal in writing to the ATN General Manager within five (5) days from the date from the ATN Director of Procurement's response.
- c. The ATN Executive Director will decide if the protest and the appeal (if any) have been given fair and reasonable consideration, or if additional consideration is warranted. The ATN Executive Director's response will be provided within ten (10) days after receipt of the request. The ATN Executive Director's decision is final and no further action on the protest shall be taken by the ATN.
- d. By written notice to all parties, the ATN Director of Procurement may extend the time provided for each step of the protest procedures, extend the date of Notice of Award, or postpone the



award of the Contract if deemed appropriate for protest resolution.

3.9 Disclosure of Proprietary Information.

- a. A proposer may restrict the disclosure of scientific and technological innovations in which it has a proprietary interest, or other information that is protected from public disclosure by law, which is contained in the proposals by:
 1. Marking each page of each such document prominently in at least 16-point font with the words "Proprietary Information;"
 2. Printing each page of each such document in a different color paper than the paper which the remainder of the proposal is printed; and
 3. Segregating each page of each such document in a sealed envelope, which shall prominently display, on the outside, the words "Proprietary Information" in at least 16-point font, along with the name and address of the proposer.
- b. After either the Contract is executed pursuant to this RFP, or all proposals are rejected, the proposals will be considered public records open for inspection. If access to documents marked "Proprietary Information," as provided above, is requested under the California Public Records Act, the ATN will notify the proposer of the request and the proposer shall have the burden to establish that such documents are exempt from disclosure under the law. Notwithstanding the foregoing, in response to a formal request for information, the ATN reserves the right to release any documents if the ATN determines that such information is a public record pursuant to the California law.

SECTION 4. PROPOSAL SUBMISSION, EVALUATION AND AWARD

4.1 Proposal Copies

- a. The proposal package consists of two (2) sealed packages.
- b. One of the sealed packages should contain an original and four (4) full, complete, and exact copies of the original proposal. The package should be clearly marked "RFP # and Title – Technical Proposal."
- c. The second sealed package should contain an original and one (1) full, complete, and exact copies of the Cost Proposal. The package should be clearly marked "RFP # and Title – Cost Proposal."

4.2 Technical Proposal Format

- a. The technical proposal page limit is 20 pages. The proposer may choose to allocate pages between any of the criteria as long as the proposal does not exceed 20 pages. If



a proposer submits a proposal exceeding this limit, ATN will consider the pages up to the allowable number and discard all subsequent pages.

b. The following are excluded from the page count:

- Title Page
- Table of Contents
- Letter of Transmittal
- Tabs or Indices
- Additional lists of references
- Résumé/background for key personnel
- Required forms such as certifications, and financial data
- Proposer Registration Form

c. One page is defined as one side of a single, 8-1/2 x 11" page, with 11-point minimum font size for the substantive text. Any page over this size will be counted as two (2) pages. Any page or partial page with substantive text, tables, graphics, charts, résumés, etc. will be counted as one (1) page. Proposers may use their discretion for the font size of other materials (e.g. graphics, charts).

4.3 Technical Proposal Content

- a. Each technical proposal should enable the evaluation committee to make a thorough evaluation and arrive at a sound determination as to whether or not the proposal will meet ATN's requirements. Each technical proposal must be as specific, detailed and complete as to clearly and fully demonstrate that the proposer has a thorough knowledge and understanding of the requirements and has valid and practical solutions for technical problems. Statements which paraphrase the requirements or attest that "standard procedures will be employed" are inadequate to demonstrate how the proposer will comply with the requirements of this procurement.
- b. To achieve a uniform review process and obtain the maximum degree of compatibility, proposals must be organized as follows:

1. Title Page

Show the RFP number and title, the name of the firm, address, telephone number(s), name and title of contact person, telephone number(s), email address, facsimile number and date.

2. Table of Contents

Clearly identify the materials by section and page number.

3. Letter of Transmittal

The letter should be addressed to Director of Procurement, Etta J. Jackson and signed



by a corporate officer with ATN to bind the firm. The letter must contain the following:

- a. Identification of proposing firm(s), including name, address, telephone number(s) and email addresses of each subcontractor
- b. Proposed working relationship among proposing firms (e.g., prime, subcontractor), if applicable
- c. Acknowledgement of receipt of RFP addenda, if any
- d. Name, title, address, telephone number and email address of the contact person for this project
Signature of a person authorized to bind the proposing firm to the terms of the proposal
- e. Briefly state the firm's understanding of the services to be performed and make a positive commitment to provide the services as specified

4. Key Personnel Experience and Qualifications

- a. Provide a brief synopsis of the firm, including when and where incorporated, major business activities, and a listing of officers of the company. State whether the firm is local, regional, or national and how long the firm has been in existence under current ownership/management.
- b. This section should demonstrate the experience, skills and qualifications of the Account Executive and other key personnel in the performance of supplier responsibilities in meeting client goals, objectives and schedules. Describe direct experience administering and operating under similar applications within the past three (3) years. Transit applications are preferred. Detail any plans on services the proposer will provide that are not specifically required in this RFP.
- c. Provide resumes for the proposed Project Supervisor and other key personnel and discuss the unique qualifications these individuals bring to the project.
- d. To demonstrate the Project Manager's and Supervisor's experience, provide references on up to five (5) representative projects. At least one reference contact (including name, title, e-mail address and telephone number) should be provided for each representative project. Include role of the Project Manager, contract amount, and contract start and end dates.

5. Financial Condition of the Firm. In this section the proposer must provide information demonstrating that proposer has the necessary financial resources to perform the Contract in a satisfactory manner. The proposer is required to permit ATN to inspect and examine its financial statements. The proposer shall submit two (2) years of its most recent audited financial statements, with such statements to be prepared in



accordance with generally accepted accounting principles.

6. Program Management

- a. This section should demonstrate the experience, skills and qualifications of key personnel and staff to perform the required services. Present the management approach to be followed and the management techniques required for implementation and control of the work. At minimum address and include a service start-up plan and schedule.
- b. Provide an organizational chart showing how the project will be staffed in all functional areas. Indicate the number of employees of each type. Indicate how the on-site staff will be supported by other regional or national staff and the reporting relationships between on-site staff and other firm management staff, if applicable.
- c. Define and identify the proposed key on-site project staff. Provide resumes and references for all key staff. Indicate whether each has worked in operations similar to what is requested in the RFP and in what capacity they served at these other operations.

7. Subcontractor Utilization Plan. For each anticipated subcontract, provide:

- a. Subcontractor's name, address, and telephone number including the name, title and telephone number of the contact person
- b. DBE category, if applicable
- d. Estimated value of subcontract
- e. The following signed and dated certification statement: "I certify that each subcontractor has been notified that it has been listed in this proposal and that each subcontractor has consented, in writing, to its name being submitted for this RFP. Additionally, I certify that I shall notify each subcontractor in writing if the award is granted to my firm, and I will make all documentation available to ATN upon request."

8. Exceptions, Omissions and Form of Contract

- a. Exceptions. The proposal should clearly identify any exceptions to the requirements set forth in this RFP.
- b. Omissions. The Supplier will be responsible for providing all services, equipment, facilities, and functions which are necessary for the safe, reliable, efficient, and well-managed operation of the program, within the general parameters described in this RFP, and consistent with



established industry practices, regardless of whether those services, equipment, facilities, and functions are specifically mentioned in this RFP or not. The proposer should clearly identify any omissions to the requirements set forth in the RFP.

- c. Sample Contract and Conditions. In addition to carefully reading all of the information in the RFP, the proposer must carefully read and review the attached sample contract (Attachment A). The successful proposer will be required to enter into a contract with ATN, which will be substantially similar to the sample provided. Therefore, the proposer must submit any proposed changes to the sample contract with the proposal. Any requested changes must be legible and conspicuous. Page(s) on which the change(s) appear must be tabbed so as to be easily identified. The proposer must also provide the rationale for any requested changes. If no changes are made, the proposer will be deemed to have accepted the sample contract. If the proposer requests changes, such requests will be considered in any negotiations with the ATN. Failure to reach an agreement may result in ATN pursuing negotiations with the second ranked proposer.
9. Disclosure of Investigations/Actions. Proposer must provide a detailed description of any investigation or litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition.
10. Debarment
 - a. The proposer must certify that is not included in the "U. S. General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs."
 - b. The proposer agrees to refrain from awarding a subcontract to any debarred or suspended subcontractor (at any tier), and to obtain a certification similar to that immediately above from any subcontractor (at any tier) seeking a contract exceeding \$25,000.
 - c. The proposer agrees to provide ATN with a copy of each conditioned debarment or suspension certification provided by a prospective subcontractor at any tier, and to refrain from awarding a subcontract with any party that has submitted a conditioned debarment or suspension certification until FTA approval is obtained.



11. Lobbying

- a. Pursuant to Public Law 104-65, the proposer is required to certify that no federal funds were used to influence or attempt to influence an officer or employee of any Federal department or agency, a member of Congress or State legislature, an officer or employee of Congress or State legislature, or an employee of a member of Congress or State legislature regarding the project(s) included in the Contract.
- b. Proposers who use non-federal funds for lobbying on behalf of specific projects or proposals must submit disclosure documentation when these efforts are intended to influence the decisions of federal officials. If applicable, Standard Form-LLL, "Disclosure Form to Report Lobbying", is required with the proposer's first submission initiating the ATN's consideration for a contract. Additionally, Disclosure forms are required each calendar quarter following the first disclosure if there has been a material change in the status of the previous disclosure. A material change includes: 1) a cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; 2) a change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or 3) a change in the officer(s) or employee(s) or member(s) contacted to influence or attempt to influence a covered Federal action.
- c. The proposer is required to obtain the same certification and disclosure from all subcontractors (at all tiers) when the federal money involved in the subcontract is \$100,000 or more. Any disclosure forms received by the proposer must be forwarded to the ATN.

12. Employee Eligibility Verification

- a. The proposer shall also affirm that it does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. §1324a(h)(3).

4.4 Proposal Submission Requirements – Cost Proposal

- a. ATN anticipates awarding a Fixed Price contract in a not to exceed amount.
- b. Detailed and summary cost proposal forms.
- c. The costs included in the cost proposal should include all items of labor materials, and other costs necessary to perform the contract. Any items omitted from this RFP which are clearly necessary for the completion of the work being proposed should be considered part of the work though not



directly specified or called for in this RFP.

4.5 Basis for Contract Award

- a. Award of the Contract, if made, will be done on a best value basis to the highest ranked responsive and responsible proposer whose offer conforms most to the solicitation. The proposal is judged by an integrated assessment of the evaluation criteria that is most advantageous to the ATN, price/cost and other factors considered.
- b. ATN may select other than the lowest cost/priced, technically acceptable offer if it is determined that the additional technical merit offered is worth the additional cost in relation to other proposals received. ATN is more concerned with obtaining excellent technical features than with making an award at the lowest overall cost/price to the ATN. However, the ATN will not make an award at a significantly higher overall cost to achieve only slightly superior technical features.
- c. Accordingly, ATN may not necessarily make an award to the proposer with the highest technical ranking nor award to the proposer with the lowest priced proposal if doing so would not be in the overall best interest of ATN. For evaluation purposes, if proposals become more technically equivalent, then cost/price becomes more important and may be the deciding factor.

4.6 Technical Proposal Evaluation Criteria

Proposals will be evaluated by the evaluation committee on the basis of the following criteria, listed in descending order of importance.

- Technical Criteria
- Program Management
- Cost / Price
- Qualifications and Experience
- Financial Condition of the Firm

4.7 Presentations/Interviews/Written Responses

After the submission of proposals, selected proposers with the highest evaluation score(s) may be invited to interview with the evaluation committee concerning its technical proposal. The evaluation committee may also require a proposer(s) to submit written responses to questions regarding its proposal.

4.8 Negotiations & Best and Final Offers

- a. Additional contract negotiations may be required with the highest ranked



proposers prior to final contract award. ATN may solicit a Best and Final Offer (BAFO) from one or more proposers. ATN may or may not contact all proposers to negotiate and/or to submit a BAFO.

- b. After receipt of the results of the proposal evaluations, interviews, and BAFO(s), if applicable, the evaluation committee will complete its evaluation and recommend for award the responsible proposer(s) judged to provide the best value to the ATN.

TABLE 2
ESTIMATED BASE MILEAGE TABLE

TIRE SIZE	ORIGINAL	RETREAD
225/75/R19.5	_____ miles	_____ miles
305/70/R22.5	_____ miles	_____ miles

We hereby agree to furnish the items on which prices are listed above and in accordance with the terms and conditions listed in the proposal document and the attached specifications (if any).

COMPANY NAME (Type or Print) _____ Date _____

ADDRESS/CITY/STATE/ZIP _____

AUTHORIZED SIGNATURE _____ TITLE _____

NAME (Type or Print) _____ TELEPHONE (____) _____

FAX NUMBER: _____ CELL PHONE: _____

E-MAIL: _____

NOTE: The Proposal Response Form must be signed by an authorized agent or office or proposal may be considered non-responsive.



**COST PROPOSAL
ATN RFP #2017-002
BUS TIRE LEASE**

	Tire Size	Estimated Tire Miles	X	Base Rate Per Tire Mile	=	Estimated Annual Lease Cost
<u>Year One</u>						
7/1/2017 -	305/70/R22.5	1,341,902	X		=	\$
6/30/2018	225/75/R19.5	1,075,411	X		=	\$
	305/70/R22.5 (BYD)	104,960				
	TOTAL	2,522,273				\$
<u>Year Two</u>						
7/1/2018 -	305/70/R22.5	1,408,997	X		=	\$
6/30/2019	225/75/R19.5	1,236,722	X		=	\$
	305/70/R22.5 (BYD)	120,704				
	TOTAL	2,766,423				\$
<u>Year Three</u>						
7/1/2019 -	305/70/R22.5	1,479,446	X		=	\$
6/30/2020	225/75/R19.5	1,360,395	X		=	\$
	245/70/R19.5	132,775	X		=	\$
	TOTAL	2,972,616				\$

NOTE: Above tire mileage is an estimate only and is subject to change.

We hereby agree to furnish the items on which prices are listed above and in accordance with the terms and conditions listed in the Proposal Documents and the attached specifications.

COMPANY NAME _____ DATE _____

NOTE: The Proposal Response Form must be signed by an authorized agent or office or proposal may be considered non-responsive.



**COST PROPOSAL
ATN RFP #2017-002
BUS TIRE LEASE (OPTION YEARS)**

	Tire Size	Estimated Tire Miles	X	Base Rate Per Tire Mile	=	Estimated Annual Lease Cost
<u>Year Four</u>						
7/1/2020 -	305/70/R22.5	1,479,446	X		=	\$
6/30/2021	225/75/R19.5	1,479,446	X		=	\$
	305/70/R22.5	132,775				
	TOTAL	3,108,565				\$
<u>Year Five</u>						
7/1/2021 -	305/70/R22.5	1,479,446	X		=	\$
6/30/2022	225/75/R19.5	1,479,446	X		=	\$
	245/70/R19.5	132,775	X		=	\$
	TOTAL	3,108,565				\$

NOTE: Above tire mileage is an estimate only and is subject to change.

We hereby agree to furnish the items on which prices are listed above and in accordance with the terms and conditions listed in the Proposal Documents and the attached specifications.

COMPANY NAME _____ DATE _____

NOTE: The Proposal Response Form must be signed by an authorized agent or office or proposal may be considered non-responsive.



**COST PROPOSAL
ATN RFP #2017-002
BUS TIRE LEASE**

OPTIONAL CONSIDERATION BY ATN

Service employee cost shall include dedication or partially dedicated (please clearly indicate) service staff to be employed by the Supplier. ATN will provide a working and inventory area for the purpose of conducting work related to this RFP and subsequent Agreement. Monthly costs shall be fully burdened.

INCLUSIVE OF DEDICATED STAFF

	MONTHLY COST	ANNUAL COST
Year One 7/1/2017-6/30/2018		
Year Two 7/1/2018-6/30/2019		
Year Three 7/1/2019-6/30/2020		
Year Four 7/1/2020-6/30/2021		
Year Five 7/1/2021-6/30/2022		

We hereby agree to furnish the items on which prices are listed above and in accordance with the terms and conditions listed in the Proposal Documents and the attached specifications.

COMPANY NAME _____ DATE _____

ADDRESS/CITY/STATE/ZIP _____

AUTHORIZED SIGNATURE _____ TITLE _____

NAME _____ TELEPHONE NUMBER _____

FAX NUMBER: _____ CELL PHONE: _____

E-MAIL: _____

NOTE: The Proposal Response Form must be signed by an authorized agent or office or proposal may be considered non- responsive.



**COST PROPOSAL
ATN RFP #2017-002
BUS TIRE LEASE SUMMARY OF COSTS**

	Tire Lease	Service Staff	Yearly Total Cost
Year One 7/1/2017 – 6/30/2018	\$	\$	\$
Year Two 7/1/2018 – 6/30/2019	\$	\$	\$
Year Three 7/1/2019 – 6/30/2020	\$	\$	\$
Year Four 7/1/2020 – 6/30/2021	\$	\$	\$
Year Five 7/1/2021 – 6/30/2022	\$	\$	\$
GRAND TOTAL	\$	\$	\$

We hereby agree to furnish the items on which prices are listed above and in accordance with the terms and conditions listed in the Proposal Documents and the attached specifications.

COMPANY NAME _____ DATE _____

ADDRESS/CITY/STATE/ZIP _____

AUTHORIZED SIGNATURE _____ TITLE _____

NAME _____ TELEPHONE NUMBER _____

FAX NUMBER: _____ CELL PHONE: _____

E-MAIL: _____

NOTE: The Proposal Response Form must be signed by an authorized agent or office or proposal may be considered non- responsive.



Exhibit 1
Federal Certifications & Assurances



CIVIL RIGHTS REQUIREMENTS

Bidder's Name: _____

Hereby certifies that:

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

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

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. Section 2000e, and Federal transit laws at 49 U.S.C. Section 5332, the Successful Bidder agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S.DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. Section 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken during the Project. The Successful Bidder agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Successful Bidder agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. Section 623 and Federal transit law at 49 U.S.C. Section 5332, the Successful Bidder agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Successful Bidder agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities- In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12112, the Successful Bidder agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Successful Bidder agrees to comply with any implementing



requirements FTA may issue.

- (3) The Successful Bidder also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

I am authorized to make this verification on behalf of the supplier. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and belief, and as those matters I believe them to be true. I declare under the penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California
Date City

Signature: _____

Printed Name: _____

Title: _____



CERTIFICATION OF COMPLIANCE WITH THE AMERICAN WITH DISABILITIES ACT OF 1990

The Bidder hereby certifies that it shall comply with all requirements contained in 49 CFR 37, Transportation Services for Individuals with Disabilities (ADA) as it relates to bus design or special equipment as provided in the Vehicle Specifications and Bid Requirements for Accessible Paratransit Vehicles.

Name and Title of the Authorized Representative: _____

Signature: _____

Date: _____



BUY AMERICA COMPLIANCE

Certification requirement for procurement of associated equipment. Certification of Compliance with 49 U.S.C. 5323(j)(2)(C)

The bidder hereby certifies that it complies with the Buy America requirements of 49 U.S.C. 5323U)(2)(C) and the regulations set forth in 49 CFR Part 661.

Date: _____

Signature: _____

Company Representative: _____

Company Name _____

Title _____

Certification of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)

The bidder hereby certifies that it cannot comply with the Buy America requirements of 49 U.S.C. 5323U)(2)(C) but may qualify for an exception pursuant to U.S.C. 5323U)(2)(B) or U)(2)(D) and the regulations set forth in 49 CFR Part 661.7.

Date

Signature

Company Name Title



**BIDDER'S CERTIFICATION OF ENERGY CONSERVATION, AIR QUALITY,
AND CLEAN WATER COMPLIANCE**

Company Name: _____

The third party contractor named above hereby certifies compliance with the requirements listed below and regulations issued by the Environmental Protection Agency (EPA), Federal Highway Administration, Federal Transit Administration (FTA) and other agencies of the Federal Government as well as future regulations, guidelines, standards, orders, directives or other requirements that may affect this procurement contract.

The above named contractor will:

1. Comply with all applicable standards, orders, or regulation pursuant to the Clean Air Act, as amended, 42 U.S.C., and 7401 et seq.
2. Comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251 et seq.
3. Comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
4. Report any violation of these requirements by a sub-recipient or itself, resulting from completing the required manufacturing and delivery of vehicles included with this contract to the FTA and the appropriate United States EPA Regional Office.
5. Agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

CERTIFICATION:

I, the official named below, hereby swear that I am duly authorized legally to bind the Bidder or grant recipient to the above-described certification. I am fully aware that this certification executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

Company Name: _____

Official's Name: _____

Title: _____ Date: _____



CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, hereby certify on behalf of _____ that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions as amended by "Government wide Guidance for New Restrictions on Lobbying, 61 CFR 1413.
- (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 sub-contracts, sub-grants, Contracts under grants, loans, and cooperative agreements) which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

Certificate of Non-Compliance

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(U)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(U)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

Date: _____ Signature: _____

Company Name: _____ Title: _____



STATE OF CALIFORNIA DRUG FREE WORKPLACE CERTIFICATION

Company/Organization Name: _____

The Bidder named above hereby certifies compliance with U.S. DOT regulations 49 CFR Part 29, Subpart F and Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named Bidder or grant recipient will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations of the prohibition.
2. Establish an on-going Drug-Free Awareness Program as required to inform employees about all the following:
 - a. The dangers of drug abuse in the workplace,
 - b. The person's or organization's policy of maintaining a drug-free workplace,
 - c. Any available drug counseling, rehabilitation, and employee assistance programs,
 - d. Penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
3. Every employee who works on the proposed contract or grant will receive a copy of the company's drug-free policy statement.
4. Notify each employee that as a condition of employment financed with Federal assistance provided in the proposed contract, the employee will be required to:
 - a. Abide by the terms of the company's policy statement, and
 - b. Notify the employer (Bidder) in writing of any conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after that conviction.
5. Notify FTA in writing, within in ten (10) calendar days after receiving notice required by paragraph 4 (ii) from an employee or otherwise receiving actual notice of that conviction. The Bidder, as employer of any convicted employee, must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working. Notice shall include the identification number(s) of each affected vehicle and related equipment and accessories.
6. Taking one of the following actions within thirty (30) calendar days of receiving notice under paragraph 4 (b) with respect to any employee who is convicted:



- a. Taking appropriate personnel action against that employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
- b. Requiring the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- c. Making a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraph 1,2,3,4,5, and 6 of this certification. The Bidder agrees to maintain a list identifying its headquarters location and each workplace it maintains in which activities provided by this contract are conducted, and make that list readily accessible to the State Department of Transportation.

CERTIFICATION

I, the official named below, hereby swear that I am duly authorized legally to bind the Bidder or grant recipient to the above-described certification. I am fully aware that this certification executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

Date: _____ Signature: _____

Company Name: _____ Title: _____



CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS

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

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this Proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this class is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to procuring agency, the Federal Government, and/or the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
5. The prospective recipient of Federal assistance funds agrees by submitting this Proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DOL.
6. The prospective recipient of Federal assistance funds further agrees by submitting this Proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligible and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to check the List of Parties Excluded from Procurement or Non-procurement Programs.



-
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The

knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government; the DOL may pursue available remedies, including suspension and/or debarment.

By signing and submitting the proposal, the Bidder certifies as follows: (1) The lower tier participant certifies, by submission of this proposal, that neither it, nor its principals as defined at 49 CFR Part 29.995 or affiliates, as defined by 49CFR 29.905, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction as defined by 49 CFR 29.904, or by any Federal department or agency. (2) When the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Name and Title of Authorized Representative

Signature

Date



BIDDER'S CERTIFICATE REGARDING
"BUY AMERICA" REQUIREMENTS
FOR
PROCUREMENT OF BUSES, OTHER ROLLING STOCK AND ASSOCIATED EQUIPMENT

In order to demonstrate compliance with the Buy America Requirements, if the bid is for a contract greater than one hundred and fifty thousand dollars (\$150,000), Bidder shall complete only one of the two statements below:

Or:

The

Firm name/principal

hereby certifies that it **will comply** with the requirements of 49 U.S.C. Section 5323(j), and the applicable regulations in 49 CFR Part 661.11.

Signature

Name

Title

Date

The

Firm name/principal

hereby certifies that it **cannot comply** with the requirements of 49 U.S.C. Section 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. Section 5323(j)(2)(C), and the applicable regulations in 49 CFR Part 661.7.

Signature

Name

Title

Date



Exhibit 2
Draft Agreement



AGREEMENT BETWEEN
ANAHEIM TRANSPORTATION NETWORK
AND

THIS AGREEMENT is effective as of this ____ day of _____, 2014, by and between the Anaheim Transportation Network located at 1280 South Anaheim Blvd, CA 92805, a California non-profit corporation (hereinafter referred to as "ATN"), and _____ (hereinafter referred to as "CONTRACTOR").

WITNESSETH:

WHEREAS, ATN requires assistance from CONTRACTOR to provide services; and

WHEREAS, said work cannot be performed by the regular employees of ATN; and

WHEREAS, CONTRACTOR has represented that it has the requisite personnel and experience, and is capable of performing such services; and

WHEREAS, CONTRACTOR wishes to perform these services;

WHEREAS, the ATN's Board of Directors approved this Agreement on _____;

NOW, THEREFORE, it is mutually understood and agreed by ATN and CONTRACTOR as follows:

ARTICLE 1. COMPLETE AGREEMENT

1. This Agreement, including all exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the agreement between ATN and CONTRACTOR and it supersedes all prior representations, understandings and communications. The invalidity in whole or in part of any term or condition of this Agreement shall not affect the validity of other terms or conditions.

2. ATN's failure to insist in any one or more instances upon CONTRACTOR's performance of any terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of ATN's right to such performance or to future performance of such terms or conditions and CONTRACTOR's obligation in respect thereto shall continue in full force and effect. Changes to any portion of this Agreement shall not be binding upon ATN except when specifically confirmed in writing by an authorized representative of ATN by way of a written amendment to this Agreement and issued in accordance with the provisions of this Agreement.

ARTICLE 2. ATN DESIGNEE

The Executive Director of ATN, or designee, shall have the authority to act for and exercise any of the rights of ATN as set forth in this Agreement.

ARTICLE 3. SCOPE OF WORK



1. CONTRACTOR shall perform the work necessary to complete in a manner satisfactory to ATN the services set forth in Exhibit A, entitled "Scope of Work," attached to and, by this reference, incorporated in and made a part of this Agreement. All services shall be provided at the times and places designated by ATN.
2. CONTRACTOR shall provide the personnel listed below to perform the above-specified services, which persons are hereby designated as key personnel under this Agreement.

Names Functions

3. No person named in paragraph 2 of this Article, or his/her successor approved by ATN, shall be removed or replaced by CONTRACTOR, nor shall his/her agreed-upon function or level of commitment hereunder be changed, without the prior written consent of ATN. Should the services of any key person become no longer available to CONTRACTOR, the resume and qualifications of the proposed replacement shall be submitted to ATN for approval as soon as possible, but in no event later than seven (7) calendar days prior to the departure of the incumbent key person, unless CONTRACTOR is not provided with such notice by the departing employee. ATN shall respond to CONTRACTOR within seven (7) calendar days following receipt of these qualifications concerning acceptance of the candidate for replacement.

ARTICLE 4. TERM OF AGREEMENT

This Agreement shall commence upon the effective date of this Agreement, and shall continue in full force and effect through completion of the SOW, unless earlier terminated as provided in this Agreement.

ARTICLE 5. PAYMENT

1. For CONTRACTOR's full and complete performance of its obligations under this Agreement, and subject to the maximum cumulative payment obligation provisions set forth in Article 7, ATN shall pay CONTRACTOR on a firm fixed price basis in accordance with the following provisions.
2. The following schedule shall establish the firm fixed payment to CONTRACTOR by ATN for each work task set forth in the Scope of Work. The schedule shall not include any CONTRACTOR expenses not approved by ATN including but not limited to reimbursement for local meals.

Task	Description	Price
------	-------------	-------

1		
---	--	--

2		
---	--	--

TOTAL PAYMENT \$		
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3. CONTRACTOR shall invoice ATN on a monthly basis for payments corresponding to the work actually completed by CONTRACTOR. CONTRACTOR shall also furnish such other information as may be requested by ATN to substantiate the validity of an invoice. At its sole discretion, ATN may decline to make full payment for any task listed in paragraph 2 of this Article until such time as CONTRACTOR has documented, to ATN's satisfaction, that CONTRACTOR has fully completed all work required under the task. CONTRACTOR agrees to release subcontractor retention within thirty (30) calendar days after the subcontractor's work is satisfactorily completed unless these funds are retained by the ATN, in which case those withheld amounts will be paid to the subcontractors within ten (10) days of receipt of those funds by CONTRACTOR. These prompt payment provisions are required to be incorporated in all subcontract agreements issued by CONTRACTOR.

4. Invoices shall be submitted by CONTRACTOR on a monthly basis and shall be submitted in duplicate. Each invoice shall be accompanied by the monthly progress report specified in this Article. ATN shall remit payment within thirty (30) calendar days of the receipt and approval of each invoice or return invoice within ten (10) days for correction and resubmission. Each invoice shall include the following information:

1. Contract No.
2. Specify the task number for which payment is being requested;
3. The time period covered by the invoice;
4. Certification signed by the CONTRACTOR or his/her designated alternate that a) The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The backup information included with the invoice is true, complete and correct in all material respects; c) All payments due and owing to subcontractors and suppliers have been made; d) Timely payments will be made to subcontractors and suppliers from the proceeds of the payments covered by the certification and; e) The invoice does not include any amount which CONTRACTOR intends to withhold or retain from a subcontractor or supplier unless so identified on the invoice.

7. Any other information as agreed or requested by ATN to substantiate the validity of an invoice.

8. CONTRACTOR understands and acknowledges this Agreement is subject to the continuing availability of funds to ATN. Upon termination of such funds, CONTRACTOR shall be paid for services satisfactorily rendered up to the time of notice of such termination under this subparagraph 8. Termination for loss or reduction in funds shall not constitute a breach of this Agreement or be actionable in law, equity or in any other manner be treated as a failure by ATN to perform.

ARTICLE 6. PAYMENT OF SUBCONTRACTORS

1. CONTRACTOR agrees to pay each subcontractor for the satisfactory work performed under this Agreement, no later than ten (10) calendar days from the receipt of each payment CONTRACTOR receives from ATN. CONTRACTOR agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. ATN reserves the right to request the appropriate documentation from CONTRACTOR showing payment has been made to the subcontractors. Any delay or postponement of payment from the above referenced periods may occur only for good cause following written approval by ATN.

2. Failure to comply with this provision or delay in payment without prior written approval from ATN will



constitute noncompliance, which may result in appropriate administrative sanctions, including, but not limited to a penalty of two percent (2%) of the invoice amount due per month for every month that payment is not made.

3. These prompt payment provisions must be incorporated in all subcontract agreements issued by CONTRACTOR under this Agreement.

ARTICLE 7. MAXIMUM OBLIGATION

Notwithstanding any provisions of this Agreement to the contrary, ATN and CONTRACTOR mutually agree that ATN's maximum cumulative payment obligation (including without limitation obligation for CONTRACTOR's profit or lost profits or other damages upon termination, as the case may be) shall be _____ (\$_____) which shall include all amounts payable to CONTRACTOR for its subcontracts, leases, materials and costs arising from, or due to termination of, this Agreement.

ARTICLE 8. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this Agreement, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, returned receipt requested, postage prepaid and addressed as follows:

To CONTRACTOR: To ATN:

Executive Director

1354 South Anaheim Blvd

Anaheim, CA 92805

ATTENTION: Diana Kotler

(714) 563 - 5287

ARTICLE 9. INDEPENDENT CONTRACTOR

CONTRACTOR's relationship to ATN in the performance of this Agreement is that of an independent contractor, and nothing in this Agreement is intended nor shall be construed to create between ATN and CONTRACTOR an employer/employee relationship, an agent/principal relationship, a joint venture relationship or a partnership relationship. CONTRACTOR's personnel performing services under this Agreement shall at all times be under CONTRACTOR's exclusive direction and control and shall be employees of CONTRACTOR and not employees of ATN. CONTRACTOR shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

ARTICLE 10. INSURANCE

1. CONTRACTOR shall procure and maintain insurance coverage during the entire term of this Agreement. Coverage shall be full coverage and not subject to self-insurance provisions. CONTRACTOR shall provide the following insurance coverage:



1. Commercial General Liability, to include Products/Completed Operations, Independent Contractors', Contractual Liability, and Personal Injury, and Property Damage with a minimum limit of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.
 2. Automobile Liability to include owned, hired and non-owned autos with a combined single limit of \$1,000,000.00 each accident;
 3. Workers' Compensation with limits as required by the State of California including a waiver of subrogation in favor of ATN, its officers, directors, employees and agents;
 4. Employers' Liability with minimum limits of \$1,000,000.00 per claim; and
 5. Professional Liability with minimum limits of \$1,000,000.00 per claim.
2. Proof of such coverage, in the form of an insurance company issued policy endorsement and a broker-issued insurance certificate, must be received by ATN prior to commencement of any work. Proof of insurance coverage must be received by ATN within ten (10) calendar days from the effective date of this Agreement with the ATN, its officers, directors, employees and agents designated as additional insured on the general and automobile liability policies. Such insurance shall be primary and non-contributive to any insurance or self-insurance maintained by ATN. Furthermore, ATN reserves the right to request at any time certified copies of all related insurance policies.
3. CONTRACTOR shall include on the face of the Certificate of Insurance the Agreement Number; and, the Contract Administrator's Name, Diana Kotler.
4. CONTRACTOR shall also include in each subcontract the stipulation that subcontractors shall maintain insurance coverage in the amounts required by CONTRACTOR as provided in this Agreement.

ARTICLE 11. ORDER OF PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the FTA mandated terms, as provided in Article 29; (2) the provisions of this Agreement, including all exhibits; (3) _____; (3) _____; and all other documents, if any, cited herein or incorporated by reference.

ARTICLE 12. CHANGES

By written notice or order, ATN may, from time to time, order work suspension and/or make changes in the general scope of this Agreement, including, but not limited to, the services furnished to ATN by CONTRACTOR as described in the Scope of Work. If any such work suspension or change causes an increase or decrease in the price of this Agreement or in the time required for its performance, CONTRACTOR shall promptly notify ATN thereof and assert its claim for adjustment within ten (10) calendar days after the change or work suspension is ordered, and an equitable adjustment shall be negotiated. However, nothing in this clause shall excuse CONTRACTOR from proceeding immediately with the Agreement as changed.

ARTICLE 13. DISPUTES

1. Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement, which is not disposed of by supplemental agreement, shall be decided by ATN's Executive Director,



who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to CONTRACTOR. The decision of the Executive Director shall be final and conclusive.

2. The provisions of this Article shall not limit judicial review of any such decision to cases where fraud by such official or his representative or board is alleged; provided, however, that any such decision shall be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this Article, CONTRACTOR shall be afforded an opportunity to be heard and to offer evidence in support of its appeal.

3. Pending final decision of a dispute hereunder, CONTRACTOR shall proceed diligently with the performance of this Agreement and in accordance with the decision of ATN's Executive Director. This Disputes clause does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Agreement, however, shall be construed as making final the decision of any ATN official or representative on a question of law, which questions shall be settled in accordance with the laws of the state of California.

ARTICLE 14. TERMINATION

1. ATN may terminate this Agreement for its convenience at any time, in whole or part, by giving CONTRACTOR written notice thereof. Upon termination, ATN shall pay CONTRACTOR its allowable costs incurred to date of that portion terminated. Said termination shall be construed in accordance with the provisions of CFR Title 48, Chapter 1, Part 49 of the Federal Acquisition Regulation (FAR) and specific subparts and other provisions thereof applicable to termination for convenience. If ATN sees fit to terminate this Agreement for convenience, said notice shall be given to CONTRACTOR in accordance with the provisions of the FAR referenced above and Article 8, herein. Upon receipt of said notification, CONTRACTOR agrees to comply with all applicable provisions of the FAR pertaining to termination for convenience.

2. ATN may terminate this Agreement for CONTRACTOR's default if a federal or state proceeding for the relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, or for cause if CONTRACTOR fails to perform in accordance with the scope of work or breaches any term(s) or violates any provision(s) of this Agreement and does not cure such breach or violation within ten (10) calendar days after written notice thereof by ATN. CONTRACTOR shall be liable for any and all reasonable costs incurred by ATN as a result of such default or breach including, but not limited to, procurement costs of the same or similar services defaulted by CONTRACTOR under this Agreement. Such termination shall comply with CFR Title 48, Chapter 1, Part 49 of the FAR.

ARTICLE 15. INDEMNIFICATION

CONTRACTOR shall indemnify, defend and hold harmless ATN, the City of Anaheim, Caltrans, and all of their officers, directors, employees, agents and contractors from and against any and all claims (including attorneys' fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by (1) the acts, omissions or willful misconduct by CONTRACTOR, or any of its officers, directors, employees, agents, subcontractors or suppliers in connection with or arising out of the performance of this Agreement; (2) a breach of any of the terms of this Agreement, including all exhibits and documents incorporated herein; or (3) a violation of any federal, state or local law, rule, regulation or ordinance. The provisions of this Article 15 shall survive any termination or expiration of this Agreement.



ARTICLE 16. ASSIGNMENTS AND SUBCONTRACTS

1. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by CONTRACTOR either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONTRACTOR, without the prior written consent of ATN. Consent by ATN shall not be deemed to relieve CONTRACTOR of its obligations to comply fully with all terms and conditions of this Agreement.

2. ATN hereby consents to CONTRACTOR's subcontracting portions of the Scope of Work to the parties identified below for the functions described in CONTRACTOR's proposal. CONTRACTOR shall include in the subcontract agreement the stipulation that CONTRACTOR, not ATN, is solely responsible for payment to the subcontractor for the amounts owing and that the subcontractor shall have no claim, and shall take no action, against ATN, its officers, directors, employees, agents, contractors or sureties for nonpayment by CONTRACTOR.

Subcontractor Name/Addresses Subcontractor Amounts

ARTICLE 17. ACCESS TO RECORDS AND REPORTS

CONTRACTOR shall provide ATN, City of Anaheim, Caltrans, the U.S. Department of Transportation (DOT), the Comptroller General of the United States, or other agents of ATN, such access to CONTRACTOR's accounting books, records, payroll documents and facilities of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of examining, auditing and inspecting all accounting books, records, work data, documents and activities related hereto. CONTRACTOR shall maintain such books, records; data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during CONTRACTOR's performance hereunder and for a period of seven (7) years from the date of final payment by ATN. ATN's right to audit books and records directly related to this Agreement shall also extend to all first-tier subcontractors identified in Article 16 of this Agreement. CONTRACTOR shall permit any of the foregoing parties to reproduce documents by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary.

ARTICLE 18. CONFLICT OF INTEREST

CONTRACTOR agrees to avoid organizational conflicts of interest. An organizational conflict of interest means that due to other activities, relationships or contracts, the CONTRACTOR is unable, or potentially unable to render impartial assistance or advice to the ATN; CONTRACTOR's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or the CONTRACTOR has an unfair competitive advantage. CONTRACTOR is obligated to fully disclose to the ATN in writing any Conflict of Interest issues as soon as they are known to the CONTRACTOR. All disclosures must be submitted in writing to ATN pursuant to the Notice provision herein. This disclosure requirement is for the entire term of this Agreement.

ARTICLE 19. CODE OF CONDUCT

CONTRACTOR agrees to comply with the ATN's Code of Conduct as it relates to Third-Party contracts, which is hereby incorporated herein by this reference and made a part of this Agreement. CONTRACTOR agrees to include these requirements in all of its subcontracts.

ARTICLE 20. FEDERAL, STATE AND LOCAL LAWS



1. CONTRACTOR warrants that in the performance of this Agreement, it shall comply with all applicable federal, state and local laws, statutes and ordinances and all lawful orders, rules and regulations promulgated thereunder.
2. This Agreement shall be construed and interpreted and the legal relations created thereby shall be determined in accordance with the laws of the State of California. Venue for resolution of any dispute shall be Orange County, California.

ARTICLE 21. EQUAL EMPLOYMENT OPPORTUNITY

In connection with its performance under this Agreement, CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin. CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, age or national origin. Such actions 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.

ARTICLE 22. CIVIL RIGHTS ASSURANCE

During the performance of this Agreement, CONTRACTOR, for itself, its assignees and successors in interest agree as follows:

1. Compliance with Regulations: CONTRACTOR shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
2. Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the 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 the CONTRACTOR of the CONTRACTOR's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the ATN to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information the CONTRACTOR shall so certify to the ATN as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the CONTRACTOR's noncompliance with the nondiscrimination provisions of this Agreement, the ATN shall impose Agreement sanctions as it may determine to



be appropriate, including, but not limited to:

1. Withholding of payments to the CONTRACTOR under the Agreement until the CONTRACTOR complies; and/or
2. Cancellation, termination, or suspension of the Agreement, in whole or in part.
6. Title VI of the Civil Rights Act: In determining the types of property or services to acquire, no person

in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance in violation of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sections 2000d et seq. and DOT regulations, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964," 49 CFR Part 21. In addition, FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for FTA Recipients," 05-13-07, provides FTA guidance and instructions for implementing DOT's Title VI regulations. At the time of execution of the Agreement, the CONTRACTOR did not commit to utilize DBE(s) in the performance of this DOT-assisted Agreement. However, in the event DBE(s) are utilized in the performance of this Agreement, the CONTRACTOR shall comply with reporting requirements delineated under Section E: "Race-Neutral DBE Submission and Ongoing Reporting Requirements (Post-Award)".

7. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. Sections 12101 et seq., prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, as well as imposes specific requirements on public and private providers of transportation.

Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (A) through (H) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONTRACTOR shall take such action with respect to any subcontract or procurement as the ATN may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONTRACTOR may request the ATN to enter into such litigation to protect the interests of the ATN, and, in addition, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 23. DISADVANTAGED BUSINESS ENTERPRISES (WAIVED)

PROHIBITED INTERESTS

1. CONTRACTOR covenants that, for the term of this Agreement, no director, member, officer or employee of ATN during his/her tenure in office or for one (1) year thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
2. No member of the ATN Board of Directors, Anaheim City Council or delegate to the Congress of the United States shall have any interest, direct or indirect, in this Agreement or to the benefits thereof.

ARTICLE 24. OWNERSHIP OF REPORTS AND DOCUMENTS

1. The originals of all letters, documents, reports and other products and data produced under this Agreement



shall be delivered to, and become the property of ATN. Copies may be made for CONTRACTOR's records but shall not be furnished to others without written authorization from ATN. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by ATN.

2. All ideas, memoranda, specifications, plans, manufacturing, procedures, drawings, descriptions, and all other written information submitted to CONTRACTOR in connection with the performance of this Agreement shall not, without prior written approval of ATN, be used for any purposes other than the performance under this Agreement, nor be disclosed to an entity not connected with the performance of the project. CONTRACTOR shall comply with ATN's policies regarding such material. Nothing furnished to CONTRACTOR, which is otherwise known to CONTRACTOR or is or becomes generally known to the related industry shall be deemed confidential. CONTRACTOR shall not use ATN's name, photographs of the project, or any other publicity pertaining to the project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without the express written consent of ATN.

3. No copies, sketches, computer graphics or graphs, including graphic artwork, are to be released by CONTRACTOR to any other person or agency except after prior written approval by ATN, except as necessary for the performance of services under this Agreement. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be handled only by ATN unless otherwise agreed to by CONTRACTOR and ATN.

ARTICLE 25. PATENT, TRADEMARK AND COPYRIGHT INFRINGEMENT

1. In lieu of any other warranty by ATN or CONTRACTOR against patent, trademark or copyright infringement, statutory or otherwise, it is agreed that CONTRACTOR shall defend at its expense any claim or suit against ATN on account of any allegation that any item furnished under this Agreement or the normal use or sale thereof arising out of the performance of this Agreement, infringes upon any presently existing U. S. letters patent, trademark or copyright and CONTRACTOR shall pay all costs and damages finally awarded in any such suit or claim, provided that CONTRACTOR is promptly notified in writing of the suit or claim and given ATN, information and assistance at CONTRACTOR's expense for the defense of same. However, CONTRACTOR will not indemnify ATN if the suit or claim results from: (1) ATN's alteration of a deliverable, such that said deliverable in its altered form infringes upon any presently existing U.S. letters patent, trademark or copyright; or (2) the use of a deliverable in combination with other material not provided by CONTRACTOR when such use in combination infringes upon an existing U.S. letters patent, trademark or copyright.

2. ATN shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof. CONTRACTOR shall not be obligated to indemnify ATN under any settlement made without CONTRACTOR's consent or in the event ATN fails to cooperate fully in the defense of any suit or claim; provided, however, that said defense shall be at CONTRACTOR's expense. If the use or sale of said item is enjoined as a result of such suit or claim, CONTRACTOR, at no expense to ATN, shall obtain for ATN the right to use and sell said item, or shall substitute an equivalent item acceptable to ATN and extend this patent, trademark and copyright indemnity thereto.

ARTICLE 26. FINISHED AND PRELIMINARY DATA

1. All of CONTRACTOR's finished technical data, including but not limited to illustrations, photographs, tapes, software, software design documents, including without limitation source code, binary code, all media, technical documentation and user documentation, photo prints and other graphic information required to be furnished under



this Agreement, shall be ATN's property upon payment and shall be furnished with unlimited rights and, as such, shall be free from proprietary restriction except as elsewhere authorized in this Agreement. CONTRACTOR further agrees that it shall have no interest or claim to such finished, ATN-owned, technical data; furthermore, said data is subject to the provisions of the Freedom of Information Act, 5 USC 552.

2. It is expressly understood that any title to preliminary technical data is not passed to ATN but is retained by CONTRACTOR. Preliminary data includes roughs, visualizations, software design documents, layouts and comprehensives prepared by CONTRACTOR solely for the purpose of demonstrating an idea or message for ATN's acceptance before approval is given for preparation of finished artwork. Preliminary data title and right thereto shall be made available to ATN if CONTRACTOR causes ATN to exercise Article 12, and a price shall be negotiated for all preliminary data.

ARTICLE 27. FORCE MAJEURE

Either party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; or a material act or omission by the other party; when satisfactory evidence of such cause is presented to the other party; and provided further that such nonperformance is unforeseeable, beyond their control and is not due to the fault or negligence of the party not performing.

ARTICLE 28. PRIVACY ACT

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

ARTICLE 29. INCORPORATION OF FTA TERMS

All contractual provisions required by Department of Transportation (DOT), whether or not expressly set forth in this document, as set forth in Federal Transit Administration (FTA) Circular 4220.1F, as amended, 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 Agreement. CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause ATN to be in violation of the FTA terms and conditions.

ARTICLE 30. 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 agreement between the ATN and the City of Anaheim dated April 26, 2011, as they may be amended or promulgated from time to time during this Agreement. CONTRACTOR's failure to comply shall constitute a material breach of this Agreement and all consequences imposed by the FTA shall become the direct responsibility of CONTRACTOR.



ARTICLE 31. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

ATN and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the ATN, City of Anaheim, Caltrans, CONTRACTOR, or any other party (whether or not a party to this Agreement) pertaining to any matter resulting from the underlying Agreement. CONTRACTOR agrees to include these requirements in all of its subcontracts.

ARTICLE 32. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

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 C.F.R. Part 31, apply to its actions pertaining to this project. Accordingly, by signing this Agreement, 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 proposal underlying this Agreement of the FTA-assisted project for which this Agreement's work is being performed. CONTRACTOR also 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 penalties of the Program Fraud Civil Remedies Act of 1986 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 an agreement connected with a project that is financed in whole or part with Federal assistance awarded by FTA under 49 U.S.C. §5307 et seq., the Government reserves the right to impose the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n) (1) et seq. on the CONTRACTOR, to the extent the Federal Government deems appropriate. CONTRACTOR agrees to include this requirement in all of its subcontracts.

ARTICLE 33. RECYCLED PRODUCTS

CONTRACTOR shall comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in subpart B of 40 CFR Part 247. CONTRACTOR agrees to include this requirement in all of its subcontracts.

ARTICLE 34. ENERGY CONSERVATION REQUIREMENTS

CONTRACTOR shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy Conservation Act.

ARTICLE 35. CLEAN AIR

CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. CONTRACTOR shall report each violation to ATN, who will in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. CONTRACTOR agrees to include this requirement in all of its subcontracts.



ARTICLE 36. CLEAN WATER REQUIREMENTS

CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. CONTRACTOR shall report each violation to ATN and understands and agrees that ATN will, in turn, report each violation as required to assure notification to the FTA and appropriate EPA Regional Office. CONTRACTOR agrees to include this requirement in all of its subcontracts.

ARTICLE 37. FLY AMERICA REQUIREMENT

CONTRACTOR agrees to comply with 49 U.S.C. 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for the U.S. Government-financed international air travel and transportation of their personal effects or property, 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. CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. 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 Act requirements. CONTRACTOR agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

ARTICLE 38. BUY AMERICA REQUIREMENTS

CONTRACTOR 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 final assembly in the United States, for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software and 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.

ARTICLE 39. SEISMIC SAFETY REQUIREMENTS

CONTRACTOR agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. CONTRACTOR also agrees to ensure that all work performed under this Agreement including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

ARTICLE 40. DEBARMENT AND SUSPENSION

This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, CONTRACTOR is required to verify that neither CONTRACTOR, its principals, as defined at 49 CFR 29.995, nor affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

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



ARTICLE 41. CHANGE TERMS.

Changes to any part of this Agreement must be requested in writing by CONTRACTOR submitted to ATN and approved by ATN in accordance with ATN's policies and procedures. CONTRACTOR must make such request a minimum of ninety (90) days prior to desired effective date of change. All modifications to this Agreement shall be in writing and signed by both parties.

EFFECTIVE DATE: This Agreement shall be made effective upon the date of execution by ATN.

ARTICLE 42. AUTHORITY.

The signatory hereto represents and warrants that he or she is authorized and empowered and has the legal capacity to execute this Agreement and to legally bind CONTRACTOR both in an operational and financial capacity and that the requirements and obligations under this Agreement are legally enforceable and binding on CONTRACTOR.

R. Effective Date. This Agreement shall become effective on the date of execution by ATN (the "Effective Date").

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written.

CONTRACTOR

ANAHEIM TRANSPORTATION NETWORK

By _____

By _____

Diana Kotler
Executive Director